

1972 TOWN CODE

**THE CODE OF THE TOWN
OF
LONGBOAT KEY, FLORIDA**

**The Charter
and
The General Ordinances**

PUBLISHED BY ORDER OF THE TOWN COMMISSION

**Michie City Publications Company
Charlottesville, Virginia
1971**

1972 TOWN CODE

PREFACE

This volume, as originally published, constituted the first revision and codification of the general ordinances of the Town of Longboat Key, Florida, since 1965. It contained the Charter and such of the ordinances of a general and permanent nature passed on or before March 3, 1971, as were found desirable for retention, except those expressly saved from repeal by the Adopting Ordinance.

The Code, as now supplemented, contains ordinances as indicated on the page of instructions for handling supplemental pages.

The ordinances were codified, edited and indexed by the Editorial Staff of Michie City Publications Company under the supervision of Chas. W. Sublett, Stephen C. Willard and John K. Haley.

The publishers wish to express their appreciation for the cooperation of all the town officials and employees during the preparation of this publication. Particular acknowledgment is due Mr. G. M. Lanier, Town Manager, and Mr. I. W. Whitesell, Jr., Town Attorney, for their assistance during the progress of the work.

A feature to which the attention of the user is directed is the arrangement of the chapters in alphabetical order. Attention is also directed to the analysis preceding each chapter which, in many instances, will serve as an index within itself. The general index, carried at the end of the Code, has been carefully prepared and should serve as an accurate medium for locating the individual sections of law within the Code. In the footnotes appearing throughout the Code will be found references to the Charter and the applicable and related provisions of the state law. These notes also contain cross references to other and related provisions in the Town Code. By reference to the historical citations, appearing at the end of each section, the user will be able to ascertain the ordinance from which the present section has been derived.

It is a recognized fact that if any Code is to accomplish its intended purpose it must be kept up to date by means of an adequate supplemental service. Accordingly, the publishers point out the advisability and necessity of keeping this Code current.

The new Town Code is presented to the officials and citizens of the Town of Longboat Key, Florida, in the belief that it will merit their approval.

Michie City Publications Company
Charlottesville, Virginia

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ADOPTION OF CODE

ORDINANCE NO. 201

AN ORDINANCE ADOPTING A REVISION AND CODIFICATION OF THE ORDINANCES OF THE TOWN OF LONGBOAT KEY, ENTITLED "THE CODE OF THE TOWN OF LONGBOAT KEY, FLORIDA," PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN, WITH CERTAIN EXCEPTIONS, AND FOR OTHER PURPOSES HEREINAFTER SET OUT.

BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY:

Section 1. There is hereby adopted by the town commission that certain Code entitled "The Code of the Town of Longboat Key, Florida," containing certain ordinances of a general and permanent nature as compiled, consolidated, codified and indexed in Chapters 1 to 22, both inclusive, of which Code not less than two copies have been and are now filed in the office of the town clerk.

Section 2. The provisions of such Code shall be in force on and after October 6, 1971, and all ordinances of a general and permanent nature adopted on final reading and passage on or before March 3, 1971, and not contained in such Code are hereby repealed from and after October 6, 1971, except as hereinafter provided.

Section 3. The repeal provided for in the preceding section of this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before October 6, 1971; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to October 6, 1971; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issue of any bonds of the town or any evidence of the town's indebtedness or any contract or obligation assumed by the town; nor shall it affect any annual tax levy; nor shall it affect any right or franchise conferred by ordinance or resolution of the town on any person or corporation; nor shall it affect any ordinance adopted for purposes which have been consummated; nor shall it affect any ordinance which is temporary, although general in effect, or special, although permanent in effect; nor shall it affect any ordinance relating to the salaries of the town officers or employees; nor shall it affect any ordinance annexing territory to the town; nor shall it affect any ordinance naming, renaming, opening, accepting or vacating streets or alleys in the town; nor shall it affect any ordinance adopting or amending any official zoning map; nor shall it affect any ordinance adopted on final reading and passage after March 3, 1971.

Section 4. Whenever in the Code adopted by this ordinance or in any other ordinance or resolution of the town or in any rule, regulation or order promulgated by any officer or agency of the town under authority duly vested in him or it, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of such Code or any other ordinance or resolution of the town or such rule, regulation or order shall be punished by a fine not exceeding five hundred dollars or imprisonment for a term not exceeding sixty days.

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Except where otherwise provided, every day any violation of such Code or any other ordinance or resolution of the town or such rule, regulation or order shall continue shall constitute a separate offense.

Section 5. It is hereby declared to be the intention of the town commission that the sections, paragraphs, sentences, clauses and phrases of this ordinance and the Code hereby adopted are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance or the Code hereby adopted shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance or the Code hereby adopted.

Section 6. This ordinance shall take effect immediately in the manner provided by law.

PASSED on first reading this 15th day of September, 1971.

PASSED on second reading and finally adopted this 6th day of October, 1971.

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PART I

THE CHARTER

Editor's note. -- This Charter consists of Special Acts 1957, chapter 1540, as amended. Amendments are indicated by historical citations in parentheses following each amended section. A uniform system of capitalization has been employed and a frontal analysis has been added for the convenience of the user. Otherwise the Charter of Longboat Key is set out herein exactly as enacted by the Florida Legislature.

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SPECIAL ACTS 1957

CHAPTER 1540

AN ACT TO ABOLISH THE PRESENT MUNICIPAL GOVERNMENT OF THE TOWN OF LONGBOAT KEY, IN THE COUNTIES OF MANATEE AND SARASOTA, AND STATE OF FLORIDA, AND TO ESTABLISH, ORGANIZE AND CONSTITUTE A MUNICIPALITY TO BE KNOWN AS "TOWN OF LONGBOAT KEY" IN THE COUNTIES OF MANATEE AND SARASOTA, STATE OF FLORIDA; TO PROVIDE A CHARTER FOR SAID TOWN; TO FIX ITS TERRITORIAL LIMITS AND BOUNDARIES; TO PROVIDE FOR ITS GOVERNMENT, AND PRESCRIBE ITS JURISDICTION, POWERS AND PRIVILEGES; TO PROVIDE FOR MISCELLANEOUS PROVISIONS RELATING TO SUCH ESTABLISHED MUNICIPALITY, AND TO PROVIDE FOR A REFERENDUM FOR THE APPROVAL OF THIS ACT.

Be it Enacted by the Legislature of the State of Florida:

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Sec. 1. Abolishment of present municipality.

That the present municipal government existing under the name of Town of Longboat Key be, and the same is, hereby abolished.

Sec. 2. Title to property reserved to new municipality.

That the title rights and ownership of property, uncollected taxes, dues, claims, judgments, decrees, liens, suits, actions and choses in action, held or owned by the existing municipality shall pass to and the same hereby are vested in the municipal corporation organized under this law to succeed the municipality abolished. No pending cause shall be abated by this transition.

Sec. 3. Obligation of contracts preserved.

That no debt or contract of the present municipality, including bonds heretofore issued shall be impaired or voided by this Act, but all such debts and obligations shall pass to and be binding upon the new municipality which is hereby organized and created.

Sec. 4. Officers hold over until successors qualify; existing ordinances continued.

That all officers hereinbefore elected or appointed and holding office under the said municipality shall continue to hold their respective offices and to discharge the duties thereof until their successors are elected and confirmed under the provisions of this Act; and all existing ordinances of the said municipality, not in conflict with the provisions of this Act shall continue in effect and unimpaired until repealed, amended or modified by the municipality which is hereby organized and created.

Sec. 5. Establishment of new municipality.

The inhabitants of the Town of Longboat Key, as its limits are hereinafter established, shall be and continue to be a body politic and corporate to be known and designated as the Town of Longboat Key, and as such shall have perpetual succession, and existence. (C. 59-1511, § 1, Sp. Acts 1959.)

Sec. 6. Boundaries.

That the corporate limits of the Town of Longboat Key in Sarasota and Manatee counties, Florida, be and the same are hereby fixed, defined, established and particularly described as:

Begin at Meander Corner No. 8 lying on the line between section 15 and section 22, as shown on the official Government Township Plat of Township 35 South, Range 16 East. Said meander corner lies approximately 145 feet east of the center line of Gulf of Mexico Drive (State Road 789).

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1. Thence run North 10 degrees 30 minutes East a distance of 7,560 feet for a point of beginning.
2. Thence South 49 degrees 30 minutes East 12,300 feet.
3. Thence South 35 degrees East, 39,660 feet to the westerly line of the city limits of the City of Sarasota, Florida.
4. Thence south along the city limits of the City of Sarasota, Florida, 1,860 feet
5. Thence South 41 degrees West through New Pass and crossing the center line of New Pass Bridge 325 feet North of the center of the draw span, 7,860 feet into the Gulf of Mexico.
6. Thence North 35 degrees West, 40,380 feet.
7. Thence North 49 degrees 30 minutes West, 15,330 feet to a point in the mouth of Longboat Pass.
8. Thence North 69 degrees 44 minutes East, 5,300 feet.
9. Thence North 40 degrees 30 minutes East, 4,470 feet to the point of Beginning.

All lying and being in Manatee and Sarasota counties, Florida, and containing 10,848 acres.

All of the foregoing bearings are referred to true north. And adjustments necessary to satisfy Calls 1 to 5, must be made by equal linear adjustments to Calls 3 to 6. (C. 59-1511, § 1, Sp. Acts 1959.)

Sec. 7. Powers of the town.

That the Town of Longboat Key hereby established and organized, shall have full power and authority to acquire, take, hold, control and dispose of property, real, personal and mixed, both within and without its corporate limits, for the use, benefit, welfare and best interest of said municipality, by purchase, lease, grant, gift, devise, condemnation or otherwise; issue and sell bonds, upon its property both within and without its corporate limits, or on the earnings thereof, or both, for any lawful municipal purpose; to adopt and enforce local police, housing, zoning, sanitary and other similar regulations not in conflict with the laws of the State of Florida; to do whatever is necessary and proper for the safety, health, convenience, and general welfare of its inhabitants; and to exercise all powers of local self-government; to borrow money in anticipation of taxes to be derived from the current assessment for general revenue in an amount not to exceed fifty percent (50%) thereof, and at a rate of interest not to exceed the then current demand or call money rate per annum, such loan to be repaid from the taxes collected for the current year.

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The Town of Longboat Key, in addition to the general powers set forth in this Charter, shall be and is hereby granted the following special powers:

(a) Recreational facilities. To own, operate and maintain all recreational facilities as may from time to time be necessary or desirable for the public health, safety, and general welfare of the citizens of the Town of Longboat Key, and in the operation and management thereof, to grant and license concessions for the sale and dispensing of drinks, food and merchandise in connection with the operation of any such facility by the municipality or to sell and dispense such commodities itself as part of such operation; to lease from, or, to others, but in no case for a longer term than 10 years, such facilities as the municipality may choose for such purpose; to prescribe, regulate, and at all times control, any charge or demand, paid by or collected from the public in patronizing, enjoying or using any of the privileges afforded by, or tendered through, any such facility; and, in the sole discretion of the municipality, and in the public interest, to absolutely discontinue the use, operation or maintenance of any such facility where no pledge of revenues therefrom has been made, and to vacate, discontinue or withdraw at any time, or from time to time, with like discretion, any concession or leased privilege granted by the municipality for or in connection with the operation of any such facility.

(b) Hospitals, rest homes and solaria. To own, operate and maintain, and to lease to others for operation and maintenance hospitals, rest homes and solaria; and to erect buildings and lease buildings and lands for such purposes.

(c) Acquisition and disposition of real property. To acquire, take, hold, control and dispose of real property, within or without its corporate limits, by purchase, lease, grant and condemnation or eminent domain proceedings, for the use by said town or the State of Florida as public parks, plazas, colonnades, and memorials and for public park purposes and as sites, for public or departmental buildings, colleges, universities, courts of justice or any institution of the State of Florida.

(d) Group insurance: pension, annuity and retirement system. To provide for life and/or disability insurance for its employees and/or agents and/or officers on a group insurance plan approved by the said town commission, and to pay all of such portions of the premium or premiums thereon as said commission by resolution may determine; and to establish and create by ordinance a pension, annuity and retirement system for any or all groups of officers or employees employed by said town.

(e) Transportation for hire. To regulate the transportation of persons and property for hire over the streets, water and waterways of the town; to own and operate an automobile, bus, ferry or water transportation system in said town and to make and collect reasonable charges from the users of said system; and to grant to any person, persons, firm or corporation, an exclusive franchise for the use of the streets, or water or waterways of said town for the operation of an automobile, bus, ferry or water transportation system or any public service, or utility and for the operation of taxicabs, subject to the terms and restrictions of any ordinance of said town: provided, however, that no franchise granted under this Charter shall extend

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for a period longer than thirty years from the date of such grant, and the town by proper ordinance from time to time shall regulate the speed and class of equipment that shall be required and the charges that may be collected in the operation of any such transportation systems. The town shall also have the right to issue certificates of convenience and necessity for the operation of taxicabs in the town and to limit the number of taxicabs that may be operated therein and to prescribe the maximum fares they may prescribe and collect. Any franchise granted by the town shall contain a clause requiring the owners and holders of such franchise at all times to abide by all reasonable regulations that may be imposed by the town commission.

(f) Animals and poultry. To regulate or prohibit the keeping or the running at large of poultry, horses, mules, cattle, swine, sheep, goats and other animals within the corporate limits of the town, and to impound the same. The town shall have power and authority to provide for and authorize the sale of any poultry or animals so impounded, or any portion thereof, upon public notice, for the penalties imposed by an ordinance and the costs, fees, and expenses of such proceedings. The town is further authorized to provide penalties against the owners of poultry and animals for keeping the same within the town or for permitting the same to run at large therein contrary to the ordinances of the town.

(g) Zoning. To regulate the locations and use of buildings, structures and land for trade, industry, residence or other purposes; to establish building and grade lines; and to promulgate and to enforce reasonable building restrictions.

(h) Public places, railroads, aerial conveyances. To regulate and control the use and occupancy of the waters, waterways, water bottoms, wharves, causeways, bridges, beaches, streets, thoroughfares, alleys, parks, public lots and other public places in the town, to prevent the use of the streets by private persons for business purposes or conveniences; to make regulations for the protection of the public where any railroad shall cross or occupy any street, alley or public lot of the town; and to prescribe or regulate the flying height and manner of flight, and the size and design, of aeroplanes and other aerial conveyances over, above or within the area of the town limits.

(i) Waterfront facilities; wharfage charges. To acquire, construct, maintain, and operate or lease public wharves, piers, docks, landing places, warehouses, railroad tracks, spurs, transportation terminals, ferry boats, lighter barges, tugs, ships, self propelled water craft and vessels of all kinds and all means and equipment necessary for the needs of commerce and for the transportation of passengers and freight for hire in and out of the town and to and from other towns and points; to develop, use, sell, lease or otherwise enjoy or dispose of any of its land, riparian, submerged, or of other character, and widen, extend or deepen all channels or navigable waters, and dredge or ballast its land and approaches thereto, and supervise, regulate, and control the wharfage, docking and mooring of vessels, and regulate wharfage, dock and port charges, and the operation of all such facilities within the town limits.

(j) Bulkhead, harbor line, docks, etc. To establish bulkhead and harbor lines, or either, on the shores of the Gulf of Mexico and all other waterways within the

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corporate limits of the Town of Longboat Key, including bays, bayous, lagoons, and passes and to control the type, length, height, size, spacing and other physical characteristics of docks, wharves, boathouses, and dolphins and also of sea walls, bulkheads, groins and other beach protection devices, and structures.

(k) Fishing. To regulate and control fishing and the catching and the taking of fish; and to prohibit or regulate the use of nets and seines within the territorial waters of the town, and to provide penalties for the violation of ordinances enacted pursuant thereto.

(l) Toll bridges. To operate and maintain any and all bridges now owned or that may hereafter be acquired by the town as toll bridges and to prescribe regulations for their use

(m) Rates of public utilities; common carriers. To establish, impose and enforce water rates and rates and charges for gas, electricity and all other public utilities or other services of conveniences operated, rendered or furnished by the town or by any other person, persons, firm or corporation; and to enact ordinances for the correction of abuses and to correct unjust discrimination and excessive charges by persons and corporations engaged as common carriers in transporting persons and property or performing other services of a public nature; provided, however, that this subsection shall not apply to any public utility which is regulated by the Florida Railroad and Public Utilities Commission.

(n) Public utilities. To purchase, hire, construct, own, maintain, operate or lease local public utilities, including transportation facilities, electric light, telephone and telegraph systems and works for supplying the town and its inhabitants with water, ice, gas for illuminating and heating purposes and electric energy for illuminating, heating, or power purposes.

The enumeration of particular powers by this Charter shall not be deemed or held to be exclusive, but in addition to the powers hereby expressly granted, and those implied therefrom, or appropriate to the exercise thereof, the said town shall have, and may exercise all other powers which, under the Constitution and laws of Florida it would be competent and appropriate for this section to specifically enumerate. (C. 59-1511, § 1, Sp. Acts 1959.)

The Town Commission.

Sec. 8. Form of government, composition of commission.

The form of government of the Town of Longboat Key provided for under this Act shall be known as the "commission-manager-plan". The commission shall consist of seven electors to be nominated and elected as hereinafter provided. The commission shall constitute the governing body with powers as herein provided to pass ordinances, adopt regulations and appoint a chief administrative officer to be known as "town manager", and to exercise all the powers herein provided.

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Sec. 9. Commission districts.

There are hereby created five (5) commission districts in the Town of Longboat Key. All district boundaries shall run as nearly as possible along lot lines or street lines and as nearly as possible in an east-west direction.

The town commission shall revise the boundaries of all districts every five (5) years in order that each district shall have substantially an equal number of electors registered therein. The commission shall also redistrict the town when the registered electors in any district exceed by thirty percent (30%) of the electors in any other district, in order that all districts may have substantially an equal number of electors registered therein, provided that final action on any redistricting ordinance shall be completed by the commission at least sixty (60) days prior to any special, preliminary or general election. A district boundary shall not run through a residential structure, and all residential structures shall lie wholly within one district or another. All districts shall have substantially an equal number of electors registered therein. (c. 59-1511, § 1, Sp. Acts 1959; c. 59-1512, § 1, Sp. Acts 1959; c. 61-2432, §§ 2, 3, Sp. Acts 1961; c. 69-1265, § 1, Sp. Acts 1969.)

Sec. 10. Creation of commission; residency requirements, election and terms of office of commissioners.

There is hereby created a town commission to consist of seven electors of the Town of Longboat Key. One of such commissioners shall reside in and be nominated from District Number One; one of such commissioners shall reside in and be nominated from District Number Two; one of such commissioners shall reside and be nominated from District Number Three; one of such commissioners shall reside in and be nominated from District Number Four; one of such commissioners shall reside in and be nominated from District Number Five; and two of whom may reside in any district and shall be nominated by the qualified electors of all five districts. Such commissioners shall be elected by the qualified electors residing in all five districts at a general election and shall hold office for two years beginning on the third day after their election as provided herein, provided, that at the first election held under this Charter, one commissioner at large and commissioners residing in the first, third and fifth districts shall be elected for two years, and one commissioner at large and commissioners residing in commission districts two and four shall be elected for one year terms. Thereafter, one commissioner at large and commissioners from odd numbered districts shall be elected in odd numbered years, and one commissioner at large and commissioners from even numbered districts shall be elected in even numbered years for a term of two years, provided that vacancies on the commission shall be filled by the commission until the next annual municipal elections at which time the electors of the town shall fill the vacancies for the unexpired terms as herein provided for nomination and election of commissioners; and provided further, that any vacancy resulting from a recall election shall be filled in the manner hereinafter provided.

Sec. 11. Powers generally.

All powers of the town except such as are vested in the jurisdiction of the municipal court and except as otherwise provided by this Charter, or by the

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constitution of the state, are hereby vested in the town commission; and, except as otherwise provided by this Charter, or by the constitution of the state, the town commission may by ordinance or resolution prescribe the manner in which any power of the town shall be exercised. Except for the purpose of inquiry, the commission and its members shall deal with the administrative service solely through the town manager and neither the commission nor any member thereof, shall give orders to any subordinates of the town manager either publicly or privately. Any commissioner violating the provisions of this section shall be subject to recall as herein provided. (c. 69-1264, § 1, Sp. Acts 1969.)

Sec. 12. Qualification of members; conflicts of interest of commissioners, employees, etc.

Members of the commission shall be residents of the town and have the qualification of electors therein. Commissioners, officers and employees of the town may hold more than one office in the town government of the Town of Longboat Key but shall not be interested in the profits or emoluments of any contract, work or service for the municipality, and any such contract in which any member is or may become interested, shall be declared void by the commission.

Sec. 13. Canvass of candidates; expenditures; reports; penalty for violation of section.

(a) Candidate defined.

The word "Candidate" shall mean any person who has announced to any person, or to the public, that he is a candidate for nomination or election to a certain elective office of the Town of Longboat Key, Florida.

(b) Canvass and expenditures by candidate.

A candidate for the office of town commissioner may make a personal canvass to secure his nomination or election for a municipal office, and he may procure the circulation of a petition for his nomination, but he shall not personally circulate his own petition. All candidates are subject to state law regarding expenditures allowed in furtherance of their candidacy.

(c) Report of contributions and expenditures.

All candidates shall file in the town clerk's office five days before election a complete and sworn statement of contributions and expenditures made or incurred for the period up to seven days before election. Such report of contributions shall show the date the contribution was received by the candidate, the person or persons making such contribution and the amount of the contribution. The statement of expenditures shall show all expenditures authorized by the candidate in connection with his campaign for nomination or election, the person, firm or corporation to whom such expenditure was made and the purpose for which such expenditure was made. The statement of expenditures shall also show the total contributions received by the candidate to the date of such report. Within ten (10) days following

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the election for which the candidate was a candidate or nominee, such candidate shall file with the town clerk a statement of total contributions and total expenditures made by the candidate. Such final statement shall also show all contributions received by the candidate since the last preceding report, if any, and the contributions received which were returned by the candidate to the contributor. Such reports shall be public records of the Town of Longboat Key and open to inspection by the public at any time. All such statements and reports shall be sworn to by the candidate.

(d) Penalty.

Any violation of this section shall be a misdemeanor punishable as provided by law, and in addition thereto, any violation of this section by a candidate shall vacate the office to which such candidate was elected, if any. (c. 59-1512, § 1, Sp. Acts 1959; c. 61-2432, § 3, Sp. Acts 1961.)

Sec. 14. Judge of its own election.

The commission shall be the judge of the election and qualification of its own members subject to review by the courts. Any member of the commission who shall be convicted of a felony while in office shall hereby forfeit his office.

Sec. 15. Vacancies.

Any vacancies in the commission shall be filled until the next annual municipal elections by vote of the remaining members of the commission, provided, that vacancies resulting from a recall election shall be filled in the manner hereinafter prescribed. (c. 61-2432, § 1, Sp. Acts 1961.)

Sec. 16. Election of mayor and vice-mayor.

The town commission shall at the time of organizing elect one of its members as mayor of the town, and one of its members as vice-mayor of the town. The vice-mayor shall serve in the absence or inability of the mayor to serve. In case the members of the commission are unable to agree upon the selection of the mayor or vice-mayor within five (5) days after the time fixed herein for their organization meetings, then such officers shall be chosen by lot conducted by the town attorney, who shall certify the results of such lot upon the journal of the commission. (c. 59-1512, § 1, Sp. Acts 1959.)

Sec. 17. Functions and powers of mayor.

The mayor shall preside at all meetings of the commission and perform such other duties consistent with his office as may be imposed by it; and he shall have a voice and a vote in the proceedings of the commission, but no veto power. He may use the title of mayor in any case in which the execution of legal instruments or other necessity arising under the general laws of the state so requires; but this shall not be considered as conferring upon him the administrative or judicial functions of a mayor under the general laws of the state. He shall be recognized as the

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official head of the town by the courts for the purpose of serving civil processes; by the government in the exercise of military law, and for all ceremonial purposes. He may take command of the police and govern the town by proclamation during times of grave public danger or emergency, and he shall himself be the judge of what constitutes such danger or emergency. The powers and duties of the mayor shall be such as are conferred upon him by the town commission in pursuance of the provisions of this Charter, and no others. In the absence of the mayor and the vice mayor the other members of the town commission shall select one of their number to perform the duties of the mayor. (c. 69-1265, § 2, Sp. Acts 1969.)

Sec. 18. Meetings.

At 8:00 o'clock P.M. EST, on the Monday following the first annual general election provided for under this Charter and thereafter at such hour on the Monday following each annual general municipal election, the town commission shall meet at the usual place for holding the meeting of the legislative body of the town commission, the newly elected commissioners shall assume the duties of office. Thereafter the town commission shall meet at such times as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than once each month. All meetings of the town commission and of the committees thereof shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business and shall keep a journal of its proceedings. (c. 69-1265, § 3, Sp. Acts 1969.)

Sec. 19. Special meetings.

The mayor, or any two members of the commission, may call special meetings of the commission upon at least six hours' written notice to each member, served personally, or left at his usual place of residence; provided, however, that the aforesaid requirement of written notice of special meetings may be waived at said special meeting by the unanimous vote of the commission recorded in the minutes of the meeting. (c. 69-1265, § 4, Sp. Acts 1969.)

Sec. 20. Penalty for absence.

Absence from four consecutive regular meetings of the commission shall operate to vacate the seat of a member, unless such absence is excused by the commission by resolution setting forth the fact of such excuse duly entered upon the journal.

Sec. 21. Legislative procedure.

A majority of all members elected to the town commission shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such a manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of those present, but not less than

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three (3) members, shall be necessary to adopt any ordinance or resolution and the passage of all ordinances and resolutions shall be taken by "yeas" and "nays" and entered upon the journal. (c. 59-1511, § 1, Sp. Acts 1959.)

Sec. 22. Ordinance enactment.

An action by the town commission of a legislative character shall be by ordinance. Every proposed ordinance shall be introduced in written or printed form, and shall embrace but one subject and matter properly connected therewith, which subject shall be briefly expressed in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clause of all ordinances shall be "Be it ordained by the Town of Longboat Key. The clerk shall cause to be delivered to each commissioner a copy of every proposed ordinance at least five (5) days before a second reading, if any. No ordinance, unless it be an emergency measure, shall be passed until it shall have been read at two meetings, not less than one week apart, but such requirement may be dispensed with as to emergency ordinances by unanimous vote of those members of the town commission present at the meeting at which any such emergency ordinance is enacted. All ordinances, except emergency ordinances, passed by the town commission shall become effective immediately upon final enactment, unless a different date is specified in the ordinance itself, in which case the ordinance shall be effective upon the date specified. (c. 61-2432, § 1, Sp. Acts 1961; c. 69-1265, § 5, Sp. Acts 1969.)

Sec. 23. Emergency measures.

An emergency ordinance is one which, in the opinion of the town commission, is required to be passed for the immediate protection and preservation of the peace and safety, health or property, of the town or its inhabitants, or providing for the usual daily operations of the municipality, or any of its departments; and the emergency requiring its passage shall be set forth in a preamble to the ordinance. Appropriations of money may be made by an emergency ordinance, but no ordinance making a grant, renewal or extension for a franchise or other special privilege or establishing or regulating the rates to be charged by any public utility for its services, shall be passed as an emergency ordinance. Emergency ordinances shall be effective upon the date specified in the ordinance itself. (c. 59-1511, § 1, Sp. Acts 1959; c. 61-2432, § 2, Sp. Acts 1961; c. 69-1265, § 6, Sp. Acts 1969.)

Sec. 24. Recording, publication and codification of ordinances; adoption of codes by reference.

(a) Every ordinance shall upon its final passage be signed by the mayor, or the member of the town commission presiding at the meeting when it was passed, and by the town auditor and clerk; and such ordinance shall be recorded in a book kept for that purpose. Every ordinance of a general and permanent nature shall be published by posting the same in at least three public places for a period of four weeks after the passage thereof, or when and if, there is a newspaper published in the Town of Longboat Key qualified for legal publications according to law, such ordinances

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shall be published once therein within ten days after its final passage in such newspaper. Provided, however, that this requirement shall not apply to any general revision or compilation of the ordinances of the town made under its authority.

(b) Whenever, in the judgment of the town manager, it is necessary for the better administration of the town's affairs, the town commission may make provision for a general revision and complete codification of all of the ordinances of the town then in force and effect and for the publication, in book or pamphlet form, a sufficient number of copies thereof to serve the reference requirements, from time to time, of all officers, departmental heads and members of boards and commissions of the town, the work of revision and codification shall be done by a capable and experienced lawyer retained by the town manager. With such codification, shall be included in published form the town's charter and any laws amendatory thereof or supplemental thereto and such notes, references, addenda and indexes as the revisor deems helpful to the use and understanding of the subject matter. Every such revision or codification, after adoption by the town commission and proclamation of the mayor as shown therein, shall be received in any of the courts of this state as prima facie evidence of the existence and contents of the laws and ordinances therein contained.

(c) Provided, codes, including the Building Code and other codes of the Town of Longboat Key, which codes are themselves in printed form, and are on file and available for public inspection at the office of the town auditor and clerk, need not be published in a newspaper in order to become effective, but may by apt reference be made a part of any town ordinance now or hereafter adopted; provided further that where an amendment is made to the general zoning ordinance, by reference to the official town zoning map, that neither the zoning map nor the applicable portion thereof need be published in a newspaper or posted as herein provided. (c. 59-1511, § 1, Sp. Acts 1959.)

Town Manager.

Sec. 25. Appointment; term of office; qualifications; acting town manager.

The town commission shall appoint a town manager who shall be the administrative head of the municipal government under the direction and supervision of the town commission. He shall hold office at the pleasure of the town commission. He shall be chosen solely on the basis of his executive and administrative qualifications, without regard to his political belief, and he need not be a resident of the town or state at the time of his appointment. During the absence or disability of the town manager, the town commission may designate some properly qualified person to temporarily execute the functions of the office. No member of the commission shall receive the appointment as town manager during the term for which he shall have been elected, nor within one year after the expiration of his term.

Sec. 26. Removal.

The town manager may be removed by the town commission; but if removed at any time after having served six months, he may demand written charges and a pub-

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lic hearing upon the same before the commission, and his final removal shall not take effect until such hearing has been set, but the commission may suspend him from office pending such hearing.

Sec. 27. Powers and duties.

The town manager shall be responsible to the town commission for the proper administration of all affairs of the town and to that end, his powers are and they shall be:

- (a) Enforcing law To see that the laws and ordinances are enforced.
- (b) Appointment and removal of employees. Except as hereinafter specifically provided, to appoint and remove subject to approval by the commission, all subordinate officers and employees of the town. All appointments shall be made upon merit and fitness alone.
- (c) Supervision of departments and divisions of government. To exercise control and direct supervision over all departments and divisions of the municipal government under this Charter, or which may hereafter be created by the town commission, including public utilities owned by said town.
- (d) Enforcement of franchise. To see that all terms and conditions imposed in favor of the town, or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the town attorney whose duty it is hereby made to take such legal steps as may be necessary to enforce the same.
- (e) Attendance of meetings. To attend all meetings of the town commission unless excused by the mayor and to attend town commission meetings when requested by the mayor or committee chairman, or when he himself may deem it necessary. He shall have the right to take part in the discussions without having a vote.
- (f) Recommendation to commission. To recommend to the commission for adoption such measures as he may deem necessary or expedient in the interests of the town.
- (g) Finances, annual budget. To keep the town commission fully advised as to the financial condition and needs of the town and to submit for its consideration an annual budget.
- (h) Generally. To perform such other duties as may be prescribed under this Charter or as may be required of him by ordinance or resolution of the town commission.
- (i) Purchasing agent. He shall be purchasing agent for the town, by whom all purchases of supplies shall be made and he shall approve all vouchers for the payment of same. In the capacity of purchasing agent, he shall also conduct all

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sales of personal property which the commission may authorize to be sold as having become unnecessary or unfit for the town's use. All purchases and sales shall be conformed to such regulations as the town commission may from time to time prescribe; but in any case at least three bids shall be obtained in the purchase or sale of personal property and in the sale of real estate involving the amounts in excess of \$200.00. (c. 59-1511, § 1, Sp. Acts 1959; c. 61-2432, § 1, Sp. Acts 1961; c. 69-1254, § 2, Sp. Acts 1969.)

Administrative Offices and Departments.

Sec. 28. Composition.

The executive and administrative powers of the town not herein otherwise provided for shall be vested in and exercised by the following officers and departments: A town attorney, a municipal judge and three (3) departments as follows: Department of public safety and welfare and public works and department of records and department of finance and taxation. (c. 59-1511, § 1, Sp. Acts 1959.)

Sec. 29. Appointment and duties of town attorney.

The town commission shall appoint a town attorney who shall act as the legal advisor to, and attorney and counsel for, the municipality and all its officers in matters relating to their official duties. He shall prepare all contracts, bonds and other instruments in writing in which the municipality is concerned and no contract with the municipality shall take effect until his approval as to form and correctness is endorsed thereon. When required to do so by resolution of the town commission, he shall prosecute and defend for and in behalf of the town, all complaints and controversies in which the town is a party. He shall furnish the town commission, the town manager, the head of any department or any officer or board not included in any department, his opinion on any question of law or relating to their respective powers and duties. The town attorney shall not represent or be attorney for, any utility company or any person, firm or corporation holding a franchise from the town, or any applicant seeking a franchise from the town. Provided, however, that this provision shall not affect any litigation or employment of such town attorney subsequent to his retirement from such position.

In addition to the duties specifically imposed herein, the town attorney shall perform such other professional duties as may be required of him by ordinance or resolution of the town commission, or as are prescribed for town attorneys under the general law of the state which are not inconsistent with the provisions of this Charter and with any ordinance or resolution which may be passed by the town commission.

Sec. 30. Qualifications of town attorney.

The town attorney shall be a lawyer of at least three years experience, admitted to and having authority to practice in all courts of the state, including federal courts.

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Municipal Judge.

Sec. 31. Municipal court.

There shall be and there is hereby established in the Town of Longboat Key a municipal court to be known as the Longboat Key Municipal Court for the trial of all offenders against the municipal ordinances. Such court shall be presided over by the mayor, or by a judge other than the mayor, appointed by the town commission. In the event such judge is one other than the mayor, he shall be a lawyer duly admitted to practice law in the State of Florida and shall be appointed by and serve at the pleasure of the commission. In the absence or disability of the municipal judge, the county judge, or in the absence or disability thereof, a justice of the peace may perform the functions of the municipal judge. Sessions of municipal court shall be held at such times and places as the town commission shall by resolution specify.

Sec. 32. Powers.

The municipal judge shall have power by his warrants to have brought before him any person or persons charged with the violation of the town ordinances, and shall have exclusive original jurisdiction over all proceedings of a criminal nature for the violation of any ordinances of the town. In the proper exercise of the functions of the municipal court within its jurisdiction as herein defined, the municipal judge shall have power and is authorized to issue and cause to be served, any and all writs and processes such as are issued by justices of the peace in the State of Florida, and the police of the Town of Longboat Key are authorized, and it is made their duty, to execute and serve any and all such writs and processes issued out of the said municipal court by the municipal judge, and to make proper returns upon the same to such court and in the same manner as is required of constables and sheriffs in the execution of similar papers. The municipal judge shall have power and authority to take bail for the appearance of an accused person, or in the absence of the municipal judge from Longboat Key, such judge may designate one or more town officials or police officers to take bail for the appearance of an accused person. If such accused person fails to appear, the municipal judge shall have the power and authority to declare such bond or security estreated. The municipal judge shall also have the power and authority to require the attendance of witnesses for the town and for the accused person, to administer oaths, take affidavits, and to inquire into the truth or falsity of all charges preferred, to decide on the guilt or innocence of the accused, and to fix and impose such penalties by sentence as are prescribed and provided for under the ordinances of the town, and to have all powers incidental and usual to the due enforcement of such town ordinances. (c. 59-1512, § 1, Sp. Acts 1959.)

Sec. 33. Appeals.

Any person convicted in the municipal court of any offense shall have the right to appeal to the circuit court of the Twelfth Judicial Circuit of Florida for Sarasota County. The same practice and procedure provided by law for appeals from the county judge's courts of this State shall govern the practice and procedure of appeals from said municipal court.

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Sec. 34. Preservation of order; disposition of money collected as fines.

The municipal court shall have authority to preserve order and decorum and shall be invested with the same powers to that end, by fine and imprisonment, as are possessed and authorized to be exercised by criminal courts of record within the state. All fines, penalties and fees collected in the municipal court and by the police of the town shall be part of the revenue of the town and shall be paid to the town treasurer and collector on the day on which collected, and receipt taken therefor. The moneys so paid into the town treasury may, by ordinance of the town commission, be appropriated to any particular fund and shall thereafter be used in accordance with such ordinance.

Sec. 35. Remission of fines and penalties.

No fine or other penalty imposed by the municipal court shall be remitted except by action of the town commission upon the recommendation of the municipal judge; provided, however, that this shall not be construed as precluding the municipal judge from suspending sentences imposed by such court.

Department of Public Safety and Welfare and Public Works.

Sec. 36. Duties and responsibilities of town manager.

The town manager, as the administrative head of the town shall be the head of each department provided for under this Charter except the department of records and taxation and the department of finance, provided that the town manager may, in the discretion of the town commission, be appointed head of the department of records and taxation and of the department of finance. He shall be responsible for its successful and businesslike operation. He shall be the active head of the department of public safety and welfare, which department shall have cognizance of all matters making for the welfare of the community, such as the control of its charitable and correctional institutions, works and undertakings of the town except as otherwise provided for under this Charter.

Sec. 37. Town health officer.

When authorized by ordinance of the town commission, the town manager may appoint a town health officer, whose duty it shall be to enforce the rules and regulations of the state board of health and the ordinances of the town relative to the preservation and promotion of the public health and to recommend such action from time to time as he may deem necessary for the prevention, abatement and suppression of nuisances and for the preservation of the life and health of the inhabitants of the town. The town health officer will also perform such duties with regard to the sanitary inspection of the town and supervision of the production, transportation, storage and sale of food and foodstuffs as is necessary and proper, he will keep or cause to be kept a complete and accurate system of vital statistics and will perform such other duties as may from time to time be required of him by the town manager, under the ordinances or resolutions of the town commission.

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Sec. 38. Police force generally.

The police force of the Town of Longboat Key shall consist of a chief of police, who shall be appointed by, and serve at the pleasure of, the town commission, and as many subordinate officers, patrol, policemen and employees as the town commission shall, by ordinance, determine. The chief of police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employees, constituting the police force, subject to the approval of the town manager and under such rules and regulations as the town commission may prescribe, or as may be prescribed by the ordinances of the town. The chief of police, during the absence of or disability of the municipal judge, or when the municipal judge is not accessible for the reasonably prompt taking of bail, shall have power and authority to take temporary bail for the appearance of an accused person, and if such person fails to appear, the municipal judge shall have power to declare such bond or security forfeited or estreated; provided, that the municipal judge shall have power at any time after arrest of the accused and before sentence is imposed, on production of the accused before him, to increase or decrease the amount of such bail as fixed by the chief of police and if increased, to commit such accused person to custody until such increased or additional bail is provided. The chief of police may be removed by the town commission; but if removed at any time after having served six (6) months, he may demand written charges and a public hearing upon the same before the commission, and his final removal shall not take effect until such hearing has been held, but the commission may suspend him from office pending such hearing. (c. 69-1265, § 7, Sp. Acts 1969.)

Sec. 39. Appointment of extra patrolmen.

In case of riot or other grave emergency and during elections or similar occasions, the chief of police may appoint additional patrolmen and officers for temporary service. No person shall act as a special policeman, special detective, or other special police officer for any purpose whatsoever, except on written authority of the chief of police. Such authority shall be exercised only under the direction and control of the chief of police for a specified time.

Sec. 40. Chief of police.

The chief of police shall execute the commands of the town commission and all processes issued by authority thereof which shall be issued to him by the mayor. He shall attend in person or by deputy the municipal court during its sittings; execute the commands and processes of said court, aid in the enforcement of order therein and perform such other duties appropriate to his office as may be imposed upon him by law, the ordinances of the town, and by direction of the town manager, consistent with this Act. He shall have the right to suspend any officer or employee of the police force because of incompetency, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority or for any other just and reasonable cause, and he shall immediately report the fact of such suspension to the town manager.

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Sec. 41. Fire force.

The fire force of the town shall consist of a chief, who shall be fire warden, and as many subordinate officers, firemen and employees as the town commission shall, by resolution determine when authorized by ordinance. The fire chief shall have exclusive control of the stationing and transfer of all firemen and other officers and employees of the fire force subject to such rules and regulations, as may be prescribed by the town manager or by ordinance of the town; he shall have exclusive management and control of such officers and employees as may be employed in the administration of the affairs of his force. In case of riot, conflagration or like emergency, the fire chief may appoint additional firemen for temporary service. The fire chief shall have the right to suspend any officer or employee of the fire force because of incompetency, neglect of duty, drunkenness, failure to obey orders given by proper authority or for any other just or reasonable cause, and he shall immediately report the fact of such suspension to the town manager.

Sec. 42. Public works, utilities, etc.

The town manager shall manage and control all town owned public utilities operated and managed by the municipality, and the office of the town manager shall be charged with the management and operation of all public works and all charitable and correctional institutions and agencies of the town, enforce all laws, ordinances and regulations relative to the preservation and promotion of public health; shall manage or inspect water, lighting, heating, power and transportation enterprises of the town; shall manage and control the use, construction, improvement, repair and maintenance of all recreational facilities of the town, including parks, playgrounds, and public gymnasiums, and social centers; he shall manage and supervise all public improvements, works and undertakings of the town, except as otherwise provided in this Charter; he shall have charge of the construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, public highways, drains, ditches, culverts, streams, watercourses and all public buildings; he shall manage and control market houses, crematories, sewage disposal plants and farms, and he shall enforce all the obligations of privately owned or operated public utilities which are enforceable by the town; he shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for such public work; the cleaning, sprinkling and lighting of streets and public places; the collection and disposal of wastes; and the preservation of tools and appliances belonging to the town and pertaining to the functions of its several departments.

Department of Records.

Sec. 43. Town auditor and clerk generally.

There shall be a town auditor and clerk, who shall be appointed by and serve during the pleasure of the town commissioners and who shall be director of the department of records. He shall issue all warrants for payment of money by the town; he shall keep an accurate account of all monies due to and of all receipts and disbursements by the municipality, and of all its assets and liabilities and of all appropriations made by the town commission. He shall submit to the town com-

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mission at its first meeting in each month a complete and comprehensive report covering the next preceding month of the receipts and expenditures and of the financial condition of the town. He shall make and keep a list of the outstanding town bonds, to whom issued, for what purpose, when and where payable and the rate of interest they respectively bear and he shall recommend such action from time to time to the town commission as will insure the punctual payment of principal and interest of such bonds. He shall furnish the town manager and town commissioners at any time such reports, data and information as may be necessary to fully inform them as to the financial affairs of the town, and shall furnish the town manager such estimates of the expense of the town government as may be necessary to form the basis of the annual budget and to determine the revenue necessary to be raised each year.

Sec. 44. Reserved.

Sec. 45. Preparation of estimates; signing of contracts, bonds, etc.

The town auditor and clerk shall make, or cause to be made, estimates of the expenses of any work to be done by the town, shall countersign all contracts made in behalf of the town, and certificates of work authorized by the town commission or any other town official. No contract made in behalf of the town or to which the town is a party, shall be valid unless countersigned by the town auditor and clerk; he shall keep regular books of account, in which shall be entered all indebtedness of the town and which shall at all times show the financial condition of the town, the amount of bonds, orders, certificates or other evidence of indebtedness outstanding and the amount of all bonds, orders, certificates or other evidence of indebtedness which have been redeemed; he shall countersign all bonds, orders, certificates or other evidence of indebtedness of the town and keep accurate account thereof, which accounts shall show for what purpose issued, to whom and the amount thereof; he shall keep account with all disbursing officers and employees of the town, showing the amounts they have received from different sources of revenue, and the amount they have disbursed, as authorized under the ordinances of the town. He shall keep a list of all certificates issued for work or for any other purpose.

Sec. 46. Certification of funds.

No contract, agreement, or other obligation involving the expenditure of money, shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money be passed by the town commission or be authorized by any officer of the town, unless the town auditor and clerk first certifies to the town commission or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure, is in the treasury to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, which certificates shall be filed and immediately recorded. The sum so certified shall not thereafter be considered unappropriated until the town is discharged from the contract, agreement or obligation. All moneys actually in the treasury to the credit of the fund from which they are drawn, and all moneys applicable to the payment of obligations or

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appropriations involved, that are anticipated to come into the treasury before the maturity of such contract agreement or obligation, from taxes or assessments, or from sales or services, products or by-products, or from any town undertaking, fees, charges, accounts and bills receivable, or other claims in the process of collection; and all money applicable to the payment of such obligation or appropriation, which are to be paid into the treasury prior to the maturity thereof, arising from the sale or lease of lands or other property and the money to be derived from lawfully authorized bonds sold and in process of delivery, shall, for the purpose of such certificates, be deemed in the treasury to the credit of the appropriate fund and subject to such certification.

Sec. 47. Audit and certification of claims.

All claims and demands against the town, before they are allowed by the town commission, shall be examined and adjusted and their correctness certified by the town auditor and clerk. He shall keep a record of his accounts and doings and a record of all contracts to which the town is a party, with an index thereto, and such books shall be opened to the inspection of all parties interested.

Sec. 48. System of accounts and forms.

The town auditor and clerk shall prescribe and require, except as they may be prescribed and required by law, the use of plain and uniform system of keeping books of accounts by all town departments, officers or employees who are charged with the receipt or disbursement of any of the funds of the town, or who may be authorized to purchase materials or supplies or to employ labor for the town; he shall prescribe the forms of vouchers or other evidence of the receipt of money from the town or for the establishment of demands against the town; he shall require periodic reports from each department, office, officer, or employee of the town receiving and disbursing funds of the town, showing all sums received and disbursed, from what source and for what purpose.

Sec. 49. Audit of accounts.

At the end of each fiscal year, and oftener if so required by the town commission, the town auditor and clerk shall audit the accounts of the several departments, officers and employees, and shall audit all other accounts in which the municipality is interested. He shall at all times have access to and may inspect and take copies of all books on which entries are made or are required to be made, relating to the receipt or expenditure of money on account of the town, and of all vouchers, accounts, bills, warrants, drafts, contracts or other papers relating thereto. The town commission, at the end of each fiscal year of the town, shall cause the books of accounts of the town to be audited by an independent certified public accountant, who shall, upon completion of the audit, deliver to each member of the town commission, the town auditor and clerk and the town manager a copy of said audit and a copy of said audit shall remain on file in the office of the town auditor and clerk for inspection by any person desiring to inspect the same. A summary of said audit furnished to the town as provided by this section shall be published in a news-

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paper of general circulation in the Town of Longboat Key within a period of not more than thirty days after the completion of any such audit.

Sec. 50. Administration of oaths, investigation of claims, etc., by town auditor and clerk.

The town auditor and clerk shall have power to administer oaths for the purpose of ascertaining the facts relating to any charge or claims against the town, made or claimed by any person, partnership, association or corporation whatsoever; he shall inquire into and inform himself as to the legality of all claims to be paid out of the town treasury or the reasonableness of the prices charged or claimed for materials, supplies or labor and the facts as to the delivery or rendition thereof to or for the use of the town, and for this purpose he shall have power to require evidence that the amount of any claim is justly due and in conformity to law and ordinances, and for that purpose he may summon before him any officer, agent or employee of any department of the municipality, or any other person and examine him upon oath or affirmation relative thereto.

Sec. 51. Financial records and reports.

The accounting procedure established in the office of the town auditor and clerk shall be adequate to provide a record in detail of all transactions affecting the acquisition, custodianship and disposition of values, including cash receipts and disbursements, and such facts shall be so presented in the reports which he is required to render periodically, and shall be supported with such summaries and analytical schedules as may be necessary to show in detail the full account of such transactions for each fiscal year, upon the finances of the town and relation to each department of the town government, including distinct summaries and schedules for each public utility owned and operated.

Sec. 52. Closing and auditing of accounts of officials.

Upon the death, resignation, removal or expiration of the term of any officer, the town auditor and clerk shall audit his accounts and if such officer shall be found to be indebted to the municipality, the town auditor and clerk shall at once give notice thereof through the town manager to the town commission and to the town attorney and the latter shall forthwith proceed to collect the sum of such indebtedness.

Sec. 53. Duties of town auditor and clerk in connection with town commission.

The town auditor and clerk, in his capacity as clerk of the town, shall attend all meetings of the town commission and shall keep a journal of its proceedings, the correctness of which shall be approved by the commission at its next regular meeting. He shall be the custodian of the seal of the town and of all records and papers of a general character pertaining to the affairs of the municipality. (c. 61-2432, § 1, Sp. Acts 1961.)

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Sec. 54. Assessor of taxes.

The town auditor and clerk shall be ex-officio assessor of taxes for the town.

Sec. 55. Additional duties of town clerk and auditor.

In addition to the duties specifically imposed under this chapter, the town auditor and clerk shall perform such other duties as may be required of him by ordinance or resolution of the town commission, as well as such duties as may be required of town auditors and town clerks by the general laws of the state, applicable to municipalities and not inconsistent with this Charter or with any ordinance or resolution passed by the town commission.

Sec. 56. Town treasurer and collector generally.

There shall be a town treasurer and collector, who shall be director of the department of finance and taxation, and who shall be employed by and serve at the pleasure of the town commission. As town treasurer he shall be the custodian of all current funds of the municipality and shall keep and preserve the same in such manner and in such place or places as shall be determined by the town commission; provided, that it shall be his duty to invest or deposit in banks in this state, as savings accounts or otherwise, any and all moneys belonging to the town, and collected and held as sinking funds; the investment or deposit of such funds to be done and made by competitive bids therefor, after due notice, or in such other manner as in the judgment of the town commission may be deemed best in the interest of the town. In making investments, the town treasurer may purchase only interest-bearing United States, state, county, school district or municipal bonds on improvement lien certificates and utility revenue certificates of the Town of Longboat Key, but no bond shall be purchased for a higher price than its market price at the time of purchase. In making deposits of such sinking funds, the town treasurer and collector shall select for that purpose any reputable national, state or savings bank or trust company or federal saving and loan association in the state and obtain the highest prevailing rate of interest for such deposit or deposits. (c. 61-2432, § 1, Sp. Acts 1961; c. 69-1265, § 8, Sp. Acts 1969.)

Sec. 57. Interest upon investments or deposits.

All moneys due as interest upon investments or deposits shall be collected by the town treasurer and collector and placed to the credit of the proper fund of the town, and any and all bonds and securities taken from investments and deposits shall be held by the town treasurer and collector for safekeeping for the benefit of the town.

Sec. 58. Collections.

The town treasurer and collector shall receive and collect all moneys belonging to the town, including taxes, license moneys, fines and income from all other sources and he shall collect all special assessments as provided for under this Charter and keep accurate account thereof.

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Sec. 59. Payments from town money.

The town treasurer and collector shall pay out moneys only on checks or warrants signed in the name of the Town of Longboat Key by such officers, not less than two (2), as the town commission may from time to time by resolution designate, except bonds and interest-bearing coupons, which when due, may be paid upon presentation, or in case the same are payable in some place other than the Town of Longboat Key, then the money for their redemption shall be sent to the place of payment. (c. 59-1512, § 1, Sp. Acts 1959.)

Sec. 60. Accounts of town treasurer and collector.

The accounts of the town treasurer and collector shall be examined at the end of each month by the town auditor and clerk, to whom the town treasurer and collector shall turn over all warrants, interest coupons, bonds or other evidence of indebtedness of the town which may have been redeemed by him during the month, taking the receipt of the town auditor and clerk therefor, and all such warrants, interest coupons, bonds or other evidence of indebtedness of the town so turned over shall be cancelled by their treasurer and have written or stamped thereon the date of their payment or redemption.

Sec. 61. Monthly reports of town treasurer and collector; schedule of property eligible for taxation.

At the first meeting of the town commission in each month the town treasurer and collector shall submit a detailed report of receipts and disbursements together with an itemized list of funds budgeted, which report shall be rendered through the town auditor and clerk and bear certificate of the latter as to its correctness. Before the levy by the town commission of any special tax upon any property of the town, or any part thereof, the town treasurer and collector shall furnish to the town manager for the information of the town commission, a schedule of all lots or parcels of land which may be subject to the proposed tax or assessment and which it may be necessary to levy on, which said schedules shall be certified by his affidavit and shall be prima facie evidence of the facts stated therein, in all cases wherein the validity of such tax or assessment shall come in question. Acting upon such schedule the town commission may, if they deem such special tax or assessment legal and just, cause the same to be levied.

Sec. 62. Payment of warrants.

All warrants shall be paid in the order in which they are presented from moneys in the respective funds on which they are drawn. But no warrant for the payment of money shall issue on any fund of the municipality unless and until there are moneys to the credit of the fund to be drawn on with which to pay such warrant.

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Sec. 63. Accounts of each town fund.

The town treasurer and collector shall keep a separate account of each fund or appropriation of the town and of the debits and credits pertaining thereto. He shall prepare receipts in duplicate for all moneys paid into the city treasury, delivering the original receipt to the person paying the same and retaining the duplicate to be turned over to the city auditor and clerk at the time of his monthly settlement with that officer.

Sec. 64. Money received from special assessments.

All moneys received on account of any special assessment shall be held by the town treasurer as a special fund from which payment shall be made only on account of the improvement for which such assessment was made and such money shall be used for no other purpose whatsoever.

Trustees of Sinking Fund.

Sec. 65. Sinking fund commission.

The town commission may by ordinance create the sinking fund commission of the Town of Longboat Key, the members of which shall constitute the trustees of the sinking fund of said town, which said commission shall be composed of the mayor commissioner, two other members and three other experienced and trustworthy citizens and residents of said town who shall be elected by the town commission. The three members elected by the town commission shall hold office for a term of three years, except that the first three members so elected as aforesaid under the provisions hereof shall be elected for the following terms, one of said members shall be elected for a term of three years and at the same election one of said members shall be elected for a term of two years, and one of said members shall be elected for a term of one year, and that after the first election hereunder the town commission shall elect a member of said board (sinking fund commission) annually at the first meeting of the town commission succeeding the regular municipal elections of said town to fill any vacancies as they may occur.

The sinking fund commission shall assume all the powers and duties herein provided as soon as they shall have been elected and qualified. The removal from said town of any member of said sinking fund commission shall vacate his office. The mayor commissioner of the town shall be the chairman of said sinking fund commission and the said commission shall have the power to fix the date, time and place of all regular meetings of said commission, and to provide for the call of special meetings. That said sinking fund commission shall manage and control the sinking funds created and accumulated for the retirement and payment of the principal and interest of all bond issues heretofore or hereafter issued by said town. That it shall be the duty of said sinking fund commission to invest said sinking funds to the best advantage of said town, provided, however, that said funds shall be invested only as is now provided by this Act and pursuant to a vote of

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five-sixths of the members of said sinking fund commission. The said commission shall so invest said funds as to provide for sufficient cash moneys to be on hand to promptly meet all payments of interest or principal of any of the bonds of said town when the same may be due.

Advisory Boards.

Sec. 66. Appointment; composition; powers and duties.

The town commission shall appoint advisory boards, composed of men and women who are electors or freeholders of the Town of Longboat Key and qualified to act in an advisory capacity as to the project or board to which such person may be appointed. Said boards shall have the powers and duties set forth in a resolution creating said board, and shall advise the commission as to any matter upon which such recommendation is requested by the said town commission, and a resolution providing for said advisory board. The members of any such board shall serve without compensation for the time fixed in their appointment, or at the pleasure of the commission, and their duties shall be to consult and advise with such municipal officers and to make written recommendations to the town commission which shall become part of the records of the town. (c. 61-2432, § 1, Sp. Acts 1961; c. 65-1862, § 3, Sp. Acts 1965.)

Finance and Taxation.

Sec. 67. Fiscal year.

The fiscal year of the town shall begin on the first day of January of each year and end on the last day of December of each year.

Sec. 68. Annual estimate.

The town manager, in his annual report covering the operation of the town which it shall be his duty to make and submit to the town commission covering the fiscal year, shall set forth an estimate of the expenditures and revenues of the town for the ensuing year. This estimate shall be compiled from detailed information and in its arrangement the classification of expenditures shall be as nearly uniform as possible for the main functional divisions and departments of the town and shall give in parallel columns the following information:

(a) Detailed estimate of the expense of conducting each department and division of the town government, including all public utilities and enterprises conducted by the town.

(b) Expenditures for corresponding items during the two fiscal years last past.

(c) Amount of supplies and material on hand.

(d) Increase of demands compared with the corresponding appropriation for the last fiscal year.

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(c) Such other information as is required by the town commission or as the town manager may deem advisable to submit.

The estimates so given and constituting the recommendation of the town manager as to the amounts necessary to be appropriated for the ensuing year shall be supported with information giving the reasons therefor in such detail as may be necessary to afford the town commission a comprehensive understanding of the needs and requirements of the various divisions of the town government for the ensuing period.

Sufficient copies of the annual report and estimate of the town manager shall be prepared that there may be copies on file in the office of the town manager and clerk for inspection by the public.

Sec. 69. Appropriation ordinance.

The town commission shall carefully consider such estimates before passing an appropriation ordinance for the ensuing year. After such appropriation ordinance has been introduced and before passage on second reading, the town commissioners shall advertise notice of a public hearing thereon to be published one (1) time in a local newspaper of general circulation in the Town of Longboat Key, stating the time and place the ordinance will be considered and acted upon finally. Such ordinance shall not be passed finally until at least five (5) days after publication of such notice. Prior to final passage, the commission shall hold a public hearing thereon as provided in such notice and shall hear all interested persons desiring to speak thereon. Following such public hearing and final passage, such appropriation ordinance shall be effective immediately upon its adoption and passage after public hearing if so stated therein. In the event income exceeds the budget estimate, such unappropriated surplus may be appropriated by an appropriation ordinance of the town as herein provided. (c. 59-1512, § 1, Sp. Acts 1959.)

Sec. 70. Revision of appropriation.

If at the beginning of the term of office the first town commission elected under this Charter, the appropriations for the expenditures of the town government for the current fiscal year have been made, then the said town commission shall have power by ordinance to revive, to repeal or change said appropriation and make additional appropriations for that year.

Sec. 71. Transfer of funds.

Upon request of the town manager, the town commission may transfer any part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation of the current year has proved insufficient, or may authorize a transfer to be made between items appropriated to the same office or department.

Sec. 72. Limitation of appropriations.

At the close of each fiscal year the unencumbered balance of each appropriation

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shall revert to the respective fund from which it was appropriated and shall be subject to future appropriation. Any accruing revenue of the town, not appropriated as hereinabove provided, and any balance at any time remaining after the purpose of the appropriation shall have been satisfied or abandoned, may from time to time be appropriated by the town commission to such use as will not conflict with any uses for which specifically such revenues accrued. No money shall be drawn from the treasury of the town, nor shall any obligation for the expenditure of money be incurred, except pursuant to the appropriation made by the town commission.

Sec. 73. Payment of claims.

No warrant for the payment of any account or claim shall be issued by the town auditor and clerk until such account or claims have been approved by the head of the department for which the indebtedness was incurred and by the town manager, and such officers and their sureties shall be liable to the municipality for all loss and damage sustained by the municipality by reason of corrupt or improper approval of any such claim or account against the municipality.

Sec. 74. Levies.

The town commission shall have the right to raise by taxation on the taxable real property within the corporate limits of the Town of Longboat Key, and on licenses, such amounts as may be necessary to carry on the government of said town not to exceed five mills on the dollar of the assessed valuation of such taxable property; and, in addition thereto, shall have the right to levy such additional taxes as may be necessary to pay the interest on, and to provide a sinking fund for the ultimate redemption of the outstanding bonds of said town and such additional bonds of said town as may from time to time be issued in accordance with law; and to pay any lawful judgment which may be secured against the town and which the town may be compelled to satisfy. No tax on real property shall be levied or made a lien on said property or be collected until previously approved by a majority of votes cast in a special election called and held for such purpose. This special election may be participated in only by freeholders who are qualified electors and shall be held in the same manner as provided for in section 104 of the Charter of the Town of Longboat Key pertaining to the approval of bond issues. (c. 61-2432, § 1, Sp. Acts 1961.)

Sec. 75. Rate of assessment.

The percentage of taxation herein authorized shall in such case be upon the valuation of the taxable property in said town as set forth in the town assessment roll; provided that all taxes shall be uniform upon the same classes of property within the corporate limits of the town and that all property shall be assessed at its full cash value. In fixing the full cash value, the town clerk, as ex-officio assessor, may use the assessment rolls of Sarasota and Manatee Counties as they pertain to taxable property in the Town of Longboat Key, provided adequate adjustments are made to equalize the assessments of the properties in these counties. (c. 59-1511, § 1, Sp. Acts 1959; c. 61-2432, § 2, Sp. Acts 1961.)

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Sec. 76. Tax assessment roll generally.

All property within the town taxable for county purposes shall be assessed and listed for purposes of general taxation on the town tax assessment rolls in the name of the owner when the name of such owner is known to the assessing officer, but real property, the owner or owners of which are unknown to the assessor, shall be listed as the assessing officer shall, from his best information, believe to be the name of the owner or owners thereof. Where two or more lots, tracts, or parcels of land in common ownership are contiguous to one another, the assessor may assess all of the same together; provided, however, that if the owner requests that the same be assessed separately, then the assessor shall comply with such request; except in the said cases, each lot and separate parcel or tract of land shall be assessed separately.

Sec. 77. Date of assessment.

All property shall be assessed as of the first day of January of the fiscal year for which such assessment is made.

Sec. 78. Preliminary assessment roll.

Upon his preliminary assessment roll the town auditor and clerk as ex-officio assessor shall indicate, in some convenient manner, the property subject to taxation for each of the purposes for which taxation is authorized. Said assessment roll shall be completed by the assessor and submitted to the equalizing board on the first Monday in March of each year. Said preliminary assessment roll may be prepared in loose leaf form, in a card file record, or in such other convenient form as the town auditor and clerk may determine will promote the efficient assessment.

Sec. 79. Correction of assessments.

If the town auditor and clerk, in his capacity as ex-officio assessor of taxes, in making his assessment, shall discover that any land in the town was omitted in the assessment roll of either or all of the three previous years, or that any land was illegally sold for taxation and is then liable to taxation, he shall assess such lands for the next fiscal year and shall also assess the same separately for each such year or years as may have been omitted or was illegally sold for taxes, at the cash value thereof at the time, noting distinctly the year or years when such omission occurred, and such assessment shall have the same effect as if made in the year or years when assessments were omitted, and taxes shall be levied and collected thereon in like manner together with the taxes for the year in which assessment is being made; but no land shall be assessed for more than three (3) years arrears of taxes, and all lands shall be subject to be assessed into whomsoever's hands they may come.

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Sec. 80. Returns.

All persons, corporations or firms owning real property subject to taxation by the Town of Longboat Key, shall be required to make return of the same before the third day of January each year to the town auditor and clerk in his capacity as ex-officio tax assessor of the town. Such return shall be made upon and in conformity with blanks prepared and to be supplied for such purpose through the office of the town auditor and clerk, and such return shall contain a complete list of all the property taxable by the town belonging to such person, a corporation, or firm, for which return is made together with the full cash value thereof giving separately an intelligent legal description and the full cash value thereof of each separate lot and parcel of real property; which description and valuation thus returned may be considered by the assessing officer in making assessments, but he shall not be bound thereby. Should any person, corporation or firm omit to make such return, as above required, the assessing officer shall assess the property not thus returned in the name of the owner, if the owner shall be known to him, and where the name of the owner is not known to him, he may assess it in the name of the supposed or reputed owner or occupant or as belonging to an unknown owner and in no case where the real owner has failed to make return of his property as herein required, shall the assessment thereof be declared invalid or as not lawfully made, or the endorsed payment of taxes thereon be refused by reason of such property being assessed otherwise than in the name of the real owner.

Sec. 81. Assessment of property of transportation companies.

Railway and railroad companies, telephone and telegraph companies, street railroads, sleeping car companies, parlor car companies, freight line and equipment companies, boat and steamship lines, bus companies, and airlines, shall be subject to taxation on all real and personal property owned by them or operated within the limits of the municipal corporation, at the same rate of valuation as all other property. Franchises and privileges owned by street railway, telephone and telegraph companies and other corporations, part of which is, and part of which is not, subject to taxation for the various purposes other than ordinary municipal purposes shall be so assessed as to show the valuation or part of the whole valuation, subject to taxation for each purpose. Provided, however, that when assessment of some or all of the property of any company of a type mentioned in this paragraph is now, or shall hereafter, be provided by law to be made by the comptroller of Florida or other state official or board, and reported to the town, then the town auditor and clerk may have his assessment of such property upon the information supplied by said comptroller or other state official or board.

Sec. 82. Personal property.

The Town of Longboat Key shall have the right to tax as personal property, all buildings or structures owned by private individuals, corporations or firms and located upon public lands, the use of which for private purposes have been allowed such individuals, corporations or firms under revocable license or other form of grant.

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The collection of all personal tax assessments shall be enforceable at any time more than sixty days after the publication of notice of the opening of the town tax books.

Sec. 83. Licenses generally.

The town commission is authorized to levy and impose license taxes, by ordinance, for the purpose of regulation and revenue, upon all occupations and upon any and all privileges, and to determine and fix the amounts to be paid, which amounts shall not be limited or restricted by the general revenue laws of the state;¹ to provide for the collection of the same, and to provide penalties for failure or refusal to pay such license taxes.

All such license taxes, so imposed, shall constitute a legal indebtedness to the town which may be recovered in any court of competent jurisdiction, and no property of such debtor shall be exempt from forced sales, after due process of law, for such indebtedness. The town commission may, by ordinance provide for licensing the keeping of dogs and for the destruction of dogs, the owner and keeper whereof shall comply with the regulations prescribed by ordinance in effect thereto, and for the punishment of persons violating the town ordinances on this subject.

Sec. 84. Period covered by licenses; transferability of licenses; liability for license.

Licenses shall be issued for the periods and be transferable as provided by the general laws for state licenses. The agent or agents of non-resident proprietors shall be severally responsible for carrying on business in like manner as if they were proprietors. The fact that any person, firm or corporation reporting himself or itself as engaged in any business calling, profession or occupation for the transaction of which a license is required or that person exhibited a sign or advertisement indicating engagement in such business calling, profession or occupation, shall be conclusive evidence of the liability of such person, firm or corporation to pay a license.

Equalizing Board.

Sec. 85. Composition, meetings; clerk.

The equalizing board of the town shall be composed of the members of the town commission and it shall meet in the first Monday of March each year. The town auditor and clerk shall be the clerk of such board and shall keep an accurate record of all the changes made in the valuation of property and all other proceedings of such board.

1. Editor's note.--Florida Statutes, section 205.041 states that municipal license taxes shall not exceed fifty percent of the state license tax.

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Sec. 86. Adjourning from day to day; quorum.

The equalizing board may adjourn from day to day until its work is completed and four members shall constitute a quorum to transact business. If no quorum is present, the town auditor and clerk may adjourn the board from day to day and publicly announce the time to which the meeting is to be adjourned.

Sec. 87. Notice of meetings.

Annually, not earlier than fifteen (15) days and not later than five (5) days prior to the meeting of the equalizing board as provided herein the town auditor and clerk shall cause to be published in a newspaper of the town, a notice that the town assessment roll will be submitted to the equalizing board for approval on the date and at the place and time fixed for such meeting and requiring all persons desiring to have corrections made in such roll, whether in the listing, valuation of property or otherwise to file with him on or before the day previous to the meeting of such equalizing board, their petition setting forth their objections to such assessment and the corrections which they desire to have made.

Sec. 88. Consideration of complaints.

All petitions for the correction of assessments so filed with the town auditor and clerk shall be delivered by him to the equalizing board with the town assessment roll at the first meeting of the board in March and the equalizing board, sitting at the usual meeting place of the town commission shall receive, consider and act upon said petitions and shall give such petitioners or their agents permission to be heard in person or by their attorney in open session, until a proper and equitable determination of the merits of the complaint or complaints may have been made.

Sec. 89. Equalization and correction of assessment roll.

The equalizing board shall have the right to change the valuation of assessment of any real and personal property upon the roll by increasing or decreasing the assessment valuation thereof as shall be reasonable and just to render taxation uniform; provided, that the valuation of any real or personal property, as returned by the assessor, shall not be increased without first giving the owner or his agent notice of the intention of the board to so increase it. Such notice shall be by personal service upon the owner or agent or by leaving a copy of the written notice at his usual place of business or last place of residence and shall state therein the time when the board will be in session to act upon the matter.

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Sec. 90. Omissions from assessments rolls.

The equalizing board must place upon and add to the assessment roll any property subject to taxation, which has been omitted therefrom by the owner or by the assessor and enter the same at such valuation that it will bear an equal and just proportion of taxation.

Sec. 91. Sessions to be open.

During the session of the equalization board it shall be open to the public. Any person, or his attorney or agent, feeling aggrieved by anything in the assessment roll may apply to the equalizing board in person for the correction of alleged errors in listing or in equalization in the value of his property, and the board may take such action as it may deem just and proper in the premises.

Sec. 92. Failure to return property for taxation.

If the equalizing board has reason to believe that any person has failed to return to the assessor all property required by law to be returned or if any person refuses to swear to the return which he has made, the board may notify the person who has failed to make return or to swear to same, requiring him to appear, and may examine such person on oath in regard to the property in question and if such person so notified shall refuse to appear, the board may fix the valuation of the property at such sum as is deemed just and proper. Any person feeling aggrieved at any decision of the equalizing board in any matter that he has called upon such board to correct, alter or change, with reference to the listing or valuation of his own property, may appeal to the circuit court.

Sec. 93. Completion of assessment roll.

All changes made by the equalizing board shall be noted in the preliminary assessment roll by the town auditor and clerk and within ten (10) days after the equalizing board shall have concluded its examination and correction of the assessment roll it shall be submitted in corrected form duly certified to be by the town auditor and clerk as having been corrected and equalized by the equalizing board, to the town commission, and shall stand as the assessment for the year of the taxable property within the town.

Sec. 94. Annual tax levy.

As soon as practicable after the receipt of the assessment roll, the town commission shall determine the amount and fix the rate of taxation and make the annual tax levy for the current year. The town auditor and clerk shall note the several levies on the assessment roll and shall reject in his calculations the fraction of the cent when less than half and count as one (1) cent when any fraction is one-half or over. He shall enter upon said assessment roll such recapitulation as may be necessary to show clearly and concisely the totals of the various tax levies made. To the

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final assessment roll kept in his office and used in the collection of the taxes, he shall attach a certificate substantially in the following form:

I, _____ town auditor and clerk as ex-officio tax assessor of the Town of Longboat Key, do hereby certify that the foregoing is the assessment roll of the taxable property in the Town of Longboat Key, valued at its full cash value, and that it contains a true statement and description of all personal and real property in the said Town of Longboat Key subject to taxation by said town, and liable to be assessed therefor; that the listing and valuation are as corrected by the equalizing board and as approved and adopted by the town commission and that all requirements of law and ordinance regulating the making of the assessment roll for the Town of Longboat Key have been complied with.

Dated at Longboat Key, Florida, this _____ day of _____,
A. D. 19_____

As Town auditor and clerk and as
Ex Officio Tax Assessor of the Town
of Longboat Key, Florida.

If the assessment roll shall be prepared in loose leaf or card file form, said certificate may be placed upon a separate page or card following the last item of property appearing in the tax roll.

When the assessment and levy of taxes shall have been made in substantially the manner hereinabove set out, such assessment and levy shall be deemed authority for, and a command to, the town auditor and clerk to collect out of the property and from each of the persons, corporations and firms named in the assessment roll, the taxes set down in such roll, opposite each name, corporation or firm, or parcel of land or item of personal property described: and in case the taxes are not paid at the time prescribed by law, the town treasurer and collector shall proceed to collect the same in such manner as is provided by law, and all sums collected are to be held and accounted for by him as required by law and ordinance.

Sec. 95. Failure to pass tax levy.

If, in any year, the town commission shall fail to pass a levy ordinance or if the levy ordinance in any year shall be invalid or inoperative, the returns of taxes for the fiscal year shall be the same as it was the year before, item for item.

Sec. 96. Description of classes of property.

For the purpose of assessment, the soil shall be known as "land" and everything attached thereto shall be known as "improvements" and such "improvements" when owned by the tenant may be assessed in his or her name apart from the land if such "improvements" are subject to taxation. Articles other than "land" or "improvements" shall be known as "personal property" and taxable only as herein provided.

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Sec. 97. When taxes due and payable.

All taxes shall be due and payable as prescribed by ordinance and until otherwise provided shall be payable on the first day of November of each year, or as soon thereafter as the assessment roll shall have been approved by the town commission and the annual tax levy made, of which the town treasurer and collector shall give notice in a newspaper published in said town that the taxes are then due and payable and the date after which they will be collected by levy and sale. All interested persons shall be deemed to take notice of the fact that all real property owned by them within the town is subject to taxation each year, and that said taxes are payable annually on the date above stated.

Sec. 98. When tax books close.

The tax books shall close on the third day of January and the town auditor and clerk shall proceed as hereinafter provided.

Sec. 99. Distress warrants.

The town treasurer and collector shall have power to issue distress warrants and alias and pluries distress warrants in the name of the state and town to enforce collection of taxes on property and privileges. Such warrants may be executed by the chief of police or by any constable or sheriff.

Sec. 100. Taxes and assessments constitute lien.

Taxes and assessments, together with the interest imposed for delinquency and cost of collection, shall be and constitute a lien upon the property assessed, superior to all other liens or claims, until the same shall be paid. Every tax on personal property shall also be a lien upon the real property of the owner thereof. All such liens shall be enforced as are other liens.

Sec. 101. Collection of taxes -- Generally.

The town commission shall have power to provide by ordinance for the collection of taxes by the sale of lands and personal property, but the method adopted shall conform in principle to that pursued in the collection of county taxes. Until such ordinance shall have been adopted, the town treasurer and collector shall proceed substantially in the same manner in the collection of taxes and the sale of lands and personal property for nonpayment of taxes and licenses as do county tax collectors under state law, and he shall be subject to the same penalties as are prescribed by the state laws for any violation of the duties imposed on him by this Act. The method authorized and prescribed by this section for the collection of taxes by the sale of real and personal property shall not be exclusive and shall not limit or interfere with the right herein conferred to enforce the lien for taxes on either real or personal property, or both, as other liens are or may be enforced under general law of the State of Florida. Where sales are made by the town treasurer and collector for taxes in substantially the manner provided by law to be pursued by county tax collectors, he shall make

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reports in duplicate of such sales, and shall keep one of such duplicates on file in his own office and shall file the other with the clerk of the circuit court for the county in which such property is located, who shall record the same in the record of tax sales in his office. The town treasurer and collector shall also file with the said clerk a copy of the newspaper in which the tax sale advertisement was published, within ten days after the sale, and shall also file a copy in his own office. He shall procure and attach to each of said newspapers before filing, the affidavit of the publisher, proprietor, or foreman of such newspaper, that the tax sale notice contained therein was published for the time and in the manner required by law, and specifying the issues of said paper in which said notices appeared. No report or notice of such sale shall be required to be filed with the state comptroller, and no additional copies of said newspaper shall be required to be filed by the publisher with the clerk of the circuit court. Where at any sale of property for taxes made by the town treasurer and collector there is no bidder who is willing to take the property and pay the taxes, costs and charges due thereon, the town treasurer and collector shall bid in the property for the town and shall issue to the town a tax sale certificate for such property. He shall be the custodian of such certificates and the same shall be redeemed through him. Any person may purchase from the town treasurer and collector any certificate of land sold or certified to the town for taxes as certificates of land sold or certified to the county for taxes are purchased from the clerk of the circuit court.

Sec. 102. Same--Bill in equity.

All delinquent taxes upon real estate, due the Town of Longboat Key and including those represented by unpaid and uncanceled tax certificates owned by the Town of Longboat Key, may be collected by a bill in equity said bill to contain a description of each and every piece, parcel or lot of land against which any tax has been assessed and which has become delinquent, and whether tax certificates have been issued against said property or not; also the amount of the assessment or assessments, the year or years for which said taxes may be delinquent, the name of the owner thereof, or the person to whom last assessed, and said bill shall not be objectionable because of the multiplicity of parties or the number of the pieces, parcels, or lots of land covered thereby. Upon the filing of said bill it shall be the duty of the clerk of the circuit court to issue a notice substantially as follows:

"NOTICE"

"In the Circuit Court, _____ County, Florida, in Chancery.
"The Town of Longboat Key, Plaintiff
vs.
"Delinquent Taxes, etc., Defendant

"Notice is hereby given to all persons having or claiming any interest in the following described lands that a bill has been filed in the above styled court, for the purpose of collecting the delinquent taxes on the lands situated within the Town of Longboat Key, in said _____ County, Florida, said lands

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together with the amount of delinquent taxes, interest, penalties and the owners thereof or the person to whom last witnessed being described and set out as follows, to wit:

(Here follows a description of the lands with the amount of the tax, and owners, or persons to whom last assessed.)

"Any and all persons or corporations interested in said lands are hereby required to be and appear at the office of the Clerk of said Court on or before the First Monday of _____ A.D. 19_____, to answer the said bill, else the same will be taken as confessed.

"This notice shall be published for four consecutive weeks in a newspaper of general circulation in the Town of Longboat Key, the publication to be the _____ day of _____, A.D. 19_____.

Clerk of Circuit Court"

A copy of the notice shall be mailed to each of the parties defendant to said bill whose post office shall be known and stated in said bill; also a copy of said notice shall be posted at the front door of the court house, and also published four (4) consecutive weeks in a newspaper to be designated in said notice. The certificate of the clerk that said notice was mailed to each of said defendants whose post office address is known and stated, that a copy was posted and likewise published as above provided, shall be filed in said cause, which shall be sufficient proof thereof to give the court jurisdiction over the parties to said bill, both known and unknown, and the subject matter thereof. And thereafter said cause shall be governed in its prosecution to final decree and sale in accordance with the rules and practices as in other equity suits, and the court shall, upon the final hearing, decree whether said delinquent tax shall be collected, the amount thereof, as against each piece, parcel or lot of land with interest and penalties, fix a reasonable attorney's fee to be allowed the attorney representing the town, (provided, however, that no separate lien shall accrue as attorneys' fees or any part of such attorneys' fees on any of the lands foreclosed) which fee and the costs of said proceedings shall be prorated against each piece, parcel or lot of land in proportion to the amount of tax due thereon and in default of the payment thereof for thirty days from the date of said decree, direct that said lands shall be sold at public "out-cry" to the highest and best bidder for cash, and appoint a master or shall authorize and empower the town treasurer and collector to make said sale, after having given thirty days' notice of the time and place of said sale by publication; and at said sale the master or town treasurer and collector, as the case may be, shall sell each piece or parcel or tract of land separately and execute a deed therefor; but before any deed or deeds shall be made to the purchaser or purchasers said sale or sales shall be reported to the court for confirmation.

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In the event any piece, parcel, lot or tract of land against which a delinquent tax is being enforced in accordance with the provisions of this law should fail to bring at said sale an amount sufficient to pay the delinquent taxes with interest and penalties and its pro rata share of the cost of said suit with attorney's fee, the officer making the sale shall bid the same in for and on behalf of the Town of Longboat Key; but if at said sales, any piece, parcel, lot or tract of land shall sell for more than enough to pay the delinquent tax assessed against said land with interest, penalties and its pro rata share of costs and attorney's fees, then and in that case, the surplus shall be paid over to the town treasurer and collector of said town, who shall enter the same upon a record to be known as the "Delinquent Tax Record" which shall show the date of sale, the owner, or persons to whom assessed, to whom sold, the description of each piece of property, the amount of the tax, interest, costs and attorney's fees chargeable against it and the amount of the surplus, which shall be kept separate from other funds of the town for a period of two years, unless sooner claimed by the parties entitled thereto. Upon said surplus being turned over to the town treasurer and collector as aforesaid, he shall notify the persons entitled to the same, if their post office address shall be known, deducting therefrom the cost of such notification. If said surplus is not claimed by and paid to the person or persons entitled thereto within two years it shall be paid into the general fund of the town.

A decree and sale of any land under the provisions of this law shall after the expiration of six months from the date of said sale, forever bar the equity of redemption of said land from said sale, and the deed executed and delivered to the purchaser at said sale shall vest in said purchaser the fee simple title to the land described therein, subject only to the right of redemption hereinabove provided for, but the owner in order to redeem said land, shall pay to the said purchaser or holder under said sale the amount paid for said land at said sale with interest at the rate of eight per centum per annum.

Sec. 103. Report of errors, insolvencies, etc.

The town treasurer and collector shall report to the town commission any errors, double assessments and insolvencies for which he should be credited, giving in each case the names of the parties on whose account the credit should be allowed.

Bonds, Assessments and Lien Certificates

Sec. 104. Bonds generally.

That the town commission shall have the power to provide by ordinance for the issue and sale of negotiable bonds of said town for the purpose of constructing, maintaining, operating, improving, enlarging and extending the waterworks and the sewage system of said town, for rebuilding, reconstructing and restoring the same or any part thereof; and for constructing, repairing, altering, enlarging, improving and furnishing public buildings for said town; and for grading and curbing, or grading, curbing and paving, and for altering, widening and repaving the streets, avenues and thoroughfares of said town and doing the necessary

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drainage in connection with such work; for a. altary and storm drainage and the construction of canals, ditches and sewers for such drainage within or without the corporate limits of the town; for constructing, altering and repairing viaducts, bridges, underpasses and overpasses for carrying streets, avenues or thoroughfares over or under any railway track or tracks in said town, for constructing, repairing and enlarging a municipal incinerator or incinerators for the consumption of trash, garbage and other refuse; for the purpose of constructing hospitals and libraries, airports, aviation terminals or landing fields and facilities thereof; for the acquisition and establishment of a system for the transportation of persons and property for hire over the streets of the town; for the acquisition and construction of walls, causeways, bridges, and beaches, either within or without the corporate limits of said town; for the acquisition of any local public utilities, including electric light and telephone systems; for the acquisition of lands for public parks and as sites for public buildings of the State of Florida; for refunding any pre-existing bonded indebtedness and for any other lawful municipal purpose; but negotiable bonds of said town shall never be issued in an amount greater than twenty percent of the assessed valuation of the real property of said town and not until previously approved by a majority of the votes cast in a special election called and held for such purpose after at least thirty days' notice thereof, published at least once a week for four consecutive weeks in a newspaper published in said town, in which a majority of the freeholders who are qualified electors residing in said town shall participate; provided that no election shall be required to authorize said town to issue refunding bonds issued exclusively for the purpose of refunding of the bonds or the interest thereon of said town. The words, "freeholders who are qualified electors residing in said town", shall include only those who are qualified electors under state law who have resided in the Town of Longboat Key for six months next preceding such election, and who have duly registered for said election in a special registration book provided for each said election; which registration book shall be opened for the purpose of registering of freeholder electors therein as defined herein by the registration officer of said town at his office within said town twenty days before the holding of any election to authorize the issue and sale of bonds of said town, and shall remain open for registration of such electors for fifteen days thereafter between the hours of nine o'clock A. M. and twelve o'clock noon and two o'clock P. M. and five o'clock P. M. each of said days except Sundays. The registration officer shall cause a notice of the hours, time and place of opening the registration book for registration of said freeholder electors to be published at least once a week for two weeks immediately prior to the opening of such book and for two weeks immediately after such book is so opened for such election. Each person applying to be registered shall take the following oath, which shall be administered by the registration officer or his duly appointed deputy: "I do solemnly swear or affirm that I am a bona fide resident of the Town of Longboat Key; that I am a freeholder of said town; that the kind and quality of freehold interest vested in me is _____; that I possess all the qualifications of an elector as prescribed by law for said election." Any person taking such oath who shall swear falsely shall be guilty of perjury. The name of each person so

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registered shall be entered in a book prepared specially and only for such election, which book shall show, under appropriate heading, the age, color, occupation, and exact place of residence of each person so registered. That in arriving at the amount of negotiable bonds outstanding in order to determine the amount of such bonds that may be issued, the class of bonds known as improvement bonds which are secured by lien certificates issued against abutting property, shall not be considered.

Sec. 105. Revenue certificates.

That the town commission shall have the power to provide by ordinance for the issue and sale of revenue certificates payable solely and only from revenues to be derived by the town from the operation of any utility or facility owned and operated by the town or to be acquired or established by the town, or the combination of any such utilities and facilities, for the same purposes for which the town may issue municipal general obligation bonds as enumerated in section 104, or for the purpose of constructing or acquiring any of the utilities or facilities or performing any of the works or other matters set forth in this Charter, and in the absence of any pledge of the taxing power of the town, no election shall be required to authorize the town to issue any such revenue certificates. That in arriving at the amount of negotiable bonds outstanding in order to determine the amount of bonds that may be issued pursuant to the provisions of section 104, revenue certificates which are payable solely from the net revenues of any utility or facility of the town and that do not pledge or authorize the town to make any tax levy for the payment of such revenue certificates or the interest thereon or for the operation of any such utility or facility shall not be considered.

Sec. 106. Construction of sidewalks.

The town commission shall have power to order the laying of sidewalks along any or all of the public streets of the town, and to prescribe the width thereof, and the material to be used in their construction, and upon failure of the property owners to lay any such sidewalks so ordered, after thirty days' notice, the town commission shall have the power to cause such sidewalks to be laid, and to assess the cost and expense of laying the same against the abutting property, and such assessment shall create a lien against the property. The town may issue lien certificates, bearing interest at not exceeding five percent per annum, or at the lowest then current bid rate of interest, whichever is the lower, in payment of the cost of such work, dividing the amount into three annual installments, and such certificates shall be enforceable in equity against the property.

Sec. 107. Paving, curbing and grading streets.

The town commission shall have power to grade and curb, or to grade, curb and pave any street, avenue or thoroughfare of said town, and when, at any time, the town commission shall decide to grade and curb, or to grade, curb and pave any street, avenue or thoroughfare, they shall pass a resolution or ordinance

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authorizing the same done, and thereupon shall cause the town auditor and clerk to advertise for bids for doing such grading and curbing, or grading, curbing and paving, and in such advertisement they may reserve the right to reject any and all bids; and any drainage that may be required in doing such work shall be considered and taken as part thereof. In advertising for bids, the town commission may request separate bids on grading, curbing and paving and enter into separate contracts therefor. As soon as practicable and after the town commission shall have accepted any bid or bids for such grading and curbing, or grading, curbing and paving, including necessary drainage, they shall at a regular or special meeting called for such purposes, assess against the property abutting on such street, avenue or thoroughfare so to be improved, the whole or such part, of the cost and expense of the improvements as the town commission may fix, but not in excess of the special benefit found by the town commission to be conferred on the property abutting on such street, avenue or thoroughfare, and one-half of said cost and expense so fixed by the town commission shall be assessed against the property on each side of such street, avenue or thoroughfare, in proportion to its frontage on said street, avenue or thoroughfare, and the entire cost at the intersection of streets shall be paid by the town; and where there is any public property not legally assessable for such improvements, abutting on the street, avenue or thoroughfare, the town shall pay the proportion of the cost that would be assessable against such property were it privately owned. Provided that where any street, avenue or thoroughfare is occupied or partly occupied by any street railway, the property of private parties or of a private corporation, the town commission may, by ordinance prescribe what reasonable part or portion of the cost of such improvement shall be paid by the owner or owners of such street railway, and the amount so paid shall be deducted from the amount required to be paid by the abutting property owners along such street, avenue or thoroughfare, or part thereof so occupied by such street railway track.

The method of paving, curbing, grading and draining streets, avenues and thoroughfares provided in this section is cumulative to and in addition to any other method provided by the said Charter of the Town of Longboat Key, Florida, or the general laws of the State of Florida, pertaining to municipalities and their powers.

Sec. 108. Sewer, water and gas connections.

Before paving, or otherwise surfacing or resurfacing any street or alley of the town, the town manager shall determine the time within which sewer, gas water or other connection shall be constructed, and shall give notice thereof to the person or corporation required to make the same, and if any person or corporation fails to make any such connection when so requested, no permission to make the same shall thereafter be granted within five years from the completion of any street improvement, unless for special reasons approved by the town commission and expressed by resolution adopted unanimously at a regular meeting of the commission at which all members are present, which resolution shall state the reason for granting the permission. Nothing herein shall be construed to prohibit the town commission from providing that such connections may be made by the town and the cost thereof assessed to the lots and lands benefited thereby.

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Sec. 109. Certificates of indebtedness generally.

The town commission, as soon as the assessment against the abutting property is made, shall issue certificates of indebtedness against the lots assessed for the amount of the assessment, which certificates shall contain a description of the land, the amount of the assessment, and a statement of the general nature of the improvement for which the assessment is made, which certificates shall constitute and be a prior lien to all other liens, except the lien for taxes, and for the construction and repair of sidewalks, and shall have equal dignity with them, on the real estate so assessed. The said certificates shall be payable to bearer in not exceeding ten annual installments, with interest at a rate not greater than five percent per annum, or at the lowest then current bid rate of interest, whichever is the lower, payable annually; and the payment of such certificates, with interest as specified, shall be guaranteed by the Town of Longboat Key, and in case of non-payment of annual interest, or of the principal at maturity, by the property owner, then the same shall be redeemed by the town at the option of the holder of such certificates; but such redemption by the town shall not discharge the lien of such assessment or certificate against the abutting property. The certificates when issued shall be turned over to the town treasurer and collector, who, when ordered to do so, by resolution of the town commission, shall sell or dispose of the same in such manner as may be provided by said resolution, in payment for such work or improvement, or for cash, as may be provided in said resolution. After such certificates are turned over to the town treasurer and collector, and before they are disposed of, he shall give at least two weeks' notice by publication in a newspaper of said town that such certificates have been delivered to him and will be disposed of as directed by the town commission, unless paid by the property owner in the meanwhile.

Sec. 110. Enforcement of lien.

That any lien created by this Act for the payment of the cost of improvements made under any of its provisions, and any certificates representing such lien, may be enforced in a suit in equity, and the costs and expenses of such suit, including a reasonable attorney's fee, shall be an additional charge and lien against the property. The owner, or owners of the land involved, if they can be ascertained, shall be made parties defendant, but, if after diligent inquiry, such owner or owners cannot be ascertained, the proceedings shall be against the property on which the lien is claimed without naming any defendant, in which case service shall be made by notice of the institution of such suit for the enforcement of said lien by advertisement published in a newspaper in said town once a week for four consecutive weeks.

Sale of Bonds.

Sec. 111. Procedure.

No bonds, notes, debentures, time warrants, revenue certificates, certificates of indebtedness or other obligations of the town shall be sold or disposed of except

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in the manner herein provided. Preliminary to such proposed sale the town commission, by resolution, shall briefly describe the securities that will be offered for sale, including date of issue, maturity date or dates, rate or rates of interest, purpose for which the same will be issued, and the character of the security, if any, therefor; shall affirmatively determine that necessity exists for making such sale; and shall direct the town auditor and clerk to advertise for sealed bids for the purchase of the described securities intended thus to be sold. Thereupon the town auditor and clerk shall cause an advertisement for sealed bids for the purchase of said described securities to be published once a week for at least two consecutive weeks prior to the day of sale in a newspaper of general circulation published in the Town of Longboat Key and in a financial journal published in the City of New York. In such advertisement, notice shall be given that the right is reserved to reject any and all bids; that no bid for less than 95% of par value and accrued interest shall be considered; and that every bid must be accompanied by a certified or cashier's check for at least two and one-half percent of the total amount of the bid price as evidence of good faith and as liquidated damages to the town in the event of acceptance and subsequent failure to perform. All participating bids shall be in by noon of the day said bids are called for and at that hour shall be opened and presented by the town auditor and clerk to the town commission for decisive action thereon at a regular meeting, or at a special meeting called by them and held that day for the purpose of receiving, considering and acting upon such bids.

Franchises and Public Utilities.

Sec. 112. General provisions.

Nothing in this Charter contained shall operate in any way except as herein specifically stated, to limit the town commission in the exercise of any of its lawful powers respecting public utilities, or transportation systems, or other facilities mentioned herein or to prohibit the town commission from imposing in any such grant such further restrictions and provisions as it may deem to be in the public interest, provided only that the same are not inconsistent with the provision of this Charter or the constitution of the State of Florida. (c. 59-1511, § 1, Sp. Acta 1959)

Compensation of Officers and Employees.

Sec. 113. Salaries and compensations.

The town commission shall fix by ordinance or resolution the salary or compensation of the town attorney, municipal judge, the heads of the departments, and members of the police and fire forces. The town manager shall fix the number and compensation of all other employees. The salaries or compensation so fixed, shall be uniform for like services in each grade of the town service as the same shall be graded or classified by the town manager. All such salaries and rates of pay with

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dates of employment and discharge shall be immediately reported to the town auditor and clerk. All fees and moneys received or collected by officers and employees shall be immediately paid over to the town treasurer and collector on the date of their receipt.

Sec. 114. Oath of office.

Every officer of the town shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation to be filed and kept in the office of the town auditor and clerk; which oath shall be in the form prescribed for state officers by the constitution of the state.

Sec. 115. Official bonds.

The town commission or town manager, in fixing the salary of any officer, clerk or employee shall determine whether or not such officer, clerk or employee shall give bond, and the amount thereof, which bond shall be procured from a regularly accredited surety company authorized to do business under the laws of Florida, the premiums on such bonds to be paid by the town. All such bonds shall be filed in the office of the town auditor and clerk.

Zoning.

Sec. 116. Grant of power.

For the purpose of promoting health, safety, morals or the general welfare of the community and for the further purpose of protecting property values in business and residential areas and for aesthetic considerations, the town commission, in addition to all powers and authority now delegated to it by general law may regulate and restrict the size, location, number and use of buildings, structures, and land, and water for trade, industry, residences and other purposes, and to establish building lines in any or all such districts or parts of districts, in order to cause all houses, buildings, or other structures to be a uniform distance from the street line. The town commission is also authorized and empowered to regulate the percentage of lot that may be occupied by residential buildings, and generally to adopt zoning regulations fully and completely regulating the use of land and water within the municipality.

Sec. 117. Districts.

For any or all of said purposes the town commission may by ordinance divide the Town of Longboat Key into districts of such number, shape and area as in their opinion may be deemed best suited to carry out the purpose hereof; and within such district it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or lands, and water. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

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Sec. 118. Purposes in view.

Such regulations shall be made in accordance with a comprehensive plan made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of said town which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as the preservation of property values in residential areas, aesthetic consideration in residential areas, and efficiency and economy in the process of development; including, among other things, adequate provisions for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and agreement, wise and efficient expenditure of public funds and the adequate provisions of public utility and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout said town.

Sec. 119. Method of procedure.

The town commission of said town shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed. The said commission may adopt an entire plan of said town as a whole or may by ordinance from time to time adopt successive parts of the plan, and may adopt any amendment thereto, or addition thereto. Such ordinance or ordinances may refer expressly to maps and descriptive or other matter intended by the commission to form the whole or part of the plan instead of a metes and bounds description of such districts and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the mayor and clerk of said town commission, and shall be kept on file in the office of the town auditor and clerk.

Sec. 120. Notice of public hearings.

Any zoning ordinance or modification thereof may be adopted by the town commission of Longboat Key only after a public hearing thereon held pursuant to due public notice published at least fifteen (15) days prior to such public hearing. Any ordinance amending the zone map must be introduced prior to or concurrent with the public hearing and any ordinance otherwise amending the zoning ordinance must be introduced prior to time the town commission fixes a date for the public hearing thereon. (c. 59-1512, § 1, Sp. Acts 1959, c. 61-2432, § 3, Sp. Acts 1961, c. 65-1862, § 3, Sp. Acts 1965.)

Sec. 121. Enforcement and remedies.

The town commission may provide by ordinance for the enforcement of the provisions of this Charter relating to zoning and of any ordinance or regulation made thereunder and may prescribe penalties for the violation thereof.

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In case any building, or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, land or water area is used in violation of the provisions of this Charter relating to zoning or of any ordinance or other regulation made under authority conferred thereby, the said town in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repairing, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

Elections.

Sec. 122. Generally.

When there are more than two (2) qualified candidates for an elective office on the town commission, there shall be a preliminary and general election. The preliminary election shall be held on the first Thursday of February, and the general election shall be held on the third Thursday in March. At preliminary elections held in odd-numbered years, the qualified electors in each even-numbered district may nominate two (2) qualified candidates for town commissioner. The two (2) candidates for nomination receiving the largest number of votes in each district shall be nominees for election at the following general election. At preliminary elections held in even-numbered years, the qualified electors in odd-numbered districts may nominate two (2) qualified candidates for town commissioner. The two (2) candidates for nomination receiving the largest number of votes in each district shall be nominees for election at the next following general election. Each year the qualified electors of all districts of the Town of Longboat Key may nominate two (2) qualified candidates for town commissioner at large. The two (2) candidates for nomination for town commissioner at large receiving the largest number of votes shall be nominees for such position at the next following general election. If no more than two (2) electors qualify as candidates for nomination for each post to be voted upon, then no preliminary election need be held, and such qualified candidates shall be nominees from the districts in which they reside or at large as the case may be, at the next following general election. Commissioners elected for terms expiring in 1959 shall continue in office until the first general election in 1960, and the election and qualification of their successors. (c. 59-1512, § 1, Sp. Acts 1959.)

Sec. 123. Conduct of elections.

The town commission shall, by ordinance, prescribe the method and manner of holding all elections in said town, and shall provide when and how special elections shall be called and held, which are not provided for by the terms of this Act, and all elections shall be conducted substantially on the principle adopted for state elections insofar as there is no conflict with the terms of this Act; provided, that the town commission may, by ordinance, prescribe the method, manner and conduct of all elections of said Town not in conflict with this Act; and further provided, the town commission may provide by ordinance for absentee voting in any election in said town. (c. 65-1862, § 1, Sp. Acts 1965.)

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Sec. 124. Registration of voters.

The town auditor and clerk shall be the registration officer for the town and shall register all persons applying to him, whose names are not already borne upon the registration book, and who are qualified as electors under the provisions of this Charter. Throughout each year, the town auditor and clerk shall keep the registration books open at his office in the Town Hall during regular office hours in those days the Town Hall is open and at such other times as the town commission may designate by resolution. The registration books shall close on the twentieth (20th) day preceding the day on which there is any preliminary, general or special election, and shall remain closed for twenty (20) days following any such election. In the year 1967, and every third year thereafter, the town commission shall, by ordinance, provide for a revision of the registration list or books which revision, at the election of the town commission, may be either by virtue of a complete re-registration or new registration or otherwise. Such re-registration ordinance shall be passed within ninety (90) days following the general election of such year. Registration books shall be kept in the office of the town clerk, except while the polls are open during an election, at which time such registration books shall be used by the inspectors of election to ascertain those qualified to vote therein. Each person applying to be registered shall take the following oath, which will be administered by the registration officer or his duly appointed deputy:

"I do solemnly swear that I am a bona fide resident of the Town of Longboat Key and possess all the qualifications of an elector of said Town under the general rules of Florida."

Any person taking such oath who shall swear falsely shall be guilty of perjury. The name of each person so registered shall be entered in a book, prepared for that purpose for each district, which book shall show, under appropriate heading, the age, color, occupation, exact place of residence of each person so registered, and the voting district in which he resides. (c. 59-1512, § 1, Sp. Acts 1959; c. 65-1862, § 1, Sp. Acts 1965; c. 69-1265, § 9, Sp. Acts 1969.)

Sec. 125. How elections arranged for.

The town commission shall make all necessary arrangements for holding all municipal elections, and shall declare the results thereof. Inspectors and clerks of elections shall be appointed by the town commission except that if the commission shall fail to appoint them at least two days before the date of any election, the mayor may appoint them.

Sec. 126. Hours polls to be open; canvass of returns; certification of election.

The polls shall be open at the voting places at seven o'clock A.M. on the day of any election and shall be kept open until seven o'clock P.M., on the same day,

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and the time shall be regulated by the customary time in standard use in the Town of Longboat Key on the date of the particular election. The result of the voting, when ascertained, shall be certified by return in duplicate, signed by the clerk and a majority of the inspectors of election, one copy being delivered by such clerk and inspectors to the mayor and the other to the town auditor and clerk, both of whom shall transmit such returns to the town commission at a meeting to be held at twelve o'clock noon on the day following the election. At such meeting the town commission shall canvass the returns and the result as shown by such returns shall be by the commission declared as the result of the election. The town auditor and clerk shall, not later than noon of the second day after the election, furnish a certificate of election to each person shown to have been elected.

Recall.

Sec. 127. Petition.

Any or all members of the town commission may be removed from office by the electors by the following procedure: A petition for the recall of the commissioner or commissioners designated, signed by at least fifty of the electors of the town, and containing a statement in no more than two hundred words of the grounds of the recall, shall be filed with the town auditor and clerk, who shall forthwith notify the commissioner or commissioners sought to be recalled, and he or they, within five days after such notice, may file with such town auditor and clerk a defensive statement in not exceeding two hundred words. The town auditor and clerk shall at once upon the expiration of said five days cause sufficient number of typewritten copies of such petition, without the signature, to be made, and to each of them he shall attach a printed or typewritten copy of such defensive statement, if one is furnished him within the time stated. He shall cause copies of such petition to be placed on file in his office and provide facilities there for signing the same, and he shall immediately cause notice to be published in some newspaper of general circulation in the town of the placing of such copies of such petitions. Such copies of such petitions shall remain on file in the place designated for the period of thirty days, during which any of them may be signed by any elector of the town in person; but not by agent or attorney. Each signer of any such copy shall sign his name in ink or indelible pencil and shall place thereafter his residence by street number, if a number has been assigned to his residence.

Sec. 128. Notice.

At the expiration of said period of thirty days the town auditor and clerk shall assemble all of said copies in his office as one instrument, and shall examine the same and ascertain and certify thereon whether the number of signatures thereto amount to at least twenty percent of the registered voters of the town. If the number of such signatures does amount to such percent, he shall at once serve notice of that fact upon the commissioner or commissioners designated in the petition, and also deliver to the town commission a copy of the original petition with his certificate as to the percentage of registered voters whose signatures appear on such petition and a certificate as to the date of his last mentioned notice to the commissioner or commissioners designated in the petition.

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Sec. 129. Recall election.

If the commissioner or commissioners, or any of them, designated in the petition, file with the town auditor and clerk within five days after the last mentioned notice his or their written resignation, the said town auditor and clerk shall at once notify the town commission of that fact and such resignation shall be irrevocable, and the town commission shall proceed to fill the vacancy. In the absence of any such resignation the town commission shall forthwith order and fix a day for holding a recall election for the removal of those not resigning. Any such election shall be held not less than thirty days nor more than sixty days after the expiration of the period of five days last mentioned, and at the same time as any other general or special election held within such period. The town commission shall call a special recall election to be held within the period aforesaid.

Sec. 130. Ballots.

The ballots at such recall election shall conform to the following requirements: With respect to each person whose removal is sought, the question shall be submitted: "Shall (name of person) be removed from the office of town commission by recall"; immediately following each such question there shall be printed on the ballots the two propositions in the order here set forth:

"For the recall of (name of person)."

"Against the recall of (name of person)."

Immediately to the left of each of the propositions shall be placed a square within which the electors, by making a visible mark may vote either of such propositions.

Sec. 131. Filling of vacancies.

In any such election, if a majority of the votes cast on the question of removal of any commissioner are affirmative, the person whose removal is sought shall thereupon be deemed removed from office upon the announcement of the official canvass of that election and the vacancy caused by such recall shall be filled by the remainder of the town commission according to the provisions of this Charter. Where a recalled commissioner represents a district, the commission shall fill the vacancy from the same district. If, however, an election is held for the recall of more than one commissioner, candidates to succeed them for the unexpired terms shall be voted upon at the same election and shall be nominated without primary election by petition signed by ten electors of the district in which he resides and from which he seeks election or of the town if he seeks to replace a commissioner at large. The petition shall contain the name of each person whose name is presented for a place on the ballot and that person is a candidate for the office of town commissioner for the Town of Longboat Key, and each elector signing the petition shall add to his signature his place of residence, with street and number if a number has been assigned to his place of residence, and

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the date of signing, and may subscribe to one nomination for each of the places to be filled and no more, and all signatures shall be made with ink or indelible pencil. To such petition shall be attached an affidavit of the circulation thereof, stating the number of signers thereto; that each person signed in his presence on the date mentioned, and that the signature is that of the person whose name it purports to be. Such petition shall be filed with the town auditor and clerk not less than fifteen days previous to the day of such election. Any person whose name has been submitted for candidacy by any such petition shall file his acceptance of such candidacy with the town auditor and clerk not later than ten days previous to such election; otherwise his name shall not appear on the ballot. But no such nominating petition shall be signed or circulated until after the time has expired for signing the copies of the petition for recall, and any signature thereon antedating such time shall not be counted. (c. 61-2432, § 1, Sp. Acts 1961.)

Sec. 132. Counting of votes.

Candidates shall be nominated to succeed a particular commissioner, and in the event any commissioner is removed by recall, the candidate seeking that office who receives the highest number of votes shall be declared elected to fill the vacancy. (c. 61-2432, § 1, Sp. Acts 1961.)

Sec. 133. Effect of resignations.

No proceedings for the recall of all of the members of the town commission at the same election shall be defeated in whole or in part by the resignation of any or all of them, but upon the resignation of any of them, the town commission shall have power to fill the vacancy until a successor is elected, and the proceedings for the recall and election of successors shall continue and have the same effect as though there had been no resignation.

Sec. 134. Miscellaneous provisions.

Except as herein otherwise provided, no petition to recall any commissioner shall be filed within six months after he takes office. The town auditor and clerk shall preserve in his office all papers comprising or connected with a petition for recall for the period of one year after the same were filed. The method of removal herein provided is in addition to such other methods as or may be provided by general law.

Sec. 135. Offenses relating to petitions.

No person shall falsely impersonate another, or purposely write his name or residence falsely, in the signing of any petition for recall, or forge any name thereto, or sign any such paper with knowledge that he is not a qualified elector of the town. No person shall sign, or knowingly permit to be signed, any petition for recall at any place other than the office of the town auditor and clerk. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall upon conviction be punished as provided by law.

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Sec. 136. Investigations.

The town commission, or any committee thereof, the town manager or an advisory board appointed by the town commission for such purpose, shall have power at any time to cause the affairs of any department or the conduct of any officer or employee to be investigated; and for such purpose shall have power to compel the attendance of witnesses and the production of books, papers, and other evidence; and for that purpose may issue subpoenas or attachments which shall be signed by the president or chairman of the body, or by the officer making the investigation, and shall be served by any officer authorized by law to serve such process. The authority making such investigation shall have power to cause the testimony to be given under oath, such oath to be administered by some officer having authority under the laws of the state to administer oaths; and shall also have power to punish as for contempt any person refusing to testify to any act within his knowledge, or produce any book or papers under his control relating to the matter under investigation.

Sec. 137. Dedication of streets.

No street or alley hereinafter dedicated to public use by the owner of any land within the town shall be deemed a public street or alley, under the care or control of the town, unless the dedication be accepted and confirmed by ordinance passed for such purpose.

Sec. 138. Referral of maps and plats to town commission.

That wherever maps, or plats of any lands within the corporate limits of the town are brought to the respective clerks of the circuit courts of Sarasota and Manatee counties or other public recording officer to be placed on public record, it shall be the duty of said clerk or other public recording officer, before filing, in addition to the other duties imposed by general law, to refer such map or plat to the town commission of the Town of Longboat Key for their approval. A map or plat is hereby defined as any drawing of a subdivision of land wherein portions thereof, not more than five (5) acres in size each, are designated or enumerated or lettered lots, blocks, or tracts, or a drawing showing a subdivision of land into three (3) or more tracts of not more than five (5) acres each, whether such tracts are enumerated or numbered or otherwise. (c. 59-1512, § 1, Sp. Acts 1959.)

Sec. 139. Maps or plats to conform to plan.

All such maps or plats shall conform to the general subdivision plan and requirements of the Town of Longboat Key as the town commission may, from time to time provide by ordinance. (c. 59-1512, § 1, Sp. Acts 1959.)

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Sec. 140. Approval of maps and plats.

The town commission of the Town of Longboat Key shall approve such maps or plats, after compliance by the owner of the land shown thereon with the requirements of this Act and the ordinances and regulations of the Town of Longboat Key, and the said town commission shall cause its approval to be endorsed thereon by the mayor of said town and attested by the town clerk. No clerk of the circuit court or other public recording officer shall record a map or plat of lands located within the limits of the Town of Longboat Key until such approval is endorsed thereon.

Chapter 57-1853, Laws of Florida, is repealed insofar as such Act affects lands and waters within the municipal boundaries of the Town of Longboat Key, Florida, or any authority or jurisdiction of the town commission of Longboat Key.

If any section or part of a section of this Act proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force, or effect of any other section or part of a section of this Act, unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held to be unconstitutional or invalid. (c. 59-1512, § 1, Sp. Acts 1959.)

Sec. 141. No map or plat to be recorded without approval.

The clerks of the circuit courts of Sarasota and Manatee Counties or any public recording officer shall not record any such map or plat described herein without the approval of the town commission endorsed thereon as provided herein.

Sec. 142. Police powers.

The town commission shall have power to pass all such ordinances and laws, not inconsistent with the constitution and laws of the United States and of this state, as may be expedient and necessary for the preservation of the public peace and order, for the suppression of riots and disorderly assemblies, and for the good order and government of the town, both within the corporate limits of said town and upon all property owned by the Town of Longboat Key without the corporate limits of said town, and to impose such pains, penalties and forfeitures as may be needed to carry the same into effect; provided, that for no offense made punishable by the laws and ordinances of said town shall be a fine of more than five hundred dollars, or imprisonment for a period of time longer than sixty days, be imposed. The municipal court of the Town of Longboat Key is hereby vested with and granted jurisdiction for the trial of all offenders against the municipal ordinances, whether such offenses were committed within the corporate limits of said town or upon property owned by the Town of Longboat Key without its corporate limits.

Sec. 143. Suits against town for damages.

No suit shall be maintained against the town for damages arising out of its failure to keep in proper condition any sidewalk, pavement, municipal docks and

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terminals or other public places, neither shall any suit be maintained against the town arising out of any other tortious action or actions sounding in tort, unless it shall be made to appear that written notice of such damage was within thirty days² after the receiving of the injury given to the town attorney with such reasonable specifications as to time and place and witnesses as would enable the proper town officials to investigate the matter. It shall be the duty of the town attorney, upon receiving such notice, to thus investigate the matter and lay the facts supported by the evidence before the town commission in a written report, and the town commission shall have the right to investigate the matter and it may make such reasonable settlement of any such damages as may be agreed upon by the town commission.

Sec. 144. General laws to apply.

All general laws of the state applicable to municipal corporations, now or which may hereafter be enacted, and which are not in conflict with the provisions of this Charter or with the ordinances and resolutions hereafter enacted by the town commission, shall be applicable to this town; provided, however, that nothing contained in this Charter shall be construed as limiting the power of the town commission to enact any ordinance or resolution not in conflict with the constitution of the state or with the express provisions of this Charter. (c. 59-1511, § 1, Sp. Acts 1959.)

Sec. 145. General law governing town council extended to cover town commissioners.

Any right or authority given or permitted by the constitution and laws of the State of Florida to town councils not inconsistent with the provisions of this Act, shall be and is hereby given, permitted and extended to the town commissioners of the Town of Longboat Key.

Sec. 146. Saving clause.

If any section or part of a section of this Charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force, or effect of any other section or part of a section of this Charter, unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held unconstitutional or invalid.

Sec. 147. When Charter becomes effective.

The foregoing sections of this Act shall take effect upon their ratification by a majority vote of the qualified electors of the said Town of Longboat Key voting at a special election to be held in said Town of Longboat Key.

² Editor's note -- Florida Statutes, section 95.241 requires a minimum notice of ninety days. Such section also specifically repeals any conflicting ordinance or charter provisions.

Sec. 148. Special referendum election.

The special referendum election provided for herein shall be held on or before the 17th day of September, A.D. 1957. The town council and town officials of the Town of Longboat Key shall discharge such duties in connection with the calling and holding of said elections as are now required of them by law for special elections, and the said election shall be governed in all respects by law for holding special elections. Those who are duly qualified electors of the Town of Longboat Key at the time said special election is held and no others shall be allowed to vote at said election.

Sec. 149. Tenure of present officials.

Should this Charter be adopted at the special referendum election herein provided for, all the present members of the town council and all town officials of the Town of Longboat Key now holding office shall continue in office until the election and qualification of the officers provided for in this Charter. The first election provided for in this Charter shall be held and conducted by the town council and other town officials in the manner provided in connection with the calling and holding of said elections as are required by this Charter.

Should this Charter not be adopted at the special election herein provided for, then the incorporation in effect at the time of the passage of this Act under the provisions of the Florida Statutes as amended and supplemented at that date, shall remain in force and effect and the government thereby provided pursuant to said incorporation shall continue.

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PART II.

THE CODE.

CHAPTER 1.

GENERAL PROVISIONS.

- § 1-1. How Code designated and cited.
- § 1-2. Definitions and rules of construction.
- § 1-3. Catchlines of sections.
- § 1-4. Altering of Code prohibited.
- § 1-5. Effect of repeal or amendment of ordinances.
- § 1-6. Amendments to Code.
- § 1-7. Severability of parts of Code.
- § 1-8. General penalty; continuing violations; violations deemed nuisances.
- § 1-9. Cost of giving notice relative to application for permit.
- § 1-10. Assessment of court cost for law enforcement education expenditures.
- § 1-11. Ordinances concerning land use and control.

Sec. 1-1. How Code designated and cited.¹

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Code of the Town of Longboat Key, Florida", and may be so cited.

Sec. 1-2. Definitions and rules of construction.²

In the construction of this Code and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the town commission or the context clearly requires otherwise:

Commission, town commission. Whenever the words "commission" or "town commission" are used, they shall mean the town commission of the Town of Longboat Key.

Computation of time. Whenever a notice is required to be given or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

County. The words "the county" or "this county" shall mean the County of Sarasota or County of Manatee or both if the sense requires.

1. For charter provision authorizing town to codify its ordinances, see char., § 24.
For state law authorizing town to revise and codify its ordinances, see Fla. Stats., § 165.192.
2. For state law definitions, see Fla. Stats., § 1.01.

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Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper or proprietor. The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and co-partnerships, whether acting by themselves or a servant, agent or employee.

Month. The word "month" shall mean a calendar month.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed"

Official time standard.³ Whenever particular hours are specified in this Code relating to the time within which any act shall be performed by any person, the time applicable shall be official standard time or daylight saving time, whichever may be in current use in the town.

Owner. The word "owner", applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

Person.⁴ The word "person" shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property. Includes every species of property except real property, as herein defined.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively

Property. The word "property" shall include real and personal property.

³ For state law as to official time, see Fla. Stats., § 1.02.

⁴ For similar state law, see Fla. Stats., § 1.01.

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Public place. The term "public place" shall mean any park, cemetery, school yard or open space adjacent thereto and any lake or stream.

Real property. Shall include lands, tenements and hereditaments.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Shall; may. The word "shall" is mandatory. The word "may" is permissive.

Signature or subscription. Includes a mark when the person cannot write.

State. The words "the state" or "this state" shall be construed to mean the State of Florida.

Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public or private highways in the town.

Tenant, occupant. The words "tenant" or "occupant", applied to a building or land, shall include any person holding a written or oral lease of or who occupied the whole or a part of such building or land, either alone or with others.

Time. Words used in the past or present tense include the future as well as the past or present.

Town. The words "this town" or "the town" shall mean the Town of Longboat Key, Florida

Written or in writing. Shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-4. Altering of Code prohibited.

It shall be unlawful for any person in the town to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the town to be misinterpreted thereby. (Code 1965, § 1-4.)

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Sec. 1-5 Effect of repeal or amendment of ordinances.

The repeal or amendment of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed or amended took effect.

The repeal or amendment of an ordinance shall not affect any punishment or penalty incurred before the repeal or amendment took effect, nor any suit, prosecution or proceeding pending at the time of the repeal or amendment, for an offense committed under the ordinance repealed or amended.

Sec. 1-6 Amendments to Code.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the town commission.

(b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language:

"That section _____ of the Code of Ordinances of the Town of Longboat Key is hereby amended to read as follows: _____"

The provisions shall then be set out in full as desired.

(c) In the event a new section not heretofore existing in the Code, is to be added, the following language shall be used:

"That the Code of Ordinances of the Town of Longboat Key is hereby amended by adding a section, to be numbered _____, which said section reads as follows: _____"

The new section shall then be set out in full as desired.

(d) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be. (Code 1965, § 1-6.)

Sec. 1-7 Severability of parts of Code.

It is hereby declared to be the intention of the town commission that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of the court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

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Sec. 1-8. General penalty; continuing violations; violations deemed nuisances. 5

Whenever in this Code or in any ordinance of the town any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine not exceeding five hundred dollars or imprisonment for a term not exceeding sixty days. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance shall be deemed a public nuisance and may be, by the town, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

The violation of any building, dredge and fill, subdivision or zoning ordinance of the town, shall in addition to the penalties herein prescribed, be subject to abatement by injunction order of a court of competent jurisdiction. (Code 1965, § 1-8.)

Sec. 1-9. Cost of giving notice relative to application for permit.

Whenever any application is made to the town for the granting of a permit of any kind whereby it is necessary to publish newspaper notice or to notify property owners or others by mail, the person making application shall deposit with the town the estimated cost and expense of giving such notice, and the amount so estimated shall be deposited in the town treasury. The officer of the town with whom such application may be filed shall be charged with the duty of collecting such expenses and costs. (Code 1965, § 1-9.)

Sec. 1-10. Assessment of court cost for law enforcement education expenditures.

The municipal court shall assess one dollar as a court cost against every person convicted for violation of this Code or other municipal ordinance; provided, that no such assessment shall be made against any person convicted for violation of any provision of this Code or other municipal ordinance relating to the parking of vehicles.

Assessments collected under this section shall be used only for law enforcement education expenditures for the law enforcement officers of this town. (Ord. No. 158, § 2, 10-1-69.)

5. For charter provision as to punishment for violations of ordinances, see char., § 142.
For state law authorizing town to punish violators of its ordinances and laws, see Fla. Stats., § 165.19.
As to penalties of violation of zoning ordinance, see § 22-17 of this Code.

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Sec. 1-11. Ordinances concerning land use and control.

All ordinances of the town, including the Building Code as amended and the Zoning Code as amended, concerning land use and control and other measures designed to reduce flood losses within the town shall take precedence over any conflicting laws, ordinances or codes of the town. (Ord. No. 224, § 1, 6-15-72.)

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Administration

CHAPTER 2.

ADMINISTRATION.¹

Article I. In General.

§§ 2-1 to 2-5. Reserved.

**Article II. Social Security for
Town Employees.**

- § 2-6. Declaration of policy.
- § 2-7. Exclusions.
- § 2-8. Authority to execute agreements with state agency.
- § 2-9. Authority to withhold employee contributions from wages.
- § 2-10. Authority of town to appropriate for contributions.
- § 2-11. Records to be kept by town; adherence to regulations of state agency.
- § 2-12. Adoption of Title II of Social Security Act.
- § 2-13. Town auditor and clerk designated custodian of funds and withholding and reporting agent.

Article III. Planning and Zoning Board.

- § 2-14. Created; composition; chairman.
- § 2-15. Terms of office; vacancies in office.
- § 2-16. Officers generally.
- § 2-17. Duties.
- § 2-18. Meetings.
- § 2-19. Minutes.
- § 2-20. Public hearings.
- § 2-21. Petition for change in zoning.

Article IV. Accounting and Bookkeeping Procedures.

- § 2-22. Compliance with accepted practices and standards.
- § 2-23. Cash receipts; records of receipts and disbursements.
- § 2-24. Annual inventory of town equipment.
- § 2-25. Court docket and record of cases, payment of fines, etc., to be maintained.
- § 2-26. Bank accounts for town funds.
- § 2-27. Check vouchers for disbursement of town funds.

1. As to elections generally, see ch. 9 of this Code. As to police department, see ch. 17. As to zoning board of adjustment, see §§ 22-112 to 22-118.

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Article I. In General.

Secs. 2-1 to 2-5. Reserved.

Article II. Social Security for
Town Employees.²

Sec. 2-6. Declaration of policy.

It is hereby declared to be the policy and purpose of the town to extend, effective as of January 1, 1960, to the employees and officials thereof not excluded by law, not excepted in this article, the benefits of the system of Old Age and Survivors Insurance, and authorized by the Federal Social Security Act, and amendments thereto, and by chapter 650, Florida Statutes, as amended, and to cover by such plan all services which constitute employment as defined in section 650.02, Florida Statutes, performed in the employ of the town by employees and officials thereof, except the town attorney, building inspector, the town commission and municipal judge. (Code 1965, § 18-1.)

Sec. 2-7. Exclusions.

There is hereby excluded from this article any authority to include in any agreement entered into under section 2-8, any service, position, employee or official now covered by or eligible to be covered by an existing retirement system. (Code 1965, § 18-2.)

Sec. 2-8. Authority to execute agreements with state agency.

The mayor, (or other chief executive officer), is hereby authorized and directed to execute all necessary agreements and amendments thereto with the Florida Industrial Commission, as state agency, for the purpose of extending the benefits provided by such system of Old Age and Survivors Insurance to the employees and officials of this town, as provided in sections 2-6 and 2-7, which agreement shall provide for such methods of administration of the plan by the town as are found by the state agency to be necessary and proper, and shall be effective with respect to services in employment covered by such agreement performed on and after January 1, 1960. (Code 1965, § 18-3.)

Sec. 2-9. Authority to withhold employee contributions from
wages.

Withholdings from salaries, wages or other compensation of employees and officials for the purpose provided in this article are hereby authorized to be made, and shall be made, in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state agency designated by such laws or regulations to receive such amounts. (Code 1965, § 18-4.)

2. For state law as to social security for public employees,
see Fla. Stats., §§ 650.01 to 650.10.

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Sec. 2-10. Authority of town to appropriate for contributions.

There shall be appropriated from available funds derived from general funds and cigarette funds, such amounts, at such times, as may be required to pay promptly the contributions and assessments required of the town as employer by applicable state or federal laws or regulations, which shall be paid over to the lawfully designated state agency at the times and in the manner provided by law and regulation. (Code 1965, § 18-5.)

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§ 2-11

Administration

§ 2-15

Sec. 2-11. Records to be kept by town; adherence to regulations of state agency.

The town shall keep such records and make such reports as may be required by applicable state or federal laws or regulations, and shall adhere to the regulations of the state agency. (Code 1965, § 18-6.)

Sec. 2-12. Adoption of Title II of Social Security Act.

The town does hereby adopt the terms, conditions, requirements, reservations, benefits, privileges and other conditions thereunto appertaining, of Title II of the Social Security Act, as amended, for and on behalf of all officers and employees of its departments and agencies to be covered under the agreement authorized by this article. (Code 1965, § 18-7.)

Sec. 2-13. Town auditor and clerk designated custodian of funds and withholding and reporting agent.

The town auditor and clerk is hereby designated the custodian of all sums withheld from the compensation of officers and employees and of the appropriated funds for the contribution of the town, and the town auditor and clerk is hereby made the withholding and reporting agent and charged with the duty of maintaining personnel records for the purpose of this article. (Code 1965, § 18-8.)

Article III. Planning and Zoning Board.³

Sec. 2-14. Created; composition; chairman.

There is hereby created a planning and zoning board for the town, which shall consist of seven members, including a chairman. The chairman shall be appointed by the town commission. (Ord. No. 169, § 1, 4-1-70.)

Sec. 2-15. Terms of office; vacancies in office.

Of the seven appointed members of the planning and zoning board, three shall serve for a period of two years, and four shall serve for a period of one year. Thereafter three members shall be appointed to serve for a period of two years and one member shall be appointed for a period of one year. Four members of

3. For charter provisions as to zoning, see char., §§ 116 to 121.

For state law as to zoning commissions, see Fla. Stats., § 176.07.

As to subdivisions and other divisions of land generally, see ch. 20 of this Code. As to zoning generally, see ch. 22.

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§ 2-17

the existing board terms of office shall terminate on April 1, 1970. Three members of the existing board terms of office shall terminate on April 7, 1971, and thereafter, terms of office shall terminate on the first Wednesday of April of each year. Vacancies shall be filled by appointment for unexpired terms only. (Ord. No. 169, § 4, 4-1-70.)

Sec. 2-16. Officers generally.

(a) Enumeration. In addition to the chairman, the officers of the planning and zoning board shall be a vice-chairman and a secretary, which shall be elected by the board.

(b) Duties of officers.

(1) Chairman. The chairman shall preside at all meetings of the planning and zoning board, and shall have such other duties as may be prescribed by law.

(2) Vice-chairman. The vice-chairman, in the absence or inability of the chairman to serve, shall have all the duties, powers and obligations of the chairman.

(3) Secretary. The secretary of the planning and zoning board shall:

- a. Post or mail notices as may be required herein.
- b. Take minutes of all of the meetings of the board.
- c. Handle all correspondence to and from the board.
- d. File all minutes in the office of the board. (Ord. No. 169, § 4, 4-1-70.)

Sec. 2-17. Duties.

(a) The planning and zoning board shall consider all matters referred to it by the town commission and report its recommendations thereon back to such commission within a reasonable time or within such other time as may be specified.

(b) The planning and zoning board shall consider and report its recommendations on all petitions to change the zoning district boundaries within the town.

(c) The planning and zoning board shall prepare, submit and make recommendations for the amendment of a comprehensive road and zoning plan for the town. Such comprehensive road and zoning plan shall specify the location, width and type of proposed streets and roads and the zoning of the property abutting the same. Such plan shall be prepared with a view toward bettering the public health, safety and welfare and promoting the orderly development of the town.

(d) The planning and zoning board shall consider and make recommendations on all proposed subdivision plats within the town.

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(e) The planning and zoning board may consider on its own motion any matter which seems beneficial with regard to the use and improvement of property within the town, and consistent with other usual duties and powers of planning and zoning boards, and in general do such things as may secure the recognized advantages of building and zoning regulations. (Ord. No. 169, § 2, 4-1-70.)

Sec. 2-18. Meetings.

(a) Meetings of the planning and zoning board shall be held at least monthly and at the call of the chairman, or in his absence at the call of the vice-chairman.

(b) At least six hours notice of each meeting shall be given to each member of the planning and zoning board. Such notice shall specify the matters to be acted upon at the meeting.

(c) A quorum for any meeting of the planning and zoning board shall be four of the members thereof. When less than a quorum is present at any meeting, which has been duly called, those present may adjourn or recess such meeting to a future date to be specified in the motion of adjournment or recess.

(d) The order of business at regular public meetings shall be as follows:

- (1) Roll call.
- (2) Approval of minutes of previous meeting.
- (3) Adoption of reports.
- (4) Fixing dates for future hearings.
- (5) Hearings.
- (6) New business.
- (7) Old business.

(e) Matters not on the calendar shall be considered only by unanimous consent of members present.

(f) The chairman shall direct a roll call upon every proposition to be acted upon and all votes shall be taken by the ayes and nays.

(g) At a public hearing, those in favor of a proposition shall be heard first, and then those opposed, unless otherwise ordered by the chairman.

(h) Any official action by the board shall require an affirmative vote of a majority of the members present.

(i) Final action shall be taken on applications no later than the next regular monthly meeting of the board after the public hearing thereon.

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(j) All reports relative to matters considered by the board shall be in a form adopted by the board and incorporated and made a part of the record of the board and a copy thereof shall be transmitted to the town commission. (Ord. No. 169, § 3, 4-1-70.)

Sec. 2-19. Minutes.

The minutes of the planning and zoning board shall contain an accurate report of all matters taken up by the board, and the summary of all testimony heard in public hearings, and a record of all recommendations made by the planning and zoning board to the town commission. The minutes shall also contain a record of the votes of each member of the board on every matter acted upon, and shall indicate the absence of any member, or any member not voting. The minutes of the planning and zoning board shall be filed in the office of the town auditor and clerk and shall be a public record. (Ord. No. 169, § 5, 4-1-70.)

Sec. 2-20. Public hearings.

(a) The planning and zoning board shall hold a public hearing on any matter if requested by the town commission. The planning and zoning board may hold one or more public hearings on any matter, if in the opinion of such board the best interests of the town will be served, except on matters initiated by the planning and zoning board. On such matters initiated by the planning and zoning board public hearings will be held only with the approval of the town commission.

(b) Notice of public hearings of the planning and zoning board shall be posted at least fifteen days prior to the hearing and published in a newspaper in general circulation within the town and copy of the legal notice sent by certified mail by the petitioners to all owners of property involved in the petition, and to all owners of property immediately adjacent and in rear thereof extending three hundred feet from the perimeter of each area.

(c) Notice of a public hearing of the planning and zoning board may be in the form following:

PUBLIC NOTICE
PLANNING AND ZONING BOARD
LONGBOAT KEY, FLORIDA

Please take notice that a public hearing will be held at the request of _____, to consider the following:
The public hearing will be held at _____ on the
day of _____, A.D., 19____. All
interested are invited to attend.

Secretary
Longboat Key Planning and Zoning
Board

(Ord. No. 169, § 6, 4-1-70.)

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§ 2-24

Sec. 2-21. Petition for change in zoning.⁴

(a) An application for a change in zoning of any area in the town shall be filed with the town auditor and clerk, and shall contain the names and addresses of all owners of such lands, the names and addresses of property owners immediately adjacent and in the rear thereof extending three hundred feet from the perimeter of such area, new zoning classification desired, legal description of lands proposed to be rezoned (including the section number or numbers in which said land is located), plan of the area showing the land to be rezoned and the reasons for such zoning change. The truth of the facts set forth in such petition shall be sworn to by at least one of the petitioners named in the petition.

(b) When the town commission proposes a change in zoning classification, it shall be the duty of the board to give notice to each property owner whose zoning classification is proposed to be changed. The notice shall be mailed to the owners current address of record maintained by the tax assessor and shall be postmarked not later than ten days prior to the public hearing concerning the proposed change. The notice shall contain the legal description of the affected property, the existing zoning classification, the proposed zoning classification and the time and place of public hearing concerning the proposed zoning change. Prior to the effective date of any zoning classification change, the board shall cause an affidavit to be filed with the town auditor and clerk certifying that the above provision has been performed. (Ord. No. 169, § 7, 4-1-70.)

Article IV. Accounting and Bookkeeping Procedures.

Sec. 2-22. Compliance with accepted practices and standards.

The town auditor and clerk shall comply with accepted accounting practices and standards to insure good internal control. (Ord. No. 211, § 1, 1-19-72.)

Sec. 2-23. Cash receipts; records of receipts and disbursements.

The town auditor and clerk shall issue receipts for all moneys coming into his possession from any and all sources for which he is held accountable. A copy of the receipt issued by the town auditor and clerk shall be delivered to the person making payment and shall specify the purpose for which the payment was made. The town auditor and clerk shall keep such records that will enable him to account for all cash receipts and disbursements and to properly account for all budgeted items of cash receipts and disbursements as adopted by the town in its annual budget. (Ord. No. 211, § 2, 1-19-72.)

Sec. 2-24. Annual inventory of town equipment.

The town auditor and clerk shall prepare an annual physical inventory of all

4. As to amendments of zoning ordinance generally, see §§ 22-14 to 22-16 of this Code.

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§ 2-27

furniture, fixtures and equipment owned by the town. Such inventory shall show the identification number placed on each and every item of furniture, fixtures and equipment. Thereafter the inventory shall be checked annually. (Ord. No. 211, § 3, 1-19-72.)

Sec. 2-26. Court docket and record of cases, payment of fines, etc., to be maintained.

The town auditor and clerk shall maintain a court docket and record all cases coming before the municipal judge, together with a record of the payment of all fines and forfeitures. The town auditor and clerk shall also maintain a written record of all parking tickets issued by the police department and shall record all fines paid and collections, and endeavors to collect for such parking tickets. (Ord. No. 211, § 4, 1-19-72.)

Sec. 2-26. Bank accounts for town funds.

The town auditor and clerk shall maintain necessary bank accounts for all funds of the town and shall require the necessary collateral for such public funds. (Ord. No. 211, § 5, 1-19-72.)

Sec. 2-27. Check vouchers for disbursement of town funds.

Check vouchers for the disbursement of funds for the town shall be prepared in three copies as follows:

- (a) Original copy to be mailed or given to payee.
- (b) Second copy to be attached to invoice or bill paid showing necessary approval and filed alphabetically.
- (c) The third copy to be filed numerically for each fund. (Ord. No. 211, § 6, 1-19-72.)

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§ 3-1

Alcoholic Beverages

§ 3-3

CHAPTER 3.

ALCOHOLIC BEVERAGES.¹

- § 3-1. License tax--Levy; amount; collection.
- § 3-2. Same--Receipt.
- § 3-3. Hours of sale.

Sec. 3-1. License tax--Levy; amount; collection.²

The town auditor and clerk is hereby authorized to levy and collect a license tax on each manufacturer, distributor, vendor, caterer and club having a place of business within the town that holds a state license for the sale of intoxicating beverages. The license fee for the same shall be up to, but not exceeding fifty percent of the state and county license tax, as provided by the laws of the state. (Code 1965, § 4-1.)

Sec. 3-2. Same--Receipt.

The town auditor and clerk shall provide a receipt for the payment of a municipal license tax to the manufacturer, distributor, vendor, caterer and club paying same, so that they shall be entitled to a reduction in the state and county license tax in the amount so paid for such municipal license tax. (Code 1965, § 4-2.)

Sec. 3-3. Hours of sale.³

It shall be unlawful for any person to sell, offer for sale, serve, dispense, consume or allow to be consumed any alcoholic or intoxicating beverages in the town, in any place or establishment licensed by the state or the town for the sale of alcoholic or intoxicating beverages, except between and during the following hours:

- (a) 7:00 A.M. on Monday to 2:00 A.M. on Tuesday.
- (b) 7:00 A.M. on Tuesday to 2:00 A.M. on Wednesday.
- (c) 7:00 A.M. on Wednesday to 2:00 A.M. on Thursday.
- (d) 7:00 A.M. on Thursday to 2:00 A.M. on Friday.

1. For state law as to alcoholic beverages generally, see Fla. Stats., § 561.01 et seq.
As to registration of certain employees handling liquor, beer, etc., see §§ 11-12 to 11-16 of this Code.
2. For state law as to authority of municipality to levy and collect license tax, see Fla. Stats., § 561.36.
As to licenses generally, see ch. 12 of this Code. As to taxation generally, see ch. 21.
3. For state law as to hours of sale and for authority of town to regulate, see Fla. Stats., § 562.14. See also, Fla. Stats., § 562.45.

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- (e) 7:00 A.M. on Friday to 2:00 A.M. on Saturday.
- (f) 7:00 A.M. on Saturday to 2:00 A.M. on Sunday.
- (g) 12:00 Noon on Sunday to 2:00 A.M. on Monday except beers and ales may be sold or served from 7:00 A.M. on Sunday to 2:00 A.M. on Monday.
- (h) 7:00 A.M. on December 31st of any year unless the day falls on a Sunday then from the hour set forth in paragraph (g) to 4:00 A.M. of January 1st of any year. (Code 1965, § 4-3.)

1972 TOWN CODE

§ 4-1

Animals and Fowl

§ 4-1

CHAPTER 4.

ANIMALS AND FOWL.¹

Article I. In General.

§ 4-1. Quarantine.

Article II. Dogs and Cats.

- § 4-2. Licenses required; issuance of license.
- § 4-3. Issuance of license tags.
- § 4-4. Collars required; tags to be attached to collars.
- § 4-5. Use of unauthorized tag prohibited.
- § 4-6. Removal of collars or tags.
- § 4-7. Annual census of licensed animals.
- § 4-8. Vaccination required.
- § 4-9. Confinement when rabies suspected.
- § 4-10. Leash or lead required; exceptions; female dogs or cats in heat.
- § 4-11. Impoundment.
- § 4-12. Pound.
- § 4-13. Dog and cat warden generally.
- § 4-14. Records of dog and cat warden.
- § 4-15. Delivery to warden.
- § 4-16. Causing annoyance to neighborhood, etc., prohibited.
- § 4-17. Cruel and inhumane treatment.
- § 4-18. Prohibited on beaches.
- § 4-19. Disposition of fees and fines.

Article I. In General.

Sec. 4-1. Quarantine.

Should the town commission determine that a state of emergency exists within the town by reason of animals being infected by rabies or other infectious and dangerous disease which shall constitute a danger to the public health, safety and general welfare of the town, the town commission may by resolution declare a state of emergency to exist and during such period of time, all dogs, cats and other animals and pets shall be kept confined or on a leash or lead by the owners or keepers thereof. During such period of time as such emergency shall continue the town by resolution may promulgate such other emergency regulations as may be deemed necessary for the protection of the health, safety and general welfare of the town. (Ord. No. 147, § 5-21, 4-10-69.)

1. For charter provisions as to authority of town to regulate or prohibit animals or fowl from running at large, etc., see char., § 7 (f).

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§ 4-2

Longboat Key Town Code

§ 4-6

Article II. Dogs and Cats.²

Sec. 4-2. Licenses required; issuance of license.³

It shall be unlawful for any resident to keep a dog or cat within the town without first having obtained a license to keep such dog or cat. It shall be the duty of the town auditor and clerk to issue such licenses. The definition of a resident under this chapter is a person residing on Longboat Key for a period of ninety days or more. (Ord. No. 147, § 5-2, 4-10-69.)

Sec. 4-3. Issuance of license tags.

It shall be the duty of the town auditor and clerk, on or before the 1st day of January of each year to provide himself with a suitable number of metallic dog and cat tags or checks with the word "Longboat" and the year ensuing thereon, which tags shall be furnished by him to all applicants therefor upon payment of one dollar. (Ord. No. 147, § 5-17, 4-10-69.)

Sec. 4-4. Collars required; tags to be attached to collars.

Every dog or cat over the age of six months, whether kennel licensed or individually licensed, and if individually licensed, whether on or off the owner's premises, shall at all times wear a substantial durable collar to which shall be attached securely the license tag provided for in the preceding section. (Ord. No. 147, § 5-18, 4-10-69.)

Sec. 4-5. Use of unauthorized tag prohibited.

No tag shall be used on the collar of any dog or cat other than the one for which it is issued. (Ord. No. 147, § 5-19, 4-10-69.)

Sec. 4-6. Removal of collars or tags.

No person shall remove the collar or tag, or both, from any dog or cat without the consent of the person to whom the license is issued. (Ord. No. 147, § 5-20, 4-10-69.)

2. For charter provisions as to authority of town to provide for licensing the keeping of dogs and for the distribution of dogs where the owner fails to comply with regulations prescribed by ordinance, see char., § 83.

For state law authorizing town to license and regulate dogs, see Fla. Stats., § 168.09. As to damages by dogs and liability of owners therefor, see Fla. Stats., §§ 767.01 to 767.04.

3. As to licenses generally, see ch. 12 of this Code.

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§ 4-7

Animals and Fowl

§ 4-9

Sec. 4-7. Annual census of licensed animals.

The dog and cat warden shall on or immediately after, January 1st of each year, make diligent inquiry from house to house within the corporate limits of the town, or in any other lawful manner, as to the number of dogs or cats owned and whether any such dogs or cats are unlicensed. Upon finding any dogs or cats unlicensed, the dog and cat warden shall forthwith give notice in writing to the owner of such unlicensed dogs or cats and unless a license shall be secured not later than five days after the date of such notice, at the regular license fee plus one dollar for each such unlicensed dog or cat as a penalty for the owner's neglect in securing the same, such unlicensed dogs or cats shall be seized and impounded. The dog and cat warden shall have the authority to seize any unlicensed dog or cat either on or off the owner's premises without the necessity of any arrest warrant or court order and impound such dog or cat in the dog and cat pound. He shall give a receipt to the owner of any dog or cat so seized and impounded, describing each dog or cat clearly and stating the date of such seizure. Such unlicensed dog or cat shall be released to the owner at the dog and cat pound upon payment of the regular license fee, plus a penalty of three dollars for each day within five calendar days after the date of seizure. In the absence of such payment, such unlicensed dog or cat may be put to death humanely in the dog and cat pound or otherwise disposed of on the sixth calendar day after the date of seizure. (Ord. No. 147, § 5-14, 4-10-69.)

Sec. 4-8. Vaccination required.

Prior to the issuance of any dog or cat license by the town auditor and clerk, any resident owning or keeping a dog or cat within the town shall cause such dog or cat to be vaccinated against rabies by a licensed veterinarian or other properly qualified person approved by the town manager. Evidence of such vaccination shall consist of a certificate signed by the person administering the vaccine and containing pertinent data for the identification of such dog or cat so vaccinated and the time of such vaccination. A copy of such certificate shall be filed by the town auditor and clerk at the time of issuance of such license. (Ord. No. 147, § 5-3, 4-10-69.)

Sec. 4-9. Confinement when rabies suspected.

Upon the appearance of any suspicious symptoms of rabies, any dog or cat must be promptly retained, confined and guarded until any possibility of the presence of rabies is removed. The health officer of the town shall be promptly notified of the existence of suspicion of rabies in any dog, cat or other animal by the owner, or the person in charge of such animal. (Ord. No. 147, § 5-4, 4-10-69.)

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§ 4-10

Longboat Key Town Code

§ 4-12

Sec. 4-10. Leash or lead required; exceptions; female dogs or cats in heat.

No dog or cat, whether licensed or unlicensed, muzzled or unmuzzled, inoculated or not inoculated against rabies, shall be allowed upon the streets of the town or in public places, such as railroad depots, hotels, restaurants, theaters, public conveyances and the like, or upon property other than that of its owner, unless on suitable dependable lead or leash not longer than eight feet, or unless within reasonable control of its owner or other person known to the dog or cat, such reasonable control not to exceed a distance of three hundred feet, or unless on property other than that of its owner with the express or implied consent of the owner of such property. However, a female dog or cat in heat, within public places or on streets or other premises must be on a lead or leash at all times. (Ord. No. 147, § 5-5, 4-10-69.)

Sec. 4-11. Impoundment.

Any dog or cat running at large shall be seized promptly by any police officer or by the dog or cat warden and impounded in the dog and cat pound. The owner of any such licensed dog or cat, or if such dog or cat is unlicensed, the owner of such dog or cat, if known, or if, upon reasonable diligent inquiry, can be known, shall be notified promptly by mail and also, if possible, by phone or other means not later than on the day the dog or cat is seized, that such dog or cat has been seized and is impounded in the dog and cat pound awaiting redemption. No such dog or cat shall be redeemed by or released to anyone save the owner or his duly authorized agent, and then only upon payment of the regular license fee, if unlicensed, plus the sum of two dollars per day for care, custody and feeding of such dog or cat, plus one dollar for neglect to pay a license fee, and if licensed, the sum of two dollars per day only for care, custody and feeding. If such impounded dog or cat shall not be redeemed and released to the owner or agent, and the required fees and costs paid at the time of such release on or before the fifth calendar day after the day of seizure, such dog or cat may be put to death humanely in the dog and cat pound on the sixth calendar day after day of seizure; except, that a dog or cat impounded on account of being rabid or having been bitten by a rabid dog, cat or other animal shall be held for a period of fifteen days after seizure, unless death occurs before the expiration of the fifteen days. Bodies of all dogs and cats killed shall be disposed of by the dog and cat warden on the same day as killed, and in as sanitary and proper way as meets with the demands of public health and welfare. (Ord. No. 147, § 5-7, 4-10-69.)

Sec. 4-12. Pound.

The town shall either maintain a public pound or make provisions to use the county pound or humane society pound in Sarasota or Manatee Counties, and the chief of police is given the authority to make use of any of the above for any of the provisions under this article, and the same shall be under the general supervision of the chief of police. (Ord. No. 147, § 5-13, 4-10-69.)

4. For charter provisions as to authority of town to regulate or prohibit the running at large of animals, see char., § 7 (f).

1972 TOWN CODE

§ 4-13

Animals and Fowl

§ 4-18

Sec. 4-13. Dog and cat warden generally.

The chief of police shall either designate a police officer as town dog and cat warden or appoint a town dog and cat warden and fix his compensation, subject to the approval of the town commission. It shall be the duty of the dog and cat warden to properly conduct the dog and cat pound and to enforce the provisions of this article. (Ord. No. 147, § 5-6, 4-10-69.)

Sec. 4-14. Records of dog and cat warden.

The dog and cat warden shall keep a careful record of all dogs and cats received by him, describing each dog and cat carefully and describing fully and clearly the disposition of such dog or cat. He shall deliver to the chief of police, on each Monday, a duplicate copy of all such records of receipts and disposals covering the preceding calendar week. (Ord. No. 147, § 5-8, 4-10-69.)

Sec. 4-15. Delivery to warden.

It shall be unlawful for any person to refuse to deliver his dog or cat to the dog and cat warden when properly requested to do so under the provisions of this article. (Ord. No. 147, § 5-12, 4-10-69.)

Sec. 4-16. Causing annoyance to neighborhood, etc., prohibited.

It shall be unlawful for any person to keep, harbor or own any dog or cat which, by loud, frequent or habitual barking, yelping, howling or by constant threat of attacking and biting, shall cause annoyance to the neighborhood or to people passing upon the streets. (Ord. No. 147, § 5-10, 4-10-69.)

Sec. 4-17. Cruel and inhumane treatment.⁵

It shall be unlawful for any person to be cruel or inhumane to a dog or cat, such cruelty and inhumanity consisting of cruelly beating, torturing, mutilating, cruelly killing, failing to provide food, drink and shelter or abandoning old, sick or disabled dogs or cats. (Ord. No. 147, § 5-11, 4-10-69.)

Sec. 4-18. Prohibited on beaches.

It shall be unlawful for any person owning any dog or cat or having any dog or cat in his care, custody or control, to permit or allow such dog or cat to be upon any beaches within the town. (Ord. No. 147, § 5-15, 4-10-69.)

5. For state law as to cruelty to animals, see Fla. Stats., §§ 828.01 to 828.18.

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§ 4-19

Longboat Key Town Code

§ 4-19

Sec. 4-19. Disposition of fees and fines.

All money collected as pound fees, etc., as prescribed in this article, shall be expended for efficient management of the pound and for the enforcement of this article, and for other dog and cat purposes. Any surplus after December 31st of each year shall be transferred to the general fund of the town treasury. All money collected as license fees shall be turned over to the town auditor and clerk every Monday morning. (Ord. No. 147, § 5-9, 4-10-69.)

1972 TOWN CODE

§ 5-1

Boats and Waterways

§ 5-1

CHAPTER 5.

BOATS AND WATERWAYS.¹

Article I. In General.

- § 5-1. Commercial fishing in certain salt waters prohibited.
- § 5-2. Placing net is evidence of purpose.

Article II. Boats and Watercraft.

- § 5-3. Speed limitations.
- § 5-4. Reckless boat operation, water skiing, skin diving, etc.
- § 5-5. Disturbing the peace from watercraft.
- § 5-6. Mooring of boats; placing of nets or other obstructions.
- § 5-7. Lights; horns; bells; identification numbers.
- § 5-8. Abandonment of boats.
- § 5-9. Sanitary and health regulations.
- § 5-10. Designation of areas for regulated water activities.

Article I. In General.

Sec. 5-1. Commercial fishing in certain salt waters prohibited.²

During the period December 15 to April 15, it shall be unlawful for any person to use, or cause to be used, for the purpose of fishing for or taking salt water fish, and gill net, haul net, drag net, stop net, purse net, trawl net, dredge net or any other form or kind of net or seine except any cast net, dip net and common minnow net not more than thirty feet in length and four feet in depth in Sarasota Bay and its harbors, bayous and channels westward of a line described as follows:

Beginning at the center line of New Pass Bridge; thence into Sarasota Bay along the town limits of Longboat Key to the range marker off Mangrove Island; thence to F. L. Red #26; thence to F. L. Green #21; thence to R. M. #20B; thence on a prolongation of the last course to the shore of Longboat Key. (Code 1965, § 6-201.)

1. For charter provision authorizing town to regulate and control the use and occupancy of waterways, waters, etc., see char., § 7 (h).
As to prohibition against depositing garbage and refuse in pools, lakes or tidal water, see § 10-3 of this Code.
2. For charter provision authorizing town to regulate and control fishing, see char., § 7 (k).
For state law as to salt water fisheries, see Fla. Stats., § 370.01 et seq.

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§ 5-5

Sec. 5-2. Placing net is evidence of purpose.

The placing of any net, seine or trawl of any nature or kind by any person in the prohibited portion or the salt waters within the territorial limits of the town shall be prima facie evidence of the using of such nets for the purpose of fishing for or taking of salt water fish or shrimp. (Code 1965, § 6-202.)

Article II. Boats and Watercraft.³

Sec. 5-3. Speed limitations.

No boat or other watercraft shall be operated upon any waters, within the town, at a rate of speed which causes waves to damage, or cause damage to docks, wharves, seawalls, shoreline, boats or personal property contained in boats moored or tied to docks or wharves. (Code 1965, § 6-1.)

Sec. 5-4. Reckless boat operation, water skiing, skin diving, etc.

(a) It is unlawful for any person to operate a boat, or any other watercraft, within the town, in a reckless or negligent manner so as to endanger the life, limb or property of any person.

(b) It is unlawful for any person water skiing, within the town, to endanger his life or limb, or the property, life or limb of another person, by reckless or negligent skiing.

(c) It is unlawful for any person water skiing, within the town to cause the operator of the boat towing him, or the operator of another boat to change the operation or movement of such boat so as to place such operator in the position of endangering the person or property of any person.

(d) It is unlawful for any person skin diving, swimming or engaging in other water activity, to engage in such activity in such a way as to endanger his life or limb, or the property, life or limb of another person. (Code 1965, § 6-2.)

Sec. 5-5. Disturbing the peace from watercraft.

No boat or other watercraft shall be operated within the waters of the town with outboard or inboard motor not having a properly muffled exhaust. No boat or other watercraft shall be operated within the waters of the town so close to shore, or in any manner that the operation thereof disturbs the peace and tranquility. No operator of any boat or other watercraft shall cause excessive noise

³ For state law as to regulation of boats, see Fla. Stats., §§ 371.011 to 371.68

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in the operation of such boat or other watercraft, or in operating blowers or noisy machinery thereon. No person, while aboard any boat or other watercraft within the waters of the town shall engage in loud talking or do or perform any other act that disturbs the peace and tranquility of the residents of the town. (Code 1965, § 6-3.)

Sec. 5-6. Mooring of boats; placing of nets or other obstructions.

(a) No boat or other watercraft of any kind whatsoever shall moor to or tie up to a private seawall or dock, or be beached upon private property within the town without the permission of the owners of such seawall, dock or private property.

(b) It shall be unlawful for any person to moor or tie a boat or other watercraft to another, broadside, or to tie or moor such boat or other watercraft to any dock, seawall, pier or beach in any manner that may reasonably cause damage to person or property.

(c) No net, line or any obstruction shall be placed within or across any waterway, channel or canal in such a manner that such net, line or other obstruction does or may, interfere with or prevent the unhampered and unobstructed operation of boats and other watercraft therein and thereon. (Code 1965, § 6-4.)

Sec. 5-7. Lights; horns; bells; identification numbers.

(a) It shall be unlawful for any boat to be operated within the waters of the town, without navigational or other lights, as prescribed therefor by the Inland or International Piloting Rules and Regulations of the United States Coast Guard. Between the hours of sunset and sunrise, it shall be unlawful for any boat to be operated on the waters of the town without carrying a clearly visible light and exhibiting the same upon the approach of any other boat or watercraft.

(b) The indiscriminate or unnecessary use of searchlights, horns, whistles or bells on or from any boat or other watercraft, within the corporate limits of the town is prohibited.

(c) No boat or other watercraft shall be operated within the waters of the town that does not show identification numbers prescribed by law, or appropriate government regulation. (Code 1965, § 6-5.)

Sec. 5-8. Abandonment of boats.

It shall be unlawful for any person to abandon any boat or other watercraft within the waters of the town or to moor any boat or other watercraft in such a manner that such boat or other watercraft is or may become a menace to navigation. The presence of an unattended or unmoored boat or other watercraft, within the waters of the town shall be prima facie evidence of a violation hereof by the owner of such boat or other watercraft. (Code 1965, § 6-6.)

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Sec. 5-9. Sanitary and health regulations.

(a) All boats and other watercraft, and the persons thereon, docked, moored or tied to land, docks, piers, seawalls or other mooring device, within the town limits, shall observe all health and sanitary regulations of the town and other ordinances of the town.

(b) It shall be unlawful for any person on any boat or other watercraft to dump or dispose of garbage, paper, bottles, cans, refuse or other debris into the waters of the town or on any lands adjacent thereto.

(c) It shall be unlawful for any boat or other watercraft, or persons thereon, to use any vacant lot or property contrary to the zoning ordinance of the town, this Code or other ordinances of the town, for cooking of meals, washing of clothes, bathing, shower bathing, hanging out washing, erection of tents or canvasses, stringing of lights or for any other use contrary to zoning or building regulations applicable to such property. (Code 1965, § 6-7.)

Sec. 5-10. Designation of areas for regulated water activities.

The town commission does hereby declare that the public health, safety and welfare of the citizens of the town and others, requires designation of areas within which the operation of boats and other watercraft may be regulated or prohibited, and in which swimming, water skiing, skin diving and other water activity, or any of them, may be prohibited or regulated.

The chief of police of the town is hereby authorized to designate areas prescribing the water activities that may be conducted therein and reasonable regulations for the conduct thereof. The chief of police may, in the interest of safety, prohibit boats and other watercraft from operating within such designated area and may prohibit swimming, water skiing, skin diving and other water activities, or any of them, from being conducted in such areas, or any of them. Such regulations and prohibitions shall be made in order to facilitate and protect persons engaging in such respective water activities.

When such areas are designated and the regulations applicable thereto are determined, a description of such area and a copy of such regulations applicable thereto shall be filed in the town auditor and clerk's office and published once in a newspaper of general circulation within the town. Such regulations and the boundaries of such designated area shall be conspicuously posted at the area affected. It shall be unlawful to violate any of such regulations. (Code 1965, § 6-8.)

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Buildings

CHAPTER 6.

BUILDINGS.¹

Article I. In General.

- § 6-1. Southern Standard Building Code--Adopted.
- § 6-2. Same--Amendments.
- § 6-3. Administration and enforcement of chapter; appointment of building inspector.
- § 6-4. Right of entry of building inspector.
- § 6-5. Authority of building inspector to require tests or test reports.
- § 6-6. Plans and drawings--Copy to be kept at work site; inspection.
- § 6-7. Same--Compliance with.
- § 6-8. Certificate of occupancy--Required.
- § 6-9. Same--Issuance; temporary certificate.
- § 6-10. Bulkheads.
- § 6-11. Stopping of dangerous, nonconforming, etc., work.
- § 6-12. Dangerous, unsanitary, etc., buildings or structures.
- § 6-13. Civil actions to correct violations of chapter.

Article II. Permits.

- § 6-14. Required.
- § 6-15. Application.
- § 6-16. Fees.
- § 6-17. Invalidity of permit.

Article III. Minimum Building Elevations.

- § 6-18. Purpose of article.
- § 6-19. Compliance with article.
- § 6-20. Master plan adopted.
- § 6-21. Submission of plans prior to construction.
- § 6-22. Issuance of building permit.

1. For charter provision authorizing town to promulgate and enforce reasonable building restrictions, see char., § 7 (g). As to dredging and filling generally, see ch. 8 of this Code. As to adoption of state rules and regulations pertaining to sanitation, see § 11-3. As to licensing of contractors, see ch. 12. As to plumbing regulations, see ch. 16. As to signs and billboards, see ch. 18. As to permit for drainage culvert construction, see §§ 19-1 to 19-4. As to subdivisions generally, see ch. 20. As to zoning regulations generally, see ch. 22. As to building permits generally, see § 22-8.

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Article IV. Nuisances.

- § 6-23. Declaration of nuisance.
- § 6-24. Town manager to inspect buildings and make recommendations.
- § 6-25. Public hearing--Notice--Publication.
- § 6-26. Same--Same--Contents.
- § 6-27. Same--Conduct.
- § 6-28. Same--Decision to be by resolution; condemnation generally.
- § 6-29. Same--Posting of copy of resolution.
- § 6-30. Abatement by town; town's expenses to constitute lien.

Article I. In General.

Sec. 6-1 Southern Standard Building Code--Adopted.²

The Southern Standard Building Code, 1969 Edition, (excluding Chapter 1, Administration) together with all amendments thereto adopted by the Southern Building Code Congress, is hereby adopted as part of the Building Code of the town. If any provision of this chapter shall conflict with any adopted provision of the Southern Standard Building Code, the provision of this chapter shall prevail. (Code 1965, § 7-1; Ord. No. 148, 4-16-69; Ord. No. 157, § 1, 10-1-69.)

Sec. 6-2. Same--Amendments.

The Southern Standard Building Code, 1969 Edition, published by the Southern Building Code Congress, is amended as follows: Section 2401.3 under chapter XXIV of such code, in respect to elevators and escalators, is hereby added and shall provide:

"(a) A minimum of one (1) electric motor driven elevator shall be provided in any building erected after effective date of this Ordinance and having three (3) or more stories; said elevator shall be sized to accommodate a standard size stretcher and attendants. The minimum dimensions of said stretcher are as follows: Length, seventy-nine (79) inches; width, twenty-two and one-half (22 1/2) inches.

"(b) Said elevator shall be installed in compliance with the elevator requirements of the Florida Industrial Code 185 E-1-F.A.C. and the American Standard Safety Code for Elevators, Dumbwaiters and Escalators (ASA-A17.1-1967) of the American Standards Association." (Ord. No. 176, § 1, 6-17-70)

2. For state law authorizing town to adopt Building Code by reference, see Fla. Stats., § 165.191.
As to applicability of Building Code to subdivisions, see § 20-2 of this Code.

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Sec. 6-3. Administration and enforcement of chapter; appointment of building inspector.

The duty of administering and enforcing this chapter is hereby conferred upon the building inspector, who shall be appointed by the town manager with the approval of the town commissioners. Assistants to the building inspector, as needed, may be appointed by the building inspector, with the approval of the town manager. (Code 1965, § 7-2; Ord. No. 157, § 1, 10-1-69.)

Sec. 6-4. Right of entry of building inspector.

The building inspector and any of his assistants, may enter any premises, building or structure in the town for the purpose of making inspections or of performing any duty imposed by this chapter or any other ordinances of the town. (Ord. No. 157, § 1, 10-1-69.)

Sec. 6-5. Authority of building inspector to require tests or test reports.

The building inspector may require tests or test reports. If required, tests are to be made at the expense of the owner or builder and by an approved laboratory or other agency. Copies of such test reports or the results of all such tests shall be kept on file by the building inspector. (Ord. No. 157, § 1, 10-1-69.)

Sec. 6-6. Plans and drawings--Copy to be kept at work site; inspection.

A copy of the plans and drawings approved by the building inspector shall be kept at the site of the work, and shall be open to inspection by the building inspector or his authorized representative. (Ord. No. 157, § 1, 10-1-69.)

Sec. 6-7. Same--Compliance with.

No work for which a building permit has been obtained shall be done except in conformity with the plans and specifications submitted at the time application for the building permit was made. (Ord. No. 157, § 1, 10-1-69.)

Sec. 6-8. Certificate of occupancy--Required.

No new structure shall be occupied and no change in use or occupancy of a structure or building shall be made until after the building inspector shall have issued a certificate of occupancy therefor, subject to approval by the town manager. (Ord. No. 157, § 1, 10-1-69.)

Sec. 6-9. Same--Issuance; temporary certificate.

Upon completion of a structure erected in accordance with duly approved plans, or upon completion of an approved change of use or occupancy of a structure, after

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final inspection and upon application, the building inspector shall issue a certificate of occupancy stating the nature of the occupancy permitted. Such certificate shall be issued within ten days after application is made. A temporary certificate of occupancy may be issued for a portion of a building or structure which may be safely occupied prior to final completion of the building. (Ord. No. 157, § 1, 10-1-69.)

Sec. 6-10. Bulkheads.³

No retaining walls, bulkheads or seawalls (hereinafter called bulkheads) shall be constructed within the town without first having secured a permit from the town. All applications for permits shall be accompanied by plans including the following requirements:

(a) Plans for proposed bulkhead construction shall be prepared by, or under the direct supervision of, an engineer registered in the state. The plans shall include the following information:

- (1) Plan of the area showing the location of the proposed bulkhead.
- (2) Existing shoreline profile based on United States Coast and Geodetic Survey sea level datum. Profiles shall be shown at each end of the proposed bulkhead and at appropriate intervals between, and shall extend from the upland to a minimum of fifty feet seaward of the mean high water line. The mean high water line shall be shown thereon.
- (3) Existing bulkheads within one hundred feet of the proposed construction.
- (4) Proposed finish elevations of top of proposed bulkhead.
- (5) Opposite shoreline wherever it may affect channel widths or the stability of the proposed bulkhead.
- (6) Typical section of the proposed bulkhead, showing length, thickness, reinforcing steel, cap, tiebacks, deadmen, etc., in complete detail.
- (7) Proposed construction details, including strength of concrete.

(b) The proposed bulkhead shall also comply with the following general design criteria:

- (1) Penetration of slabs shall be adequate for structural stability considering the anticipated stabilized bottom.

3. For charter provision as to authority of town to regulate construction of bulkheads, see char., § 7 (j).
As to coastal construction generally, see ch. 7 of this Code.

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- (2) Existing shoreline profile based on United States Coast and Geodetic Survey sea level datum. Profiles shall be shown at each end of the proposed bulkhead and at appropriate intervals between, and shall extend from the upland to a minimum of fifty feet seaward of the mean high water line. The mean high water line shall be shown thereon.
- (3) Existing bulkheads within one hundred feet of the proposed construction.
- (4) Proposed finish elevations of top of proposed bulkhead.
- (5) Opposite shoreline wherever it may affect channel widths or the stability of the proposed bulkhead.
- (6) Typical section of the proposed bulkhead, showing length, thickness, reinforcing steel, cap, tiebacks, deadmen, etc., in complete detail.
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As to coastal construction generally, see ch. 7 of this Code.

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(2) Tiebacks shall be provided and shall be properly protected against corrosion.

(3) Deadmen shall be constructed in undisturbed soil or in clean, granular backfill, compacted to suitable density.

(4) Wherever the proposed bulkhead is to be exposed to severe wave action, whether natural, from passing boats or otherwise, erosion or wave energy protection shall be provided.

(c) Plans shall be submitted to the town for engineering evaluation prior to the issuance of a construction permit.

(d) Upon conclusion of construction, the grantee of the permit shall furnish the town with a set of "as-built" drawings, certified to by the design engineer.

(e) Bulkhead construction within a subdivided or developed area shall be uniform in height to the existing bulkhead constructed so long as the existing bulkhead complies with the standards of the foregoing subsections of this section.

(f) Bulkheads exposed to the Gulf of Mexico shall not be constructed within fifty feet upland of the mean high water mark of the Gulf of Mexico unless constructed in connection with a state approved groin. (Ord. No. 181, § 1, 10-7-70.)

Sec. 6-11. Stopping of dangerous, nonconforming, etc., work.

If work on any excavation or on any building or structure is being done in a dangerous or unsafe manner, or if work is being done contrary to the provisions of this chapter or any other ordinance of this town, such work shall be stopped immediately upon receipt of notice from the building inspector. Such notice shall be given to the person doing the work or in charge thereof, or to the owner of the property or his agent, and the notice shall state the conditions under which work may be resumed. Such notice shall be in writing; except, that when an emergency exists, oral notice shall be sufficient, which shall be promptly followed by written notice. (Ord. No. 157, § 1, 10-1-69.)

Sec. 6-12. Dangerous, unsanitary, etc., buildings or structures.

If any building or structure, or portion thereof, by reason of its use, abandonment or dilapidated condition, becomes a fire hazard, unsanitary or otherwise dangerous to health or human life, the building inspector, immediately upon learning the condition, shall forthwith give the owner, agent or person in control of such building written notice stating the defects thereof. This notice shall require the owner within a stated time either to complete specified repairs or improvements, or to demolish and remove the building or structure, or portion thereof.

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(a) If necessary for the preservation of life, safety or health, such notice shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the building inspector. The building inspector shall cause to be posted at each entrance to such building a notice that the building is unsafe and that its use or occupancy has been prohibited. Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person to remove such notice without written permission of the building inspector, or for any person to enter the building except for the purpose of making the required repairs or of demolishing the building.

(b) The owner, agent or person in control shall have the right to show cause why he should not comply with the requirements imposed by the building inspector. In such case the owner, agent or person in control, within ten days after receipt of the written notice from the building inspector, shall file with the town manager a written notice of appeal, stating why the requirements of the building inspector are unjust or unreasonable. Until a final decision is reached by the town manager, the filing of such notice of appeal shall stay further proceedings or action upon those requirements imposed by the building inspector which relate to repair or demolition; but filing notice of appeal shall not stay requirements relating to the vacating or evacuation of premises in instances where, in the opinion of the building inspector, continued use of the premises would involve imminent danger to health or human life.

(1) The town manager shall set a date for a hearing of the appeal within thirty days from the date the notice of appeal is filed. At the hearing the party making the appeal may be represented by agent or attorney, if he so desires.

(2) After consideration of the evidence offered at the hearing, the town manager shall make a written determination whether the requirements of the building inspector were reasonably necessary to safeguard life, limb, property and the public welfare, whether they were just and reasonable and whether they were in accordance with this chapter and its purposes. Pursuant to such determination he shall make an order, either affirming the requirements imposed by the building inspector, or altering, modifying or cancelling the same. In the order the town manager may also impose such conditions as seem advisable.

(3) The order of the town manager shall constitute a final determination of the matter, subject only to such remedy as the aggrieved party may be allowed at law or equity.

(c) In case the owner, agent or person in control cannot be found, or, if such owner, agent or person in control shall fail, neglect or refuse to comply with the provisions of a notice to repair, improve, demolish or remove the building structure or portion thereof, the building inspector, after having determined the cost shall with the approval of the town manager cause such building or structure or portion thereof to be demolished, secured or required to remain vacant, as circumstances may require.

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(d) Promptly after completion of any corrective, repair or demolition work done by the town under the authority of this chapter, the town manager shall cause the owner to be billed for the cost of such work, including labor, materials, engineering services, title searches and administrative overhead. If the address of the owner is unknown after diligent search and inquiry, it shall not be necessary to send such bill. If such bill is not paid within ten days after mailing, or within seven days after personal delivery, or after ten days after the completion of the work where the address of the owner is unknown after diligent search and inquiry, the town manager shall serve on the owner and each mortgagee, lienholder or other person having an interest in the property involved (but failure to serve a mortgagee, lienholder or other person having an interest, except the owner, shall not affect the validity or amount of any lien or special assessment hereunder), a notice covering substantially the following points:

(1) Describing the premises, stating the nature of the work done thereon, stating the amount for which the town claims a lien, fixing a date on which the town commission will hold a public hearing on the matter for the purpose of making a special assessment against the property for the cost of the work and advising the interested parties of their right to be heard on any matter pertaining to the proper amount or validity of the proposed special assessment to be made against the property for such lien, at the stated time and place.

(2) Such notice shall be served on the interested parties not less than five days prior to the date set for the hearing by the town commission.

(e) At the hearing referred to in subsection (d) of this section, the town manager shall report to the town commission on the nature of the work accomplished, the cost of the work and the giving of the notices. The town commission shall hear all interested parties with respect to the validity and proper amount of the proposed special assessment to cover such costs, and shall thereupon by resolution levy a special assessment against the property in such amount, if any, as it finds to be proper and equitable. (Ord. No. 157, § 1, 10-1-89)

Sec. 6-13. Civil actions to correct violations of chapter.

In case any building or structure is or is intended to be erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used, or is intended to be used in violation of this chapter, the attorney for the town, in addition to the remedies provided for in this Code, is hereby authorized to institute any appropriate action or proceeding, in law or equity, to prevent such unlawful erection, construction, reconstruction or to restrain, correct or abate such violation. (Ord. No. 157, § 1, 10-1-89.)

Article II. Permits.

Sec. 6-14. Required.

No excavation, erection, construction, structural alteration, demolition or

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removal of any structure or dock shall be commenced until a permit therefor shall have been issued by the building inspector. (Ord. No. 157, § 1, 10-1-69.)

Sec. 6-15 Application.

Each applicant for a building permit shall submit an application to the building inspector for his approval before a permit shall be issued. The application shall include:

(a) An accurate plot diagram, in duplicate, which shall be drawn to scale and shall show the size, shape and dimensions of the tract to be built upon, the size and location of any existing structures, the dimensions and planned location of all structures to be built, including alterations to existing structures, as well as parking spaces, loading areas, roads, waterways, easements and any other pertinent superficial features, together with evidence of approval by the state and county health department of water and sewerage systems. The building inspector may require a boundary line survey, if necessary, prepared by a qualified surveyor, in order to assure compliance with the provisions of this chapter or other town ordinances.

Where the outside dimensions of an existing structure will not be affected, or in any other case where a plot diagram is clearly unnecessary, the requirements of this subsection may be waived by the building inspector.

(b) Three or more copies of all specifications and drawings, drawn to scale and in sufficient detail to indicate the nature and character of the work. Such drawings and specifications shall contain information, in the form of notes or otherwise as to the quality of materials, where quality is essential to conformity with the Southern Standard Building Code. The building inspector may also require such other details and computations as will assure compliance with the Southern Standard Building Code.

(c) When applicable to requirements of this chapter or other pertinent ordinances of the town, the following shall also be submitted. Information relating to the use of the proposed structure and the plot which it will occupy; plans showing water and sewerage systems, plans showing cuts and fills and provisions for drainage; any other relevant information.

Nothing contained in this section shall be deemed to relieve or excuse any owner or builder from compliance with the more detailed plat requirements of the town Subdivision Code or from any other requirements contained in other ordinances now or hereafter enacted. (Ord. No. 157, § 1, 10-1-69.)

Sec. 6-16 Fees.

The building inspector shall collect from each applicant for a building permit the following fees: Three dollars per thousand for each thousand, or part thereof, for the first fifteen thousand dollars of cost, plus two dollars per thousand or part thereof for cost in excess of fifteen thousand dollars, and shall transmit such collected sum to the town treasurer, who shall deposit such sum to the general account thereof. (Ord. No. 157, § 1, 10-1-69.)

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Sec. 6-17. Invalidation of permit.

(a) A building permit heretofore issued shall become invalid:

(1) If the construction authorized by such permit is not commenced within sixty days after the date the permit is issued.

(2) If at any time after construction is commenced, the work is suspended or abandoned for a period of sixty days.

Construction shall be deemed to have been "commenced" when five percent or more of the total costs of construction provided for in the permit has been completed, excluding the cost of temporary models used for sale purposes which are to be removed when construction is completed or within one year, whichever occurs first. Construction shall be deemed to have been "suspended or abandoned" when less than five percent of the total cost of construction provided for in the permit is completed within the sixty day period.

(b) If a building permit becomes invalid because of a construction delay as aforesaid, the town manager may nevertheless revalidate the permit by granting in writing one or more extensions of time, for periods not exceeding thirty days each, for the commencement or resumption of the work as the case may be. Before revalidating such a permit, however, the town manager shall be satisfied that the delay was occasioned by matters beyond the builder's control, and that the delay could not reasonably have been terminated by the efforts of the builder. A fee of five dollars shall be charged for each revalidation of a permit.

(c) If a building permit becomes invalid because of construction delay, and circumstances do not permit revalidation of the permit, before construction may thereafter be begun or recommenced, a renewal permit shall first be obtained and in the event no changes have been made or will be made in the original plans and specifications, and in the further event that such suspension, abandonment or failure to commence construction has not exceeded one year, then the fee therefor shall be one half the amount required for a new permit; otherwise, the total fee required for the new permit shall be paid. If, during the period of the delay, changes have been made in the Zoning Ordinance, or in any other relevant ordinance or law, which make the issuance of a new permit unlawful, then a new permit shall not be issued. (Ord. No. 157, § 1, 10-1-69; Ord. No. 163, § 1, 1-7-70.)

Article III. Minimum Building Elevations.

Sec. 6-18. Purpose of article.

It is the intent of this article to provide a system of minimum building elevations within the town to control the elevation of construction within the town and to accomplish this purpose by acquiring approval of building elevation prior to the issuance of a permit for construction. (Ord. No. 161, § 1, 10-15-69.)

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Sec. 6-19. Compliance with article.

Construction is hereby prohibited except such construction as is authorized by permit issued by the town pursuant to this chapter which complies with the minimum building elevation.

Construction of buildings or other structures within the town shall be accomplished in order to insure that minimum building elevations are used to insure the public safety within the town. (Ord. No. 161, § 1, 10-15-69.)

Sec. 6-20. Master plan adopted.

A master plan of minimum building elevations is that plan prepared by Smally, Wellford & Naiven, Consulting Engineers dated May 1964, Project #878, Drawing # E-878 consisting of thirteen sheets, purpose of which is to set minimum building elevations as set forth in the plans and indicated by the numerical numbers within the diamond shaped figures on sheets three to twelve inclusive, which plans are made a part of this article by reference thereto and is on file in the office of the town auditor and clerk. (Ord. No. 161, § 1, 10-15-69.)

Sec. 6-21. Submission of plans prior to construction.

In addition to the other requirements of this article, any person desiring to undertake construction shall furnish plans which show that the proposed construction elevation meets or exceeds the minimum building elevation required by this article. (Ord. No. 161, § 1, 10-15-69.)

Sec. 6-22. Issuance of building permit.

Applications will be checked by the building inspector and if the same meets the minimum building elevation requirements and the application for permit otherwise complies with this chapter, the town will issue a permit for such construction. (Ord. No. 161, § 1, 10-15-69.)

Article IV. Nuisances.

Sec. 6-23. Declaration of nuisance.

Any building or structure, situated within the town, that is a menace to the public safety, health or welfare, is hereby declared to be a public nuisance. (Code 1965, § 7-201.)

Sec. 6-24. Town manager to inspect buildings and make recommendations.

It shall be the duty of the town manager to regularly and frequently examine buildings and structures within the town to determine whether such buildings or

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structures constitute a public nuisance as herein defined above. The town manager shall make a detailed, written report to the town commission which shall contain a detailed description of his examination and his opinion of whether the conditions found constitute such building or structure, or any part thereof, a public nuisance. The report shall also contain a recommendation of the remedial action necessary to abate the condition or conditions constituting such building or structure a public nuisance. (Code 1965, § 7-202.)

Sec. 6-25. Public hearing--Notice--Publication.

At the next regular meeting of the town commission, or at the next special meeting called therefor, the commission shall consider the report of the town manager. If the commission finds that the building or structure described therein may constitute a public nuisance, such commission shall adopt a resolution setting a time, place and date for a public hearing on whether or not the building or structure in fact is a public nuisance. Such hearing shall not be held until notice thereof has been published at least once in a newspaper of general circulation in the town, at least seven days prior thereto. The clerk shall also post a notice of such public hearing on such building or structure. The clerk shall send a copy of the notice of hearing, by registered mail, to the owner or owners of such premises, on which such building or structure is located, as the same appears on the most current town or county tax assessment roll. (Code 1965, § 7-203.)

Sec. 6-26. Same--Same--Contents.

The public notice specified in section 6-25 shall contain a description of the property on which such building or structure is located sufficient for identification. The notice to the owner shall also describe, in general terms, the condition of such building or structure that is alleged to constitute such building or structure a public nuisance. Such public notice and notice to owner shall also contain the time, date and place that such public hearing will be held. (Code 1965, § 7-204.)

Sec. 6-27. Same--Conduct

At the public hearing, the town commission shall hear and read the full report of the town manager and hear such other evidence as the commission may deem relevant. At such hearing, the owner shall be allowed to present testimony and evidence showing that the condition or conditions do not constitute a nuisance. The owner of such premises may appear either in person, or by attorney. After the owner has been heard, the commission may consider any other matters which in their discretion appear relevant to a determination hereof. (Code 1965, § 7-205.)

Sec. 6-28. Same--Decision to be by resolution; condemnation generally.

At the conclusion of such public hearing, the town commission shall adopt a resolution declaring one or more of the following:

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(a) That the conditions alleged by the town manager to exist in such building or structure do not exist.

(b) That the conditions existing in such building or structure do not constitute a public nuisance.

(c) That the conditions alleged by the town manager to exist in such building or structure have been remedied and that such building or structure does not now constitute a public nuisance.

(d) That the conditions existing in such building or structure constitute such building or structure a public nuisance, and the same is hereby condemned.

(e) Such other provision as will appropriately decide and determine the issues.

(f) A description of the conditions existing which constitute such building or structure a public nuisance, if any.

(g) That upon the failure of the owner to correct and abate the conditions constituting such building or structure a public nuisance within a reasonable period of time, which shall be stated in such resolution, and shall be not less than three days from the date thereof, the town will abate the conditions constituting such building or structure a public nuisance or by appropriate pleadings, institute suit in a court having jurisdiction over such property for a mandatory injunction and such other relief as the town deems necessary and proper, or both. (Code 1965, § 7-206.)

Sec. 6-29. Same--Posting of copy of resolution.

Upon the adoption of a resolution under section 6-28, the town auditor and clerk shall post a copy thereof on the structure and shall mail a copy thereof to the owner of such premises on which such building or structure is located, if the address of such owner is known to the town auditor and clerk. (Code 1965, § 7-207.)

Sec. 6-30. Abatement by town, town's expenses to constitute lien.

If such nuisance has not been abated before the period of time specified in the resolution has elapsed, the town shall take the action set forth therein and all funds expended in the abatement of such public nuisance, including all attorneys' fees, court costs and expenses, shall be a lien on such premises and superior to all other liens except other liens for special assessments. Such liens may be enforced against such property by foreclosure as provided by law for foreclosure of tax liens or may be collected as otherwise provided by law. (Code 1965, § 7-208.)

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CHAPTER 7.

COASTAL CONSTRUCTION.¹

- § 7-1. Definitions.
- § 7-2. Purpose of chapter.
- § 7-3. Permit--Required.
- § 7-4. Same--Application; fees.
- § 7-5. Same--Processing procedure.
- § 7-6. Same--Issuance; conditions.
- § 7-7. Same--Approval by Florida Board of Conservation.
- § 7-8. Same--Emergency permit.

Sec. 7-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Base and control lines. As defined in the master plan, sheet 2.

Coastal construction. Any work or activity within the town on its Gulf beaches which is likely to have a material physical effect on existing coastal conditions or natural shore processes.

Engineer. A professional engineer registered in this state.

Master plan. That plan prepared by Smally, Wellford & Nalven, Consulting Engineers, dated September 22, 1964, as subsequently amended, entitled Master Plan, Gulf Beach Protection, Town of Longboat Key, Florida (hereinafter referred to as master plan), consisting of thirty-one sheets, the purpose of which is set forth in the Master Plan Requirements, Sheet 2, Master Plan, and which is made a part of this chapter by reference and is on file in the office of the town auditor and clerk. (Ord. No. 105, § 1, 7-13-65.)

Sec. 7-2. Purpose of chapter.

It is the intent of this chapter to provide a uniform system of groins on the Gulf beaches of the town and where application is for coastal construction of a type which varies from the typical plan of the master plan, to control the design and plan of the same; further, to accomplish this purpose by requiring approval of such design and a permit for construction. (Ord. No. 105, § 2, 7-13-65.)

1. As to construction of bulkheads, see § 6-10 of this Code. As to licensing of contractors, see ch. 12.

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Sec. 7-3. Permit--Required.

All coastal construction is hereby prohibited except such coastal construction as is authorized by a permit issued by the town pursuant to this chapter. (Ord. No. 105, § 3, 7-13-65.)

Sec. 7-4. Same--Application; fees.

Any person desiring to undertake coastal construction, as defined in this chapter, shall make application in writing in duplicate to the town manager, which application shall contain the following:

- (a) Name and address of applicant property owner.
- (b) Name, address and capacity of person making application, if other than property owner.
- (c) Legal description of upland property adjacent to or in front of which construction is planned.
- (d) Evidence of record ownership of adjacent upland property (certified statement by licensed title or abstract company or county tax assessor or clerk); and, if applicant is not the property owner, a statement from the owner of record consenting to the proposed construction.
- (e) Statement describing the purpose of the proposed construction; the problem, its causes, and the expected effect of the proposed construction on adjacent and neighboring property.
- (f) Location map on eight and one-half inch by eleven inch paper, showing the location of each structure to approximate scale, and the following information:
 - (1) Name of applicant.
 - (2) Boundaries of applicant's property, with the master plan drawing number or numbers and their relationship to fixed points on the master plan drawing, including section, township and range.
 - (3) Location by town and county.
 - (4) Name of water body.
 - (5) Brief word description or title of project.
 - (6) General identifying landmarks.
 - (7) Legend or labels to identify graphic objects.

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(8) Date.

(9) Scale and north arrow.

(10) Control line.

(g) Names and addresses from latest county tax roll of owners of all riparian property within one thousand feet of the proposed construction.

(h) A processing fee, payable in advance, will be charged for each application to partly offset costs of investigation and handling. Such fee shall be twenty-five dollars plus ten dollars for the first groin, five dollars for each of the next four groins and three dollars for each groin over five. An application for contiguous properties may be made jointly by owners. Checks should be made payable to the town.

(i) A statement by an engineer that the plan and elevation views of the structures, the profile of the beach at the proposed structures are typical of the plan and elevation views of the master plan and that details of construction, including materials to be used, are substantially similar to those of the master plan. Such statement shall also include a declaration that the plan of the groins does not provide that they extend beyond the control line of the master plan protection. Groins shall be spaced according to good engineering practice.

(j) In the event the proposed coastal construction is such that the applicant's engineer cannot make the statement required in subsection (i) above, then in addition to the requirements above the following shall be submitted:

Drawing prepared by registered professional engineer showing at suitable scale:

(1) Plan view of structures (or typical structure, if all are essentially identical), with mean high and mean low water lines extending one hundred feet on each side.

(2) Elevation view of structures (or typical structure), with mean sea level, mean high water and mean low water indicated.

(3) Profile of beach at proposed structures (or typical structure), from dune crest to one hundred feet beyond seawall extremity, with elevations referenced to mean sea level datum.

(4) Details of construction, including materials to be used. (Ord. No. 105, § 4, 7-13-65.)

Sec. 7-5. Same--Processing procedure.

Applications will be checked by the town manager for completeness prior to processing. Following an office review of the proposed construction, a field

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Investigation will be conducted if indicated by the nature of the project. Riparian property owners within one thousand feet of the proposed construction will be notified by the town and given fifteen days in which to comment. This step may be eliminated however, should the applicant elect to submit a signed waiver of objections from each such property owner within one thousand feet. If the proposed project is approved by the town, recommendation will be made to the division of beaches and shores that the permit be issued. If, in the opinion of the town and division of beaches and shores, the proposed project is found objectionable in some respect, the applicant will be so notified and given an opportunity to modify his plans to make them acceptable. (Ord. No. 105, § 5, 7-13-65.)

Sec. 7-6. Same--Issuance; conditions.

The town will issue a permit for coastal construction if the application is approved by the town manager. The permit issued by the town shall have the following major provisions:

- (a) The permittee shall comply with any specific requirements imposed in this case by the town and the division of beaches and shores of the state board of conservation, attached hereto and made a part of this permit and agreement.
- (b) The permittee shall in no way obstruct or impair the use of the beach by the public in the area below the mean high water line, except to a minimum extent determined by the town and by the division of beaches and shores to be unavoidable.
- (c) The rights granted by this permit and agreement shall not be construed as a conveyance of title to or a waiver of rights in the sovereignty land held by the trustees and the state.
- (d) The permittee hereby agrees to hold and save the trustees of the internal improvement fund, the Florida Board of Conservation and the town harmless from any damage to persons or property which might result from the work or activity permitted hereunder.
- (e) The permittee agrees to adjust, alter or remove any structure or other physical evidence of the work or activity permitted hereunder, as directed by the town or the division of beaches and shores of the state department of conservation, if in the opinion of the town or the Florida Board of Conservation the structure, work or activity in question results in damage to surrounding property or otherwise proves to be undesirable or becomes unnecessary. Adjustment, alteration or removal required under this provision shall be accomplished by the permittee at no cost to the state or town. The decision of the town or Florida Board of Conservation as to whether adjustment, alteration or removal is required shall be final, and the town or Florida Board of Conservation shall set reasonable time limits within which adjustment, alteration or removal shall be accomplished.
- (f) This permit and agreement shall be cancelled and the permittee directed to remove the structure or other physical evidence of the work or activity per-

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mitted hereunder, at permittee's expense, upon thirty days written notice from the town or division of beaches and shores of the state department of conservation, if the permittee fails to abide by and live up to the provisions, terms and conditions of this permit and agreement.

(g) The permittee agrees to provide the Florida Board of Conservation with an acceptable surety bond in an amount equal to one hundred ten percent of the estimated cost of removal of the coastal construction, but in no case less than five hundred dollars, for such period of time as may be required, to guarantee full compliance by the permittee with the provisions, terms and conditions of this permit and agreement. Requirement for such bond may be waived, discontinued at any time, renewed for successive terms, or kept in force perpetually, at the discretion of the division of beaches and shores.

(h) Upon completion of the work permittee shall notify the building inspector of the town and the building inspector shall make an inspection within a reasonable time and issue a certificate that the construction permitted hereunder was done in accordance with the master plan's plans and specifications. If the construction was not completed according to the master plan, a certificate of completion shall be denied and in such case the permittee agrees to furnish a certification by an engineer that the construction was done in accordance with the plans and specifications approved hereby.

(i) It is expressly understood that this permit and agreement does not relieve the permittee of responsibility for compliance with permit requirements of the U.S. Army Corps of Engineers. (Ord. No. 105, § 6, 7-13-65.)

Sec. 7-7. Same--Approval by Florida Board of Conservation.

Upon action on any application for a permit for coastal construction, the town manager shall forward a copy of the application, together with his recommendations to the state board of conservation. No permit granted by the town shall become effective until the Florida Board of Conservation grants a permit for coastal construction. (Ord. No. 105, § 7, 7-13-65.)

Sec. 7-8. Same--Emergency permit.

The town manager may grant an emergency permit, if emergency exists in the opinion of the town manager, without a formal application therefor after he has obtained the verbal approval of the division of beaches and shores of the Board of Conservation; however, the emergency permit shall be conditioned upon the applicant immediately making an application pursuant to this chapter. (Ord. No. 105, § 8, 7-13-65.)

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CHAPTER 8.

DREDGING AND FILLING 1

- § 8-1. Permit--Required; exceptions.
- § 8-2. Same--Application.
- § 8-3. Same--Fees and costs.
- § 8-4. Same--Issuance; public hearing; time for completion of work; revocation.
- § 8-5. Town manager may waive requirements in certain cases.
- § 8-6. Plans and drawings.
- § 8-7. Staking of area of land to be filled.

Sec. 8-1. Permit--Required; exceptions.

No lands within the corporate limits of the town, whether bordering on tidal waters, or otherwise, shall be dredged or excavated, and no such lands within the corporate limits of the town lying below the mean high water line, shall be filled, until a permit, therefor has been issued by the town commission in compliance with the terms of this chapter, and chapter 57-362, Laws of Florida, except as hereinafter set forth as exceptions to this section, and this chapter:

- (a) The normal matters coming up in the construction and building of buildings, and the maintenance of grounds.
- (b) Swimming pools.
- (c) Lakes.
- (d) Docks.
- (e) Ponds.
- (f) Sea walls.
- (g) Septic tanks.
- (h) Drainage ditches.
- (i) Construction of man-made basins and moorings.

All of the above exceptions shall refer only to the lands owned by the individual applicant. (Code 1965, § 8-2.)

Sec. 8-2. Same--Application.

A sworn application for a permit under this chapter, accompanied by the required

1. As to licensing of contractors, see ch. 12 of this Code.

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filing fee and the exhibits provided herein, shall be made to the town manager. The application shall contain the following:

(a) An accurate, legal description of the land to be filled or excavated prepared by a registered engineer, surveyor or attorney at law.

(b) An accurate, legal description of the land or submerged land from which fill material is to be dredged or excavated, if any, which description shall be prepared by a registered engineer, surveyor or attorney at law. If no material is to be dredged or excavated, the application shall so state.

(c) An accurate estimate of the area of submerged land to be filled made by a registered engineer or surveyor.

(d) An accurate estimate of the amount and type of fill required for the proposed project made by a registered engineer.

(e) The names and addresses of all persons owning or holding any legal or equitable interest in the lands described pursuant to subsections (a) and (b) of this section, as shown by the public records of the county in which such lands are located.

(f) The names and addresses of all persons owning lands bordering on, or adjacent to, the mean high water line within one thousand feet of the areas to be filled and dredged as shown by the latest tax assessment roll in the county in which such lands are located.

(g) Satisfactory evidence of fee simple title to lands described pursuant to subsection (a) in application, and satisfactory evidence of the ownership of lands described pursuant to subsection (b). Evidence of tax records required herein shall be by sworn certificate of a duly licensed attorney at law, a reputable abstract company, or by the county tax collector or assessor. (Code 1965, § 8-3.)

Sec. 8-3. Same--Fees and costs.

The application fee for filing, processing and considering an application for a permit under this chapter shall be twenty-five dollars for offshore areas to be filled not in excess of one square acre, plus ten dollars for each additional acre or fraction thereof to be filled. The fee for applications to dredge submerged material to fill onshore land areas shall be one-half cent per cubic yard of fill in place but not less than twenty-five dollars. In addition to the sums above provided, the applicant shall pay all costs of advertising and other expenses of the town in connection with the processing of the application. The application fee and deposit for such expenses and costs shall be made at the time of filing the application. If the application is denied, the application fee shall be returned to the applicant except for the actual expenses of the town in connection with the processing of such application. (Code 1965, § 8-6.)

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Sec. 8-4. Same--issuance; public hearing; time for completion of work; revocation.

Upon receipt of an application and the other matters required in this chapter, the town manager shall submit such application to the town commission with his recommendation thereon. The town commission may, at their discretion order a public hearing on such application. If a public hearing is ordered, the commission may at its discretion require the applicant to give notice to each riparian owner of upland lying within one thousand feet of the land proposed to be dredged or filled. If notice is required, the same shall be published once each week for three consecutive weeks in a newspaper in general circulation within the town. Copy of such notice by certified mail shall be sent to each riparian owner of upland lying within one thousand feet of the land proposed to be dredged or filled and shall include the time, date and place for the hearing on the application. Upon consideration, if the commission finds that the work proposed in such application does not violate any statute, zoning law, ordinance or other restriction which may be applicable thereto, and that no harmful obstruction to, or alteration of, the natural flow of the navigable waters within such area will arise from the proposed construction, and that no harmful or increased erosion, shoaling of channels or stagnant areas of water will be created thereby, and that no material injury or monetary damage to adjoining land will accrue therefrom, or result in a serious impediment to navigation, interfere with the conservation of fish, marine and wildlife or other natural resources, including beaches and shores to such an extent as to be contrary to the public interest, or result in the destruction of oyster beds, clam beds or marine productivity, including but not limited to, destruction of natural marine habitats, grass flats suitable as nursery feeding grounds for marine life and established marine soils suitable for producing plant growth of a type useful as nursery or feeding grounds for marine life to such an extent as to be contrary to the public interest, the application may be approved subject to the formal approval of the trustees of the internal improvement trust fund, in such cases wherein they have jurisdiction. Upon such approval, the applicant shall cause such application and the other matters required herein, together with the filing fee required by the trustees of the internal improvement trust fund, to be submitted to the trustees of the internal improvement trust fund for their formal approval. Upon such formal approval the town manager shall issue a construction permit for the work proposed in such application, which permit shall be an authorization for the applicant to perform and complete the work described in such application within a period of two years next after the date of issuance of such permit, in accordance with the exhibits submitted with such application. The town manager may extend the time for completion of such work for good cause, upon showing that all due efforts and diligence toward completion of such work have been made. Such permit may be revoked for a noncompliance with, or for a violation of its terms after notice of intention so to do has been furnished to the holder thereof by the commission and after hearing thereon. (Code 1965, § 8-8; Ord. No. 182, § 3, 10-21-70.)

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Sec. 8-5. Town manager may waive requirements in certain cases.

The town manager may waive any of the requirements of applications to fill upland property of less than ten thousand square feet by dredging less than five hundred cubic yards; provided, that the work proposed does not violate any zoning law, ordinance or other restriction which may be applicable thereto, and that no harmful obstruction to, or alteration of, the natural flow of the navigable waters within such area will arise from the proposed construction, and that no harmful or increased erosion, shoaling of channels or stagnant areas of water will be created thereby, and that no material injury or monetary damage to adjoining land will accrue therefrom.

Dredging in any existing waterway, in amounts not in excess of this section, when such work is for maintenance purposes only, may be approved by the town manager without reference to the town commission, and the permit shall be issued by the building inspector. The permit fee for such maintenance work permit shall be ten dollars. (Code 1965, § 8-7; Ord. No. 182, §§ 1, 2, 10-21-70.)

Sec. 8-6. Plans and drawings.

The applicant, for a permit under this chapter, shall furnish an accurate plan or drawing prepared by a registered engineer showing and designating all areas described in the application and complying with the following requirements:

- (a) Showing the mean high water line of all land areas.
- (b) Showing the bulkhead line as established by law.
- (c) Showing sufficient soundings of the depth of water to show the general topography of the areas to be dredged and filled.
- (d) Showing sufficient soundings of the depth of fill material available for dredging in the area to be dredged.
- (e) Showing the elevation of the proposed fill above mean high water line after completion.
- (f) Showing the specifications of bulkheading and sea walling around the area to be filled if required.
- (g) Showing such other matters and meeting such other requirements as the town commission may reasonably require in order that a comprehensive and complete plan of the proposed construction is presented. (Code 1965, § 8-4.)

Sec. 8-7. Staking of area of land to be filled.

The area of submerged lands to be filled shall be physically staked or otherwise marked to show the bulkhead line established by law, the perimeter of the area to be filled and the grade or elevation of the fill when completed if required by the town commission. (Code 1965, § 8-5.)

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CHAPTER 9.

ELECTIONS.¹

- § 9-1. Voter qualifications.
- § 9-2. Entries in registration book.
- § 9-3. Removal of names from registration books.
- § 9-4. Qualification of candidates.
- § 9-5. Election procedure.
- § 9-6. Absentee voting.
- § 9-7. Report of contributions and expenditures--Candidates.
- § 9-8. Same--Groups, committees, etc.
- § 9-9. Same--Penalties for violations.
- § 9-10. Commission district boundaries--Number 1.
- § 9-11. Same--Number 2.
- § 9-12. Same--Number 3.
- § 9-13. Same--Number 4.
- § 9-14. Same--Number 5.

Sec. 9-1. Voter qualifications.²

Any person twenty-one years of age or over at the time of registration, upon proof of his birth date, who is a citizen of the United States, a permanent resident living in Florida for one year and residing in the town for six months is eligible to register with the registration officer of the town when the registration books are open. Naturalized citizens of the United States must present to the registration officer a certificate of naturalization, or certified copy thereof. All persons must be registered to be entitled to vote in elections of the town. The following persons are not entitled to register nor entitled to vote:

- (a) Persons under guardianship or confined in any state prison.
- (b) Persons insane or idiotic.
- (c) Persons convicted of any felony by any court of record whose civil rights have not been restored.

1. For charter provisions as to elections generally, see char., §§ 122 to 126. As to recall elections, see char., §§ 127 to 135.

For state law as to qualifications and registration of electors generally, see Fla. Stats., §§ 97.011 to 97.111. As to holding elections and ascertaining results generally, see Fla. Stats., §§ 102.012 to 102.167.

2. For state law as to qualifications of electors, see Fla. Stats., § 97.041.

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(d) Persons convicted of bribery, perjury, larceny or any infamous crime in this or any other state, or interested in any wager depending on the result of any election. (Code 1965, § 9-1.)

Sec. 9-2. Entries in registration books.³

The name of each person registered to vote shall be entered in a book prepared for that purpose, which book shall show under appropriate headings the following information:

- (a) Registration number.
- (b) Date of registration.
- (c) Full name, sex and business or occupation.
- (d) Date of birth, age, color.
- (e) State or country of birth.
- (f) If naturalized, the time, place and court of naturalization, as evidenced by legal proof.
- (g) Street address at time of registering.
- (h) Whether the registrant owns a beneficial interest in the fee simple title to real estate within the municipal boundaries.
- (i) The fact whether the registrant is able to write his name or mark his ballot and, if not, the nature of the disability.
- (j) Whether such registrant has been convicted of any felony and, if so, whether his civil rights have been restored. (Code 1965, § 9-2; Ord. No. 106, § 1, 11-23-65.)

Sec. 9-3. Removal of names from registration books.

Between October 1 and January 31, preceding a general election, beginning in the year 1967 and every third year thereafter, the registration officer of the town shall mail either to each qualified elector in the town or to each elector who did not vote in any election in the town during the past two years, a form to be filled in, signed and returned by mail within thirty days after the notice is post-marked. The form returned shall advise the registration officer whether the elector's

3. For charter provisions as to registration of voters, see char., § 124.

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status has changed from that of the registration record. Names of electors failing to return the forms within this period shall have their names withdrawn temporarily from the registration books. The list of the electors, temporarily withdrawn, shall be posted at the town office. Names will be restored to the registration records when the elector in person makes it known to the registration officer that his status has not changed. The registration officer is then required to reinstate the names on the registration books at any time the books are open without the elector re-registering. Any elector may have his name removed from the registration books by filing with the registration officer a written request duly acknowledged and upon receipt of the request the registration officer shall remove the name of the elector from the registration books. (Code 1965, § 9-2.1.)

Sec. 9-4. Qualification of candidates.

An elector of the town shall be qualified as a candidate for public office upon the filing by such elector, in person, with the town auditor and clerk, no later than 12:00 Noon, January 2nd, or the following business day if January 2nd falls on a non-business day, prior to the date of the preliminary election, of a petition signed by at least ten electors requesting the name of such proposed candidate be placed on the ballot for a vacancy in office to be voted upon at the next special or annual election; however, in those cases where the candidate is qualifying for a particular district the petition for such candidate shall be signed by electors from that same district and where the candidate is one at large the petition for the candidate shall be signed by any ten electors of the town. (Code 1965, § 9-3; Ord. No. 106, § 2, 11-23-65; Ord. No. 119, § 1, 2-28-67.)

Sec. 9-5. Election procedure.⁴

At least fifteen days prior to any election, the town commission, upon recommendation and approval of the mayor, shall designate one or more polling places within the town which shall be open from 7.00 A.M. on the day of election and shall be kept open until 7.00 P.M. of the same day, and shall duly adopt and approve a form of ballot to be used in such election. (Code 1965, § 9-4.)

Sec. 9-6. Absentee voting.

(a) The term "absent elector" shall mean any registered and qualified elector who due to physical disability is unable without another's assistance to attend the polls, or who on account of the tenets of his religion cannot attend the polls on the day of a general, special or primary election or any qualified elector wherever he may be, except persons confined in prison or jail, so long as he will not be in the county of his residence during the hours the polls are open for voting on the day of an election. Such person may cast an absentee ballot upon compliance with the absent elector provisions of this chapter.

4. For charter provisions as to conduct of elections, see
char. § 123.

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(b) Any elector who will be absent on the day of an election from the town or who is physically incapable of appearing at the polling place, may make application to the town auditor and clerk or his deputies at any registration office maintained by the town auditor and clerk for the purpose of registering electors, whether in person or by mail at any time during the forty-five days preceding any election. Applications made by mail must be received not later than 5:00 P.M. of the seventh day preceding such election, and applications made in person may be made at any time prior to the regular closing hour of the town auditor and clerk's office on the second day preceding such election. All applications shall be made upon a blank to be furnished by the town auditor and clerk for the official ballot to be voted upon at such election. The application blank shall be sent immediately by mail, or delivered by hand to the absent elector. Such blank shall be in substantially the following form, signed by the applicant, and witnessed as herein required.

Application for absent elector's ballot

I, _____, duly qualified and registered as an elector of the _____ district of the Town of Longboat Key, Florida, not confined to prison or jail will be unable to attend the polls in said Town on the day for holding the _____ election because (check appropriate reason)

(1) _____ I am physically disabled and unable (without the assistance of another) to attend the polls on election day.

(2) _____ I will be absent from the Town of Longboat Key during the entire period the polls are open for voting on the day of election and cannot without manifest inconvenience vote in person.

I hereby make application for an official ballot, or ballots, to be voted by me at the _____ election to be held in the Town of Longboat Key, Florida on _____.

Send absentee ballot to me at _____ Street or Post Office Box _____, City _____, State _____.

Home address of applicant _____ (street and number)

date _____
In Witness Whereof I have set my hand and seal this _____ day of _____, 19 _____.

Signature of absent elector.

Sworn to and subscribed

before me this _____

day of _____, 19 _____.

(Seal)

Notary Public or other officer authorized to administer oaths.

My commission expires _____.

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(c) Upon receipt of application for absentee ballot, filled out and signed, the town auditor and clerk shall file it in his office and enter the name and address of the applicant to which the ballot is to be sent, upon a list to be kept by the clerk for that purpose, together with the date of receiving the application, the date of mailing or delivering the ballot to the elector, the date of receiving the ballot from the elector and such other information he may deem necessary. The names of all applicants for absentee ballots received prior to an election shall be listed alphabetically and said list shall be posted at the town auditor and clerk's office on the Monday preceding the election and shall be kept up to date until the date of said election.

(d) The town auditor and clerk shall, after the printer delivers the ballots for a precinct in which applications from absent electors have been received, prepare the first numbered ballot for the first applicant, the second ballot for the second applicant, and so on. The town auditor and clerk shall initial both stubs No. 1 and No. 2 and enter the name of the elector in the place indicated for the elector to sign. If the applicant appears in person he shall sign stub No. 1 as if he were voting on election day. The town auditor and clerk shall then detach the ballot and stub No. 2 from No. 1 and forward by mail, postage prepaid or deliver personally, one of such ballots with stub No. 2 attached (or if there be more than one kind of ballot to be voted, then one of each kind) to each applicant provided such applicant is properly registered. But the town auditor and clerk or any deputy shall not receive applicants for absent electors' ballots later than 5:00 P. M. of the seventh day preceding it if by mail or second day preceding it if in person. In counting, the day of the election shall not be counted. The town auditor and clerk shall enclose with such ballot two envelopes, a plain white envelope into which the absent voter shall enclose and seal his marked ballot and then place the sealed white envelope, together with detached stub No. 2 in the second envelope which is addressed to the town auditor and clerk and also bearing on the back side of this "return envelope" a certificate which shall be substantially in the following form:

ELECTOR'S CERTIFICATE

I, _____, do solemnly swear, or affirm, that I am a resident of the _____ district of the Town of Longboat Key, State of Florida and have been a resident of such Town for six (6) months and of the state for one year and am entitled to vote in such district; that I will not be in the Town during the time the polls are open (or that I am too ill to come to the polls).

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Subscribed and sworn to before me this _____ day of _____
A. D. , 19____ and I hereby certify that the affiant exhibited the enclosed ballot
to me unmarked; that he then in my presence and in the presence of no other person,
and in such manner that I could not see his vote, marked such ballot and enclosed
and sealed the same in the ballot envelope; that the affiant was not solicited or ad-
vised by me for or against any candidate or measure.

(Attesting Witness)

(Official Title)

(Address)

(City and State)

Notaries: USE NO SEAL (Postal Officers must apply station cancellation stamp)
The statement shall be so arranged that the signature of the absent elector and
the attesting witness shall be across the flap of the envelope. The absent elector
and the attesting witness shall execute the said form on the envelope.

(e) The provisions of Florida Statutes, sections 101.65, 101.66, 101.69 and
101.70 in regard to absentee voting, are hereby adopted, as provided by law.

(f) The town auditor and clerk shall safely keep in his office any envelopes re-
ceived containing marked ballots of absent electors and he shall at the opening of the
polls deliver the envelopes and his list kept regarding the same to the clerk of elec-
tions. All marked absent electors' ballots to be counted must be received by the
town auditor and clerk by 5:00 P.M. of the day preceding any election; all ballots
received thereafter shall be marked with the time and date of receipt, and filed in
his office. No application for an absent elector's ballot shall be received or handed
out to an elector unless there remains time for the ballot to be mailed to the super-
visor by United States mail or personally voted in the office of the town auditor and
clerk, or in the office of any deputy where ballots are available before the deadline
for receiving said ballots.

(g) The town auditor and clerk shall receive the voted ballot and shall safely
keep the ballot unopened in his office until delivered to the clerk of the election at
the opening of the polls. The clerk of the election shall compare the information
on the back of the envelope with the registration book to see that the elector is
duly registered in the district and to determine the legality of the absent elector's
ballot. If it is determined by the clerk of elections that any vote is illegal then
the clerk or one of the inspectors of election shall, without opening the envelope,
mark across the face of the envelope "rejected as illegal." The envelope and the
ballot contained therein shall be preserved in the manner that official ballots voted
are preserved.

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The clerk of elections shall then open the covering envelope and record the ballot upon the registration book, open the plain envelopes and place the absentee ballots in the ballot box to be counted, at the close of the polls, with the ballots cast during the hours that the polls are open. (Code 1965, § 9-4; Ord. No. 106, § 3, 11-23-65.)

Sec. 9-7. Report of contributions and expenditures--Candidates.

All candidates shall file in the town auditor and clerk's office five days before election a complete and sworn statement of contributions and expenditures made or incurred for the period up to seven days before election. Such report of contributions shall show the date the contribution was received by the candidate, the person or persons making such contribution and the amount of the contribution. The statement of expenditures shall show all expenditures authorized by the candidate in connection with his campaign for nomination or election, the person to whom such expenditure was made and the purpose for which such expenditure was made. The statement of expenditures shall also show the total contributions received by the candidate to the date of such report. Within ten days following the election for which the candidate was a candidate or nominee, such candidate shall file with the town auditor and clerk a statement of total contributions and total expenditures made by the candidate. Such final statement shall also show all contributions received by the candidate since the last preceding report, if any, and the contributions received which were returned by the candidate to the contributor. Such reports shall be public records of the town and open to inspection by the public at any time. All such statements and reports shall be sworn to by the candidate. (Ord. No. 159, § 1, 10-15-69.)

Sec. 9-8. Same--Groups, committees, etc.

Any person, group or committee receiving or spending any money or thing of value in behalf of any candidate for municipal offices, shall file accurate and complete reports of the same with the town auditor and clerk, with a copy to all candidates in whose behalf the action was taken, within ten days following the election for which the candidate was a candidate or nominee. (Ord. No. 159, § 2, 10-15-69.)

Sec. 9-9. Same--Penalties for violations.

Any violation of sections 9-7 and 9-8 shall be a misdemeanor punishable as provided by law, and in addition thereto, any violation by a candidate shall vacate the office to which such candidate was elected, if any. (Ord. No. 159, § 3, 10-15-69.)

5. For state law as to campaign contributions, expenditures, etc., see Fla. Stats., § 99.161.

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Sec. 9-10. Commission district boundaries--Number 1. 6

Commission District Number 1 and the boundaries of the same are as follows:

From the south line of the town to the center of Elsmere Street as extended from the center of Gulf of Mexico Drive to the Gulf of Mexico; the center of the entrance to Country Club Shores, Unit 4 between Lot 1, Block K and Lot 4, Block L, Country Club Shores, Unit 4, extending from the center of Gulf of Mexico Drive to the center of Bogle Lane; and a line between Lots 11, Block G, Lot 12, Block F of Country Club Shores, Unit 4, extending from the center of Bogle Lane in a northeasterly direction along the center of a seventy-foot canal between Block G and Block F of Country Club Shores, Unit 4, Section 2 to the waters of Sarasota Bay. (Code 1965, § 9-4; Ord. No. 156, § 1, 9-16-69; Ord. No. 210, § 1, 1-5-72.)

Sec. 9-11. Same--Number 2.

Commission District Number 2 and the boundaries of the same are as follows:

From the center of Elsmere Street as extended from the center of Gulf of Mexico Drive to the Gulf of Mexico; the center of the entrance to Country Club Shores, Unit 4 between Lot 1, Block K and Lot 4, Block L, Country Club Shores, Unit 4, extending from the center of Gulf of Mexico Drive to the center of Bogle Lane; and a line between Lots 11, Block G, Lot 12, Block F of Country Club Shores, Unit 4, extending from the center of Bogle Lane in a northeasterly direction along the center of a seventy-foot canal between Block G and Block F of Country Club Shores, Unit 4, Section 2 to the waters of Sarasota Bay to the center line of Gulf Shore Drive, a private road in the Gulf Shores Trailer Park as extended to the Gulf of Mexico from Buttonwood Bayou in Government Lot 3, Section 6, Township 36 S, Range 17 E, Sarasota County, Florida. (Code 1965, § 9-4; Ord. No. 156, § 1, 9-16-69; Ord. No. 210, § 1, 1-5-72.)

Sec. 9-12. Same--Number 3.

Commission District Number 3 and the boundaries of the same are as follows:

From the centerline of Gulf Shore Drive, a private road in the Gulf Shores Trailer Park as extended to the Gulf of Mexico from Buttonwood Bayou in Government Lot 3, Section 6, Township 36 S, Range 17 E, Sarasota County, Florida to the half section line of Section 36, Township 35 S, Range 16 E, Manatee County, Florida. (Code 1965, § 9-4; Ord. No. 156, § 1, 9-16-69; Ord. No. 210, § 1, 1-5-72.)

Sec. 9-13. Same--Number 4.

Commission District Number 4 and the boundaries of the same are as follows:

6. For charter provisions as to commission districts, see
char., § 9.

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From the half section line of section 36, Township 35 S, Range 16 E, Manatee County, Florida to a line between Lot 15 and Lot 16 of Sleepy Lagoon Subdivision as recorded in Plat Book 7, Page 14, Public Records of Manatee County, Florida as extended to the Gulf of Mexico to the center of Gulf of Mexico Drive and a line between Lot 15A and Lot 16A of Sleepy Lagoon Subdivision extended from the center of Gulf of Mexico Drive to Millar Bay. (Code 1965, § 9-4; Ord. No. 156, § 1, 9-16-69; Ord. No. 210, § 1, 1-5-72.)

Sec. 9-14. Same--Number 5.

Commission District Number 5 and the boundaries of the same are as follows:

From a line between Lot 15 and Lot 16 of Sleepy Lagoon Subdivision as recorded in Plat Book 7, Page 14, Public Records of Manatee County, Florida as extended to the Gulf of Mexico to the center of Gulf of Mexico Drive and a line between Lot 15A and Lot 16A of Sleepy Lagoon Subdivision extended from the center of Gulf of Mexico Drive to Millar Bay to the North line of the town. (Code 1965, § 9-4; Ord. No. 156, § 1, 9-16-69; Ord. No. 210, § 1, 1-5-72.)

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Garbage, Refuse and Weeds

CHAPTER 10.

GARBAGE, REFUSE AND WEEDS.¹

Article I. In General.

- § 10-1. Definitions.
- § 10-2. Declaration of policy.
- § 10-3. Depositing upon premises of another, streets, lakes, etc.
- § 10-4. Presumption as to refuse thrown from motor vehicles.
- § 10-5. Burning or burying.
- § 10-6. Accumulation of brush prohibited.
- § 10-7. Spilling of trash, sand, gravel, etc., from vehicles.

Article II. Condition of Premises.

- § 10-8. Responsibility of property owner.
- § 10-9. Violations of article deemed public nuisances and prohibited.
- § 10-10. Notice to property owner to correct conditions.
- § 10-11. Correction of violations by town; recovery of town's expenses.

Article III. Overgrowth of Trees and Shrubs.

- § 10-12. Findings of commissioners.
- § 10-13. Owners required to keep certain lands cleared of overgrowth; penalty for violation of section.
- § 10-14. Lands not cleared of overgrowth declared public nuisance.
- § 10-15. Notice to owner to abate condition; notification of commission upon failure of owner to comply with notice.
- § 10-16. Abatement by town; cost of abatement to be assessed as lien on land.

1. For charter provisions as to authority of town manager relative to the collection and disposal of wastes, see char., § 42. As to authority of town to issue bonds for the purpose of constructing, etc., incinerators for the consumption of trash, garbage and other refuse, see char., § 104.

For state law authorizing town to prevent and remove accumulations of trash or filth on or within private premises, see Fla. Stats., § 167.05. As to authority of town to enter into agreements for the removal and disposal of garbage, see Fla. Stats., § 167.06.

As to prohibition against dumping garbage, trash, etc., from watercraft, see § 5-9 of this Code. As to adoption of state rules and regulations, see § 11-3.

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Article I. In General.

Sec. 10-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Brush. All vegetation detached from the land resulting from land clearing operations or other causes.

Garbage. Every refuse accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking, dealing in or storage of meats, fish, fowl, fruit or vegetables and any other matter of any nature whatsoever which is subject to decay, putrefaction and the generation of noxious gasses or odors, or which during or after decay may serve as breeding or feeding materials for flies or other germ carrying insects; and any bottles, cans, cartons or other containers thereof.

Garden trash. All accumulations of grass or shrubbery cuttings and other refuse attending the care of lands, shrubbery, vines, trees and tree limbs.

Rubbish. Refuse accumulations of paper, excelsior, rags, wooden or paper boxes or containers, sweepings and all other accumulations of a nature other than garbage as herein defined which are usual to housekeeping and to the operation of stores, offices and other business places; and such materials as metals, mineral matter, glass, crockery, auto bodies or parts, including automobile tires or tubes, building material rubble resulting from the construction or alteration of structures or parts of structures and other materials or refuse not usual to housekeeping or the operation of stores and offices. (Ord. No. 129, § 2, 8-8-67; Ord. No. 139, § 1, 7-9-68.)

Sec. 10-2. Declaration of policy.

It is the declared policy of the town that the pollution of the atmosphere by smoke, fly ash, products of complete or incomplete combustion and certain other emissions into the atmosphere; the discharge of untreated or inadequately treated sewerage or sewerage effluent into the waters within the jurisdiction of the town or the discarding of garden trash, garbage or brush on the lands or waters within the municipal boundaries of the town is a menace to the welfare and comfort to the people of the town and a cause of extensive damage to health and property. The necessity for legislative intervention by the enactment of the provisions of this chapter is for the purpose of controlling and reducing atmospheric pollution and the pollution of the land and its adjacent waters. (Ord. No. 129, § 1, 8-8-67.)

Sec. 10-3. Depositing upon premises of another, streets, lakes, etc.

It shall be unlawful for any person to place or deposit garbage, garden trash, brush or rubbish upon the premises of another, whether the premises are improved

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or vacant, or upon any street, alley, park, road or rock pit, pool, lake or any of the tidal waters of the Gulf of Mexico or the bays and bayous within or adjacent to the town. (Ord. No. 129, § 3, 8-8-67.)

Sec. 10-4. Presumption as to refuse thrown from motor vehicles.

The driver of any motor vehicle from which any garbage, garden trash or rubbish is thrown, ejected, or emitted shall be prima facie guilty of a violation of this Code. (Ord. No. 129, § 4, 8-8-67.)

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Sec. 10-5. Burning or burying.

(a) Garbage or rubbish. The burning or burying of garbage or rubbish is prohibited.

(b) Garden trash and brush in small amounts. The burning of garden trash and brush is permitted in amounts not exceeding one hundred twenty-five cubic feet; provided that precautionary measures are taken against the spread of fire and that such fires be attended until fully extinguished.

(c) Brush in large quantities. The burning of brush in amounts exceeding one hundred twenty-five cubic feet is prohibited within the town unless a permit to burn brush has been obtained from the town manager.

(d) Permit for burning required. Application for a permit to burn brush shall be made to the town manager and shall be accompanied by the payment of ten dollars in cash or by check made payable to the Town of Longboat Key. The application shall show the name and address of the applicant, the time, date and location at which the burning of brush is to be undertaken and the approximate amount of brush to be burned. The town manager shall have reasonable discretion in determining the terms of the permit to be granted, including the permissible amount of brush to be burned at any one time, the location of the burning in relation to existing structures and the safety precautions to be taken to prevent the spread of fire. The permit shall specifically provide that the use of auto tires or tubes or other products manufactured from the derivatives of petroleum, shale oil or nitro cellulose is expressly forbidden, that all burning of brush shall be done under the supervision of the owner or his agent, that no fire shall be left unattended until the same has been fully extinguished, and that the permit is valid for a period of thirty days from the date of issuance and shall apply to one location only. Permits shall be posted at the location designated therein and said location shall at all times be subject to inspection by the town manager or a police officer of the town, and any violation of the terms of the permit shall be unlawful. (Ord. No. 129, § 6, 8-8-67.)

Sec. 10-6. Accumulation of brush prohibited.

All accumulations of brush shall be removed or otherwise effaced from the public view within thirty days of the start of accumulation thereof. Upon application, the town manager may extend the time for accumulation upon satisfactory showing that the accumulation will be removed within a reasonable time. (Ord. No. 129, § 6, 8-8-67.)

Sec. 10-7. Spilling of trash, sand, gravel, etc., from vehicles.

(a) It shall be unlawful for any person to transport upon any public roads within the town, garbage, refuse, trash, rubbish, sand, gravel, shell, rock, marl, limestone or asphalt in a vehicle which is not completely covered or otherwise secured in such a manner to prevent the spilling of its contents on public roads.

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(b) It shall be unlawful for any person to transport upon any public roads within the town material or supplies other than those enumerated in subsection (a) of this section in a vehicle which is not completely covered or otherwise properly secured in such a manner as to prevent the spilling of its contents on public roads. (Ord. No. 178, §§ 1, 2, 9-16-70.)

Article II. Condition of Premises.

Sec. 10-8. Responsibility of property owner.

For the purpose of promoting the health, safety and welfare of the people of the town, every owner of a lot or parcel of land lying within forty feet of any dwelling, house or place of business is required to keep such land cleared of all underbrush and debris, or weeds or grass in excess of twelve inches in height from the ground, or noxious material of any kind which tends to be a breeding place for mosquitos, or tends to be a breeding place or haven for snakes and vermin of all kinds and character, or which tends to create a fire hazard and endanger the lives and property of the citizens of the town, or which tends to create a nuisance or other unsightly or unsanitary condition. (Ord. No. 193, § 2.)

Sec. 10-9. Violations of article deemed public nuisances and prohibited.

That portion of every lot or parcel of land lying within forty feet of any dwelling, house or place of business upon which are located underbrush and debris, or weeds or grass in excess of twelve inches in height from the ground, or noxious material of any kind which tends to be a breeding place for mosquitos, or tends to be a breeding place or haven for snakes and vermin of all kinds and character, or which tends to create a fire hazard and endanger the lives and property of the citizens of the town, or which tends to create a nuisance or other unsightly or unsanitary condition, is hereby determined to be detrimental to the health, safety and welfare of the citizens of the town, and further is hereby determined to be a public nuisance is prohibited. (Ord. No. 193, § 3.)

Sec. 10-10. Notice to property owner to correct conditions.

If the town manager, or any other town official or agent designated by resolution by the town commission, shall find any of the conditions described in section 10-9 to exist on such land within the incorporated areas of the town, the town manager shall give written notice to the owner of record of such land by certified mail, return receipt requested, at his address as shown on the most recent county tax roll, notifying such owner of the condition and demanding that such condition be abated within seven days from the date of receipt of the letter. Upon the failure of such property owner to comply within the time prescribed, the town manager shall notify the town commission of the existence of such condition. (Ord. No. 193, § 4.)

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Sec. 10-11. Correction of violations by town; recovery of town's expenses.

Upon receipt by the town commission of notification from the town manager, of the existence of conditions described in section 10-9, the commission shall by resolution direct the clearing of such land and assess a lien on behalf of the town against the land for the costs hereinafter described. A certified copy of such resolution shall be mailed to the owner of record by certified mail, return receipt requested, together with a notice that the owner shall have not less than twenty days from receipt of the resolution to file written objections as to the reasonableness of the assessed costs with the town commission. Thereafter the commission shall hear and determine the validity of such objections. Upon determining the invalidity of all objections, or failure to file objection within twenty days, a notice of lien in such form as the commission shall determine shall be filed in the office of the clerk of circuit court in which the lot or parcel of land is situate and recorded as other liens are recorded, and in the office of the town auditor and clerk. The costs of such lot clearing, cleaning or removing of debris, and the necessary expenses for preparation of the assessment lien, filing and recording the same and legal expenses, if any, incident thereto, shall be assessed against the land and shall be collected by the town auditor and clerk on November 1 next succeeding the date of filing of the lien, and if not collected shall thereafter be subject to the penalties and interest to which ad valorem taxes would be subject, and collection thereof may be enforced. On the date of filing of the lien as aforesaid, the town commissioners shall also file a copy of the lien with the tax collector of the county in which the lot or parcel is situate. (Ord. No. 193, § 5.)

Article III. Overgrowth of Trees and Shrubs.

Sec. 10-12. Findings of commissioners.

The town commissioners find and declare that there is a general need in the town for the measures provided by this article and that this article is enacted in the exercise of the police power for the protection of the health, safety and welfare of the people of the town. (Ord. No. 213, 2-16-72, § 1.)

Sec. 10-13. Owners required to keep certain lands cleared of overgrowth; penalty for violation of section.

For the purpose of promoting the health, safety and welfare of the people of the town, every owner of a lot or parcel of land adjacent to a public street or road right-of-way, canal or other navigable waterway is required to keep such land cleared of all overgrowth of trees and shrubs which interfere with vehicular traffic or boat navigation or create a hazard to vehicular traffic or boat navigation and endanger the lives and property of the citizens of the town or which tends to create a nuisance or other unsightly condition.

Any person, firm, company, corporation or association or the managing agent of any person, firm, company, corporation or association who violates this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be

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fined in a sum not more than one hundred dollars or shall be imprisoned for no more than ten days, with each day of such violation constituting a separate offense. (Ord. No. 213, 2-16-72, §§ 2, 6.)

Sec. 10-14. Lands not cleared of overgrowth declared public nuisance

That portion of every lot or parcel of land adjacent to a street or public road right-of-way, canal or other navigable waterway which are located in an overgrowth of trees and shrubs which tend to interfere with vehicular traffic or navigation of boats or which tend to create a hazard and endanger the lives and property of the citizens of the town or which tend to create a nuisance or unsightly condition is hereby determined to be a public nuisance. (Ord. No. 213, 2-16-72, § 3.)

Sec. 10-15. Notice to owner to abate condition; notification of commission upon failure of owners to comply with notice.

If the town manager, or any other town official or agent designated by resolution by the town commission shall find any of the conditions described in section 10-14 of this article to exist on such land within the incorporated areas of the town, the town manager shall give written notice to the owner of record of such land by certified mail, return receipt requested, at his address as shown on the most recent county tax roll, notifying such owner of the condition and demanding that such condition be abated within seven days from the date of receipt of such letter. Upon the failure of such property owner to comply within the time prescribed, the town manager shall notify the town commission of the existence of such condition. (Ord. No. 213, 2-16-72, § 4.)

Sec. 10-16. Abatement by town; cost of abatement to be assessed as lien on land.

Upon receipt by the town commission of notification from the town manager, of the existence of conditions described in section 10-14 of this article, such commission shall by resolution, direct the clearing of such trees and shrubs and assess a lien on behalf of the town against such land for the costs hereinafter described. A certified copy of such resolution shall be mailed to the owner of record by certified mail, return receipt requested, together with a notice that such owner shall have not less than twenty days from receipt of such resolution to file written objections, or failure to file objection within twenty days, a notice of lien in such form as the commission shall determine shall be filed in the office of the clerk of circuit court in which the lot or parcel of land is situate and recorded as other liens are recorded, and in the office of the town auditor and clerk. The costs of such lot clearing, removing of such trees and shrubs, and the necessary expenses for preparation of the assessment lien, filing and recording same and legal expenses, if any, incident thereto, shall be assessed against such land and shall be collected by the town auditor and clerk on November 1 next succeeding the date of filing of such lien, and if not collected shall thereafter be subject to the penalties and interest to which ad valorem

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taxes would be subject, and collection thereof may be enforced. On the date of filing of the lien as aforesaid, the town commissioners shall also file a copy of such lien with the tax collector of the county in which the lot or parcel is situate. (Ord. No. 213, 2-16-72, § 5.)

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Health and Sanitation

CHAPTER 11.

HEALTH AND SANITATION.¹

Article I. In General.

- § 11-1. License for septic tank construction--Required.
- § 11-2. Same--Fee; approval of type, size and location of tank.
- § 11-3. State rules and regulations--Adopted.
- § 11-4. Same--Injunctive relief for violations.
- § 11-5. Discharge of improperly treated waste water--Prohibited.
- § 11-6. Same--Use of state standards.
- § 11-7. Same--Injunctive relief.
- § 11-8. Mosquito pools--Prohibited and declared nuisances.
- § 11-9. Same--Prima facie evidence.
- § 11-10. Same--Enforcement by town manager.
- § 11-11. Same--Abatement by town manager.

Article II. Registration of Certain Employees.

- § 11-12. Applicability of article.
- § 11-13. Required.
- § 11-14. Fingerprinting and photographing required.
- § 11-15. Identification cards to be issued.
- § 11-16. Fee.

1. For charter provisions as to authority of town to adopt and enforce sanitary regulations, see char., § 7. As to powers and duties of town manager relative to preservation and promotion of public health, see char., § 42. As to town health officer, see char., § 37.
For state law as to health and sanitation generally, see Fla. State., §§ 381.011 to 405.03. As to supervision and regulation of municipal sanitation by the state division of health and enforcement of the state sanitary code by local health officials, see Fla. State., § 381.311.
As to quarantine of animals and fowl, see § 4-1 of this Code.
As to dogs and cats generally, see §§ 4-2 to 4-19. As to vaccination of dogs and cats, see § 4-8. As to confinement of dogs and cats when rabies suspected, see § 4-9.
As to observation of health and sanitary regulations by boats and watercraft, see § 5-9. As to nuisances generally, see §§ 6-23 to 6-30. As to garbage and refuse generally, see ch. 10. As to condition of premises, see §§ 10-8 to 10-11. As to plumbing regulations, see ch. 16. As to water and sewerage requirements for subdivisions, see § 20-17.

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Article I. In General.

Sec. 11-1. License for septic tank construction--Required.²

No septic tank shall be constructed or installed within the town until a license therefor has been issued by the building inspector of the town. (Code 1965, § 13-3)

Sec. 11-2. Same--Fee; approval of type, size and location of tank.

No license for the construction of a septic tank shall be issued until the type, size and location of such septic tank has been approved by the building inspector and the applicant has paid a license fee of five dollars per permit. Each septic tank shall require an individual permit. (Code 1965, § 13-4.)

Sec. 11-3. State rules and regulations--Adopted

There is hereby adopted by reference by the town, all in accordance with authority conferred upon the town by Florida Statutes, section 165.191, the following rules of the state department of health and rehabilitative services:

- Chapter 10-D-4.....Water supplies.
- Chapter 10-D-6.....Standards for individual sewerage disposal facilities.
- Chapter 10-D-9.....Plumbing.
- Chapter 10-D-10.....Sanitary facilities for buildings servicing the public and places of employment.
- Chapter 10-D-12.....Garbage and rubbish.
- Chapter 10-D-26.....Trailer parks.

Also the following rules of the department of air and water pollution control are hereby adopted:

- Section 17-3.....Pollution of water.
- Section 17-6.....Sewerage works.

A violation of the rules adopted by this section is hereby expressly prohibited. (Ord. No. 189, § 1.)

Sec. 11-4. Same--Injunctive relief for violations.

In addition to the remedies provided in this Code and notwithstanding the existence

2. For state law as to construction requirements for septic tanks, see Fla. Stats., § 387.09.

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of any adequate remedy at law, the town commission is authorized to make application for injunction to a court of competent jurisdiction for a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of section 11-3 or from failing or refusing to comply with the requirements of such section, such injunction to be issued without bonds; provided, that no temporary injunction without bond shall be issued except after a hearing of which the respondent has been given not less than ten days prior notice and unless at the hearing it shall be made to appear by clear, certain and convincing evidence that irreparable injury will result to the public from the failure to issue the same. (Ord. No. 189, § 4.)

Sec. 11-5. Discharge of improperly treated waste water-- Prohibited.

The discharge of improperly treated waste waters in the lands or waters of the town in excessive concentrations is hereby expressly prohibited. (Ord. No. 166, § 1, 1-21-70.)

Sec. 11-6. Same--Use of state standards.

The general and specific water quality standards as set forth in the rules of the state air and water pollution control commission, relating to pollution of waters shall be governing in determining whether there exists any excess concentrations of pollutants and improperly treated waste water is being discharged in the lands or waters of the town. (Ord. No. 166, § 2, 1-21-70.)

Sec. 11-7. Same--Injunctive relief.

In addition to the remedies provided in this Code and notwithstanding the existence of any adequate remedy at law, the town commission is authorized to make application for injunction to a court of competent jurisdiction for a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate section 11-5 or from failing or refusing to comply with the requirements of section 11-6, such injunction to be issued without bonds; provided, that no temporary injunction without bond shall be issued except after a hearing of which the respondent has been given not less than ten days prior notice and unless at the hearing it shall be made to appear by clear, certain and convincing evidence that irreparable injury will result to the public from the failure to issue the same. (Ord. No. 166, § 4, 1-21-70.)

Sec. 11-8. Mosquito pools--Prohibited and declared nuisances.

It shall be unlawful for any person to create, keep, maintain or permit a col-

3. For state law as to pollution of water, see Fla. Stats., §§ 387.01 to 387.10.
4. For state law as to mosquito control, see Fla. Stats., §§ 388.011 to 388.42.

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lection of water or debris in which mosquitoes may breed or multiply and the maintenance, creation, keeping or permitting of such water or debris is hereby declared to be a public nuisance. (Code 1965, § 13-201.)

Sec. 11-9. Same--Prima facie evidence.

Water in which live mosquito larvae are found shall be prima facie evidence of a violation of section 11-8. (Code 1965, § 13-202.)

Sec. 11-10. Same--Enforcement by town manager.

Responsibility for the enforcement of the provisions of section 11-9 within the boundaries of the town is hereby vested in the town manager; provided, that the town manager may request the assistance of and act through the mosquito control commission. (Code 1965, § 13-203.)

Sec. 11-11. Same--Abatement by town manager.

When any person has been found guilty of a violation of section 11-8 and such violation continues for a period of five days after such conviction, the town manager may alleviate and cure the condition causing the nuisance and the cost thereof shall be a lien upon the property, enforceable in the same manner as tax liens in the town are enforceable. (Code 1965, § 13-204.)

Article II. Registration of Certain Employees.

Sec. 11-12. Applicability of article.

This article shall apply to every person employed in any nightclub; any distributor, place or business handling liquor, beer or wine in any form; places of amusement; hotels; motels; rooming houses; apartment houses; restaurants and bathhouses; also, to every person employed for the purpose of doing ground or yard maintenance. This article shall also apply to the owners of any such nightclub and any distributor, place or business handling liquor, beer or wine in any form, and if such owner is a firm, partnership or body corporate, then this article shall apply to the members of such firm or partnership and the officers of such body corporate. (Code 1965, § 13-301.)

Sec. 11-13. Required.

Every person mentioned in the preceding section shall register within twenty-four hours from the time of their employment in a book of registration to be kept by the chief of police of the town. (Code 1965, § 13-302.)

Sec. 11-14. Fingerprinting and photographing required.

Every person required to be registered under section 11-13 shall also be fingerprinted and photographed at the time of registering by the police department of the town. (Code 1965, § 13-303.)

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Sec. 11-15. Identification cards to be issued.

Identification cards shall be issued to each person registering under the provisions of this article. This identification card shall be renewed by the holder thereof each twelve months thereafter by registration as required by this article. (Code 1965, § 13-304.)

Sec. 11-16. Fee.

For the purpose of defraying the expense of enforcement of this article, a fee of fifty cents shall be paid for each identification card or renewal thereof issued under the provisions of this article. (Code 1965, § 13-305.)

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Licenses

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CHAPTER 12.

LICENSES.¹

- § 12-1. Required generally.
- § 12-2. Separate license required for each location.
- § 12-3. Filing of application; display of license.
- § 12-4. Contents of application.
- § 12-5. License schedule.
- § 12-6. Collection of taxes; when taxes due and payable; proration of taxes.
- § 12-7. Penalty on delinquent taxes.
- § 12-8. Tax to be in addition to other taxes.
- § 12-9. Evidence of competency of persons in building trades.

Sec. 12-1. Required generally.

A license tax is hereby levied upon, and shall be collected from every individual, partnership or corporation exercising the privileges of carrying on or engaging in the businesses, or occupations specifically enumerated in this chapter. Each of such amounts, unless otherwise specifically stated, will be the amount payable as a license tax for exercising such privilege of carrying on or engaging in such business or occupation mentioned, for each annual period. It shall be unlawful for any individual, partnership or corporation to carry on or engage in any business or occupation described and designated in this chapter without having complied with the terms of this chapter and paid the license taxes. (Code 1965, § 14-1.)

Sec. 12-2. Separate license required for each location.

For any person operating any of the businesses provided for in this chapter, at more than one location in the town, each location shall be considered a separate business and a separate license therefor shall be required. (Code 1965, § 14-2.)

Sec. 12-3. Filing of application; display of license.

Each person required to pay a license tax required by this chapter, shall make application for such license and shall use the form provided for that purpose, giving all the information required therein so that a proper determination can be made of

1. For charter provisions as to license taxes, see char., §§ 83, 84.

For state law authorizing town to impose and collect license taxes, see Fla. Stats., § 167.43. As to license taxes generally, see Fla. Stats., §§ 205.012 to 205.571.

As to licensing of manufacturer sale, etc., of alcoholic beverages, see §§ 3-1, 3-2 of this Code. As to licensing of dogs and cats, see §§ 4-2, 4-3.

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the amount of license tax due. The person possessing an occupational license, issued pursuant to the terms of this chapter, shall publicly display the license in the office or place of business of such person which is located within the town. (Code 1965, § 14-4.)

Sec. 12-4. Contents of application.

The application referred to in section 12-3 shall, among other things, contain the following information: Where application is made by any person doing business or trading under a trade or fictitious name, the application shall show the name, residence and address of each person owning any interest in the business to be conducted under such trade or fictitious name; and in the event that such business or any interest therein be owned by a corporation and operated under a trade or fictitious name other than that of the name of such corporation, the application shall contain the name and principal place of business of such corporation. (Code 1965, § 14-5.)

Sec. 12-5. License schedule.

The amounts which shall be paid by every person engaging in or carrying on businesses or occupations for which a license is required are hereby fixed as follows:

Contractors. Any contractor doing work within the town, whether the main place of business of the contractor is in the town or other area\$40.00.

"Contractor" is defined as any individual, partnership or corporation engaged in the building industry as a general contractor, plumber, electrician, mason or other craftsman and involved in the construction or alteration of any building or structure in the town.

Subcontractors. Any subcontractor doing work within the town, whether the main place of business of the subcontractor is in the town or other area\$20.00.

"Subcontractor" is defined as any individual, partnership or corporation engaged in the building industry as a craftsman involved in the construction or alteration of any building or structure in the town and performs such work for a contractor. (Code 1965, § 14-1.)

Sec. 12-6. Collection of taxes; when taxes due and payable; proration of taxes.

All license taxes required by this chapter shall be collected by the town auditor and clerk and shall be due and payable the first day of February of each year; provided, that any business which shall begin within six months of due date for the tax herein provided for, may secure license for one-half of the amount provided. (Code 1965, § 14-3.)

Sec. 12-7. Penalty on delinquent taxes.

Any license tax due and remaining unpaid thirty days after having become due and payable shall be increased by a penalty of three percent per month from the

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time so due and payable. The town auditor and clerk shall collect the penalty provided for in this section with such delinquent license taxes. (Code 1965, § 14-6.)

Sec. 12-8. Tax to be in addition to other taxes.

License taxes imposed and collected by this chapter shall not be construed to exempt from other forms of taxation the property used in the licensed business or occupation. (Code 1965, § 14-6.)

Sec. 12-9. Evidence of competency of persons in building trades.

Any person seeking an occupational license in any of the building trades will submit evidence of competency which evidence may be a license issued by any county or municipality in the state and which license shall be effective at the time application is made to the town. (Code 1965, § 14-7.)

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Motor Vehicles and Traffic

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CHAPTER 13.

MOTOR VEHICLES AND TRAFFIC.¹

§ 13-1. Adoption of Florida Model Traffic Ordinance.

§ 13-2. Use of land between high and low tides as roadway.

Sec. 13-1. Adoption of Florida Model Traffic Ordinance.

The Florida Model Traffic Ordinance provided for in chapter 186, Florida Statutes is hereby adopted in full by reference except as hereinafter modified, pursuant to section 186.02 Florida Statutes. (Ord. No. 127, § 1, 7-11-67.)

Sec. 13-2. Use of land between high and low tides as roadway.

(a) Land between high and low tides shall not be used as a roadway and such use is hereby prohibited and any violation shall be punishable as provided in the Florida Model Traffic Ordinance, section 186.49, Florida Statutes.

(b) The prohibition of subsection (a) of this section shall not apply to an emergency vehicle when such vehicle is being operated in accordance with the provisions of section 186.0173, Florida Statutes, and section 186.0173, as hereby adopted, is modified by addition to subsection (1) thereof the following:

"(c) Employ the land between high and low tides as a roadway."
(Ord. No. 127, § 3, 7-11-67.)

1. For state law as to regulation of traffic on highways, see Fla. Stats., § 317.011 et seq.
As to boats and watercrafts, see §§ 5-3 to 5-10 of this Code. As to presumption as to refuse thrown from motor vehicles, see § 10-4. As to spilling of trash, sand, etc., from vehicles, see § 10-7.

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Offenses--Miscellaneous

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CHAPTER 14.

OFFENSES--MISCELLANEOUS.

§ 14-1. State misdemeanors.

§ 14-2. Loud and unnecessary noise.

Sec. 14-1. State misdemeanors.¹

It shall be unlawful to commit, within the limits of the town, any act which is or shall be recognized by the laws of the state as a misdemeanor. The commission of any such act in the town shall be considered a violation of the laws of the town. (Code 1965, § 16-1; Ord. No. 170, § 1, 4-1-70.)

Sec. 14-2. Loud and unnecessary noise.

No person shall make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the town.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive, namely:

(a) Exhausts. The discharge into the open air of the exhaust of any internal combustion engine of any type, motorboat or motor vehicle, whether situate on the land or upon the water of the town, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(b) Horns and signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the town, except as a danger warning.

(c) Radios, phonographs, television sets, tape recorders, or other devices producing or reproducing sound. The use of radios, phonographs, television sets, tape recorders, musical instruments or any other device producing or reproducing sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto is prohibited. The operation of any such set, instrument, phonograph, machine or device in such manner as to be plainly audible at a distance of fifty feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

1. For case upholding similar ordinances, see *Orr v. Quigg*, 135 Fla. 653, 143 So. 726. Such adoption includes laws both in existence at the time and those later adopted by the state legislature. *State v. Smith*, 189 So.2d 846.

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(d) Yelling and shouting. Yelling, shouting, hooting, whistling or singing on the public streets so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(e) Construction or repair of buildings. The erection (including excavation), demolition, alteration or repair of any building within a residential area, other than between the hours of 7:00 A.M. and 6:00 P.M. on Monday through Saturday inclusive.

(f) Hydraulic suction dredges, pneumatic hammers, pile drivers, derricks, draglines and hoists. The operation between the hours of 6:00 P.M. and 7:00 A.M. of any hydraulic suction dredge, pneumatic hammer, pile drivers, derrick, dragline or hoist, including repairs thereto, therewith and thereupon and associated activities incident thereto, including but not being limited to the operation of tug boats, work barges and the relocation of discharge pipe lines. In the case of urgent necessity where the interest of public health and safety so requires, and then only with a permit from the building inspector of the town, any of the aforesaid activities may be performed during a period not to exceed three days while such emergency continues.

The town commission may, by special permit, authorize dredging operations, operation of pneumatic hammers, pile drivers, derricks, draglines, steam or electric hoists or other appliances between the hours of 6:00 P.M. and 7:00 A.M., Monday through Saturday inclusive, upon the application to it and showing by the applicant to the satisfaction of the town commission that such operations will be carried out in a manner that shall not make or cause to be made any loud, unnecessary or unusual noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the town. (Ord. No. 194, §§ 2, 3, 4-21-71.)

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Peddlers and Solicitors

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CHAPTER 15.

PEDDLERS AND SOLICITORS.

- § 15-1. "Peddler" defined.
- § 15-2. Exemption from chapter.
- § 15-3. Permit--Required; lack of permit declared nuisance.
- § 15-4. Same--Application; fee; term.
- § 15-5. Same--Signing; nontransferable; scope.
- § 15-6. Same--Display.
- § 15-7. Same--Denial.
- § 15-8. Posting notice that permit required.

Sec. 15-1. "Peddler" defined.

Any person not keeping a regular place of business open at all times in regular business hours and at the same place, and offering for sale goods, wares and merchandise, shall be named solicitors, peddlers, door to door sales persons, itinerant merchants or transient vendors under this chapter and shall be defined as a "peddler". All persons who keep a regular place of business open at all times in regular hours and at the same place who shall elsewhere than at such regular place of business personally or through their agent offer for sale or sell and at the time of such offering for sale, deliver goods, wares and merchandise shall also be defined as a "peddler." (Ord. No. 138, § 1, 5-28-66.)

Sec. 15-2. Exemption from chapter.

This chapter shall not apply to those who sell or offer for sale, in person or by their employees, ice, wood, milk, butter, eggs, fish, fruits or other family supplies of a perishable nature grown or produced by them and not purchased by them for sale. A dairyman who uses upon the streets of the town, one or more vehicles may sell and deliver from his vehicles, milk, butter, cream and eggs in the town without procuring a peddler's permit. Nothing in this section shall be construed to require of any farmer a peddler's permit for the privilege of selling or peddling farm products produced by him. The provisions of this chapter shall not apply to any local firm, person or corporation which shall sell, peddle or solicit in behalf of any public or charitable cause not for profit. (Ord. No. 138, § 2, 5-28-66.)

Sec. 15-3. Permit--Required; lack of permit declared nuisance.

Soliciting orders by peddlers within the town for the sale, or selling, or ex-

1. For a case holding that municipalities can require a permit and reasonable fees therefor, but cannot license canvassers and solicitors, see *Bozeman v. City of Brooksville*, 82 So.2d 729 (1955) (Fla. Sup. Ct.)

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hibiting, goods, wares, merchandise or magazines or disposing of or peddling the same without first obtaining a permit is declared a nuisance and punishable as a misdemeanor unless the provisions of this chapter are complied with. (Ord. No. 138, § 3, 5-28-68.)

Sec. 15-4. Same--Application; fee; term.

Any person defined as a peddler desiring to engage in solicitation shall first make application for and obtain a permit from the police department before peddling within the municipal limits and for the privilege of peddling in this town there shall be paid a levy of five dollars. The permit shall be effective for one year from date of issue unless revoked for cause and no permit fee shall be prorated. Applications shall be on a form prescribed by the town manager. (Ord. No. 138, § 4, 5-28-68.)

Sec. 15-5. Same--Signing; nontransferable; scope.

Any person licensed as a peddler shall endorse his name on the permit and such permit shall not be transferable. Such permit shall confer authority to sell at any house or place within the town. (Ord. No. 138, § 5, 5-28-68.)

Sec. 15-6. Same--Display.

Any person selling or offering to sell as a peddler shall exhibit his permit on demand to any citizen to whom he sells or offers to sell or barter and upon his failure or refusal to do so he shall be subject to the penalties for peddling without a permit. (Ord. No. 138, § 6, 5-28-68.)

Sec. 15-7. Same--Denial.

Any person may be denied permission to peddle either upon the public streets or on private premises by the police department in exercise of its reasonable judgment and police powers. (Ord. No. 138, § 7, 5-28-68.)

Sec. 15-8. Posting notice that permit required.

Appropriate notices shall be posted at the north and south entrances to the town along State Road 799 which signs shall adequately give peddlers notice that permits are required. (Ord. No. 138, § 8, 5-28-68.)

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Pensions and Retirement

CHAPTER 15A.

PENSIONS AND RETIREMENT.

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- § 15A-1. Definitions.
- § 15A-2. Rules of construction.
- § 15A-3. Eligibility requirements.
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- § 15A-5. Contributions.
- § 15A-6. Reemployment--Former employees.
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- § 15A-8. Nonalienation of benefits.

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- § 15A-9. Normal pension.
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Division 2. Amount of Benefits.

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- § 15A-25. Authorization of benefit payments.

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Article I. In General.

Sec. 15A-1. Definitions.

Where the following words and phrases appear in this chapter, they shall have the respective meanings set forth below, unless their context clearly indicates to the contrary:

(a) Plan. Town pension retirement plan as contained herein or as amended from time to time.

(b) Pension fund. The fund established to receive and invest contributions of the employer and from which benefits are paid.

(c) Employer. Town of Longboat Key, Florida.

(d) Committee. The persons appointed to administer the plan.

(e) Employee. Any person:

(1) Who is regularly employed by the employer and receiving remuneration for personal services rendered to the employer; and

(2) Whose customary employment is for more than twenty hours per week and for more than five months in a calendar year.

(f) Pension. A series of monthly amounts which are payable to a person who is entitled to receive benefits under the plan.

(g) Retirement. Termination of employment after an employee has fulfilled all requirements for a pension. Retirement shall be considered as commencing on the first day of the month immediately following an employee's last day of employment (or authorized leave of absence, if later).

(h) Service. An employee's last period of continuous employment with the employer prior to retirement. Any absence which is authorized by the employer shall not be considered as interrupting continuity of employment; provided, that the employee returns within the period of authorized absence. Rules, regarding leaves of absence, shall be established by the employer and shall be uniformly applied to all employees. Any reference in this chapter to the number of years of service of an employee shall be deemed to include all years and completed months.

(i) Compensation. The remuneration paid to an employee by the employer for personal services which are rendered during the period considered as service, as reported on the employee's federal income tax withholding statement (Form W-2).

(j) Average monthly compensation. The result obtained by dividing the total compensation paid to an employee during a considered period by number of months for which compensation was received. The considered period shall be the five con-

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secutive calendar years within the last ten completed calendar years of service which yield the highest average, or such shorter period if service is less than five years.

(k) Normal retirement date. The first day of the month coinciding with or next following an employee's sixty-fifth birthday.

(l) Actuarial equivalent. Equality in value of the aggregate amounts expected to be received under different forms of payment based upon mortality and interest rate assumptions approved from time to time by the committee.

(m) Effective date. July 1, 1972. (Ord. No. 226, § 1-1, 8-9-72.)

Sec. 15A-2. Rules of construction.

The masculine gender, where appearing in this chapter, shall be deemed to include the feminine gender, unless the context clearly indicates to the contrary. The words "hereof," "herein," "hereunder" and other similar compounds of the word "here" shall mean and refer to the entire chapter not to any particular provision or section. (Ord. No. 226, § 1-2, 8-9-72.)

Sec. 15A-3. Eligibility requirements.

Each employee on the effective date who has completed one year of service as of such date, shall become eligible to participate in the plan on the effective date of the plan.

Each employee who is not eligible to participate in the plan on the effective date shall be eligible to participate in the plan on the June 30 coinciding with or next following the date he completes one year of service. (Ord. No. 226, § 2-1, 8-9-72.)

Sec. 15A-4. Participation by employees.

Each employee shall automatically become a participant hereunder when he meets the eligibility requirements as described in section 15A-3. Once an employee has become a participant, he will continue to be a participant as long as he continues to be an employee and thereafter as long as he retains any right to benefits under the plan. (Ord. No. 226, § 2-2, 8-9-72.)

Sec. 15A-5. Contributions.

(a) Contributions by the employer. The town shall appropriate to the pension fund annually a sum sufficient to maintain the plan on a sound financial basis, as determined by a qualified actuary or firm of actuaries.

(b) Contributions by employees. Employees are not required or permitted to make contributions under this plan. (Ord. No. 226, §§ 3-1, 3-2, 8-9-72.)

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Sec. 15A-6. Reemployment--Former employees.

If an employee's employment is terminated prior to becoming eligible for a pension and the employee is subsequently reemployed by the employer, the employee shall not receive any credit for his previous period of employment. Such an employee shall be treated in the same manner as a person who was not previously in the employer's employ. In no event shall the plan, in its operation, allow for any duplication of benefits. (Ord. No. 226, § 9-1, 8-9-72.)

Sec. 15A-7. Same--Retired employees.

If a retired employee is reemployed by the employer, no pension payments shall be made during the period of such reemployment. Upon the subsequent termination of employment by such an employee, the employee shall be entitled to receive a pension based on his service and compensation prior to the date of his previous retirement, as well as his service and compensation during the period of his reemployment. In the case of reemployment of a retired employee who received any pension payments prior to his reemployment, the pension payable upon his subsequent retirement shall be reduced by the actuarial equivalent of any pension payments he previously received. (Ord. No. 226, § 9-2, 8-9-72.)

Sec. 15A-8. Nonalienation of benefits.

Except with respect to any indebtedness owing to the employer, benefits payable under the plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, either voluntary or involuntary, including any such liability which is for alimony or other payments for the support of a spouse or former spouse, or for any other relative of the employee, prior to actually being received by the person entitled to the benefit under the terms of the plan, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable hereunder, shall be void. The pension fund shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder. (Ord. No. 226, § 9-3, 8-9-72.)

Article II. Benefits Generally.

Division I. Requirements.

Sec. 15A-9. Normal pension.

An employee shall be eligible for a normal pension if his employment is terminated on or after his sixty-fifth birthday. Payment of a normal pension shall commence as of the first day of the month coinciding with or next following the date of retirement, and if the employee has received sixty monthly payments, the last payment thereof shall be made as of the first day of the month in which the death of the retired employee occurs.

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Every employee shall retire on his normal retirement date; however, at the request of the employer an employee may continue working after such date, for such period or periods as shall be mutually agreed upon. Retirement shall occur at the end of the last agreed period. (Ord. No. 226, § 4-1, 8-9-72.)

Sec. 15A-10. Early pension.

An employee shall be eligible for an early pension if his employment is terminated on or after his fifty-fifth birthday; provided, that he has completed fifteen or more years of service. Payment of an early pension shall commence as of the first day of the month coinciding with or next following the date of retirement, or such later date as the employee may elect but in no event later than the first day of the month following his normal retirement date, and if the employee has received sixty monthly payments, the last payment shall be made as of the first day of the month in which the death of the retired employee occurs. (Ord. No. 226, § 4-2, 8-9-72.)

Sec. 15A-11. Disability pension.

An employee shall be eligible for a disability pension if his employment is terminated by reason of total and permanent disability; provided, that he is eligible for and receives disability benefits under the Social Security Act. Payment of a disability pension shall commence as of the first day of the month coinciding with or next following the date of retirement. If the employee has received sixty monthly payments, the last payment shall be made as of the first day of the month in which the death of the retired employee occurs, or if disability ceases prior to his normal retirement date, the last payment shall be made on the first day of the month in which disability ceases.

If disability ceases before a retired employee attains his normal retirement date and the employee is reemployed by the employer, the pension payable upon his subsequent retirement shall be determined in accordance with the provisions of section 15A-7 hereof. (Ord. No. 226, § 4-3, 8-9-72.)

Division 2. Amount of Benefits.

Sec. 15A-12. Normal pension.

An employee who meets the requirements for a normal pension shall receive a monthly amount determined as follows:

One and one-half percent of the average monthly compensation multiplied by his years of service up to age fifty-five plus two percent of the average monthly compensation multiplied by his years of service from age fifty-five to retirement. Such pension benefits together with the employee's primary social security benefits shall not exceed seventy-five percent of the average monthly compensation.

If employment continues after an employee's normal retirement date, his pension shall commence upon his actual retirement and the amount of such em-

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employee's pension shall be computed in accordance with this section and in so computing such pension his service up to his normal retirement date and compensation up to his actual retirement date shall be used. In addition, the pension shall reflect an actuarial increase recognizing the years from the employee's normal retirement date to date of actual retirement. (Ord. No. 226, § 5-1, 8-9-72.)

Sec. 15A-13. Early pension.

An employee who meets the requirements for an early pension shall receive a monthly amount determined as follows:

(a) The early pension commencing at the employee's normal retirement date shall be one and one-half percent of the average monthly compensation multiplied by his years of service up to age fifty-five plus two percent of the average monthly compensation multiplied by his years of service from age fifty-five to retirement. Such pension benefits together with the employee's primary social security benefits shall not exceed seventy-five percent of the average monthly compensation.

(b) If payment of an early pension commences prior to the employee's normal retirement date, the monthly amount shall be the pension computed in subsection (a) above, reduced by five-twelfths of one percent for each month between the date payments commence and his normal retirement date. (Ord. No. 226, § 5-2, 8-9-72.)

Sec. 15A-14. Disability pension.

An employee who meets the requirements for a disability pension shall receive a monthly amount which shall be computed in the same manner as an early pension under subsection (a) of section 15A-13 without reduction for early commencement. (Ord. No. 226, § 5-3, 8-9-72.)

Division 3. Optional Benefits.

Sec. 15A-15. Joint and survivor option.

By filing an application with the committee, an employee may designate his spouse (or any dependent approved by the committee) as his contingent pensioner and elect to receive a pension payable in accordance with one of the following options, in lieu of the pension to which he may otherwise become entitled upon retirement:

(a) Option 1: The employee shall receive a reduced pension payable for life, and payments in the amount of one hundred percent of such reduced pension shall, after the employee's death, be continued to the contingent pensioner during the latter's lifetime.

(b) Option 2: The employee shall receive a reduced pension payable for life, and payments in the amount of seventy-five percent of such reduced pension shall, after the employee's death, be continued to the contingent pensioner during the latter's lifetime.

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(c) Option 3: The employee shall receive a reduced pension payable for life, and payments in the amount of fifty percent of such reduced pension shall, after the employee's death be continued to the contingent pensioner during the latter's lifetime.

The aggregate of the pension payments expected to be paid to an employee and his contingent pensioner under any of the above options shall be the actuarial equivalent of the pension which the employee is otherwise entitled to receive upon retirement.

An employee may elect to revoke an option prior to retirement by filing such election or revocation in writing with the committee prior to retirement. Under no circumstances may an option be changed or revoked after the employee's retirement.

An election made pursuant to this section shall become inoperative in the event that (1) the employee's death occurs prior to actual retirement; or, (2) the death of the contingent pensioner occurs before the employee's actual retirement. (Ord. No. 226, § 6-1, 8-9-72.)

Sec. 15A-16. Level income option.

If payment of an early pension commences prior to the earliest age as of which the employee will become eligible for an old age insurance benefit under the Social Security Act, the amount of the early pension may be adjusted so that an increased amount will be paid prior to such age and a reduced amount thereafter; the purpose of this adjustment is to enable the employee to receive, from the plan and under the Social Security Act, an aggregate income in approximately a level amount for life. Such adjusted pension payments shall be the actuarial equivalent of the pension otherwise payable to such employee. (Ord. No. 226, § 6-2, 8-9-72.)

Sec. 15A-17. Other forms of payment.

The committee may, in its sole discretion, at the request of an employee or contingent pensioner, direct that any benefit provided by the plan be paid in some form other than that expressly set forth in the plan; provided, that payments in such other form shall be the actuarial equivalent of the benefit otherwise payable. The committee shall, if it deems it appropriate, require an employee or contingent pensioner to submit evidence of good health as a condition to receipt of any such other form of payment, particularly any lump sum payment.

If a pension payable under the plan is less than twenty-five dollars per month, the committee may direct that, in lieu of such pension, the actuarial equivalent thereof shall be paid in a lump sum, or in a series of uniform monthly, quarterly or annual amounts for life or for a designated period of time.

The time during which payment shall be made of any of the other forms of payment provided for in this section shall be limited to a period not exceeding the life or the life expectancy of the employee or contingent pensioner.

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Notwithstanding anything herein to the contrary, if the actuarial value of an employee's benefit under any optional benefit is less than fifty percent of the value of the benefit otherwise payable to the employee, the optional benefit shall be adjusted so that the value of the employee's benefit under the option will be equal to fifty percent of the value of the benefit otherwise payable to the employee. (Ord. No. 226, § 6-3, 8-9-72.)

Division 4. Other Benefits.

Sec. 15A-18. Deferred termination benefit.

Upon an employee's termination of employment for any reason other than death or retirement he shall be entitled to a deferred monthly benefit commencing as of his early or normal retirement date, as provided in sections 15A-9 and 15A-10.

The benefit shall be computed in the same manner as an early pension, as defined in subsection (a) of section 15A-13, considering compensation and service up to the date of termination, and in accordance with the following vesting percentages:

<u>Years of Service at Date of Separation</u>	<u>Percentage of Vesting</u>
Less than 10 years	0
10 years but less than 11 years	50%
11 years but less than 12 years	60%
12 years but less than 13 years	70%
13 years but less than 14 years	80%
14 years but less than 15 years	90%
15 years and over	100%

If the payment of an employee's deferred termination benefit commenced as of his early retirement date, the benefit as described in this section shall be reduced as provided in subsection (b) of section 15A-13. (Ord. No. 226, § 7-1, 8-9-72.)

Sec. 15A-19. Pre-retirement death benefit.

If the death of an employee occurs after his normal retirement date but prior to his retirement, and if the employee would have been entitled to a pension if his retirement had occurred immediately prior to his death, a pension shall be payable, except as provided by section 15A-15 in the event that Option 1, 2 or 3 has been elected, to the employee's beneficiary for sixty months. The amount of such pension shall be equal to the pension which the employee would have received if his retirement had taken place immediately prior to his death.

If termination of employment is caused by the death of an employee and if death occurs before attainment of an employee's normal retirement date, but after becoming eligible for early retirement, a pension shall be payable to the employee's beneficiary for sixty months. The amount of such pension shall be equal to the pension which the employee would have received if his retirement had taken place immediately prior to his death.

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If the death of an employee occurs prior to his becoming eligible for early retirement, there will be no benefits payable from the plan. (Ord. No. 226, § 7-2, 8-9-72.)

Sec. 15A-20. Post-retirement death benefit.

No benefit shall be payable under this section if an optional benefit under sections 15A-15 to 15A-17 is in effect at the time of the employee's retirement or death. Any death benefit payable will be in accordance with the option elected.

If a retired employee is receiving a pension under sections 15A-12 to 15A-14 and no option was elected and if his death occurs before he has received payments for sixty months, the employee's beneficiary shall be entitled to a monthly pension for the remainder of the sixty month period, that is, until such time as sixty monthly payments have been made to the employee and his beneficiary. The monthly amount payable to the beneficiary shall be equal to the monthly amount of pension which the employee was receiving prior to his death.

Every employee shall designate the beneficiary who shall receive the benefit, if any, which is payable upon his death under this section. An employee may change or revoke his designation of beneficiary at any time and from time to time. The designation of a beneficiary, and any change or revocation thereof, shall be made in writing on forms approved by the committee. An employee may also designate a contingent beneficiary to receive benefits under this section in the event the primary beneficiary's death occurs before all payments under this section have been made. If an employee fails to designate a beneficiary, or if no designated beneficiary survives the employee, or if all designated beneficiaries die before all payments required by this section have been made, the remaining payments shall be paid in accordance with the following order of precedence:

- (a) To the employee's surviving spouse; or, if there be none surviving,
- (b) To the employee's surviving children (in equal shares); or, if there be none surviving,
- (c) To the employee's surviving parents (in equal shares); or, if there be none surviving,
- (d) To the employee's estate. (Ord. No. 226, § 7-3, 8-9-72.)

Article III. Retirement Committee.

Sec. 15A-21. Appointment; composition; payment of expenses; compensation.

The plan shall be administered by a retirement committee who shall be appointed by and serve at the pleasure of the employer. The retirement committee shall be composed of the town commission. All usual and reasonable expenses of the committee may be paid by the employer. The members of the committee shall not receive compensation with respect to their services for the committee. (Ord. No. 226, § 8-1, 8-9-72.)

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mittee shall not receive compensation with respect to their services for the committee. (Ord. No. 226, § 8-1, 8-9-72.)

Sec. 15A-22. Powers and duties generally.

The committee shall have such powers as may be necessary to discharge its duties hereunder, including, but not by way of limitation, the following powers and duties:

- (a) To construe and interpret the plan, decide all questions of eligibility and determine the amount, manner and time of payment of any benefits hereunder.
- (b) To prescribe procedures to be followed by employees in filing applications for benefits.
- (c) To make a determination as to the right of any person to a benefit and to afford any person dissatisfied with such determination the right to a hearing thereon.
- (d) To receive from the employer and from employees such information as shall be necessary for the proper administration of the plan.
- (e) To prepare and distribute, in such manner as the committee determines to be appropriate, information explaining the plan.
- (f) To furnish the employer, upon request, such annual reports with respect to the administration of the plan as are reasonable and appropriate.
- (g) To receive and review the biannual valuation of the plan made by the actuary selected by the employer.
- (h) To receive and review reports of the financial condition and of the receipts and disbursements of the pension fund.
- (i) To appoint or employ an administrator for the plan and any other agents, it deems advisable, including legal and actuarial counsel. (Ord. No. 226, § 8-2, 8-9-72.)

Sec. 15A-23. Rules and decisions.

The retirement committee may adopt such rules and actuarial tables as it deems necessary or desirable. All rules and decisions of the committee shall be uniformly and consistently applied to all employees in similar circumstances.

Any rule or decision which is not inconsistent with the provisions of the plan shall be conclusive and binding upon all persons affected by it and there shall be no appeal from any ruling by the committee which is within its authority.

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When making a determination or calculation, the committee shall be entitled to rely upon information furnished by the employer, the legal counsel of the employer or the actuary for the plan. (Ord. No. 226, § 8-3, 8-9-72.)

Sec. 15A-24. Adoption of bylaws; election of chairman and secretary.

The committee shall adopt such bylaws as it deems desirable. The committee shall elect one of its members as chairman and shall elect a secretary who may, but need not, be a member of the committee. The secretary of the committee shall keep a record of all meetings and forward all necessary communications to the actuary. (Ord. No. 226, § 8-4, 8-9-72.)

Sec. 15A-25. Authorization of benefit payments.

The committee shall issue directions concerning all benefits which are to be paid from the pension fund pursuant to the provisions of the plan. The committee shall keep on file, in such manner as it may deem convenient or proper, all reports of the pension fund. (Ord. No. 226, § 8-5, 8-9-72.)

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CHAPTER 16.

PLUMBING.¹

§ 16-1. Plumbing Code--Adopted.

§ 16-2. Same--Modifications, amendments, etc.

Sec. 16-1. Plumbing Code--Adopted.

There is hereby adopted by reference in accordance with authority conferred upon the town by Florida Statutes, section 165.191 and other applicable statutes, the Southern Standard Building Code Part III, Plumbing, 1962-63 Edition, with the modifications, changes and additions set forth in section 16-2. Any reference in the Southern Standard Building Code, Plumbing, 1962-63 Edition, that uses the word "city" shall mean "town." (Code 1965, § 20-1.)

Sec. 16-2. Same--Modifications, amendments, etc.

The following modifications, changes and additions to the Southern Standard Building Code Part III, Plumbing, 1962-63 Edition are hereby adopted:

(1) Section 106.3 Schedule of Permit Fees is hereby amended to read as follows:

"For issuance of each permit.....	\$5.00
Each plumbing fixture up to and including the first twenty (20) fixtures.....	1.50
Each plumbing fixture in excess of twenty (20) fixtures.....	1.00
Building sewers four (4) inches not over fifty (50) feet long.....	2.00
Each additional fifty (50) feet or fraction thereof.....	1.00
Larger sewers each one hundred (100) feet or fraction, per inch of diameter.....	1.00
Trailer connection.....	2.00

1. As to building regulations, see ch. 6 of this Code. As to adoption of state rules and regulations, see § 11-3. As to licensing of contractors, see ch. 12.

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For installation, repair, or alteration of water piping.....	1.00
Repair, alteration of drainage, or vent piping	2.00
Water service (new construction).....	2.00
Water service only (permit fee not required)	3.00
Septic tanks, grease traps, oil separators, lint traps, etc., in excess of 500 gallons.....	5.00
Re-inspection--when work is not ready or does not meet code-- 20¢ per mile plus	5.00"

(2) Section 109.2 Qualification of Plumbers is amended by the addition of the following:

"A Certificate of Competency may be held on an inactive basis for a period of three (3) years for Five Dollars (\$5.00) per year. On or before the end of the third year the Certificate must be activated or dropped. Except in case of extreme hardship an inactive Certificate may be activated only during the first fifteen (15) days of October and the first fifteen (15) days of April. Hardship cases must be approved by the Licensing Board and the Board of County Commissioners of the County which has issued a Certificate of Competency."

(3) Section 302 Building Drains is amended to change the distance to three feet rather than ten feet.

(4) Section 417.1 is deleted.

(5) Section 703.5 Prohibited Traps is amended by the addition of the following:

"(f) Drum Traps

"(g) Tubular traps shall be not less than 20 U.S. Gauge."

(6) Section 907.1 Public Use is amended to read as follows:

"Water closet bowls for all public, commercial, or industrial buildings shall be of the elongate type."

(7) Section 907.6 Seats, the second sentence thereof, is amended to read as follows:

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"All seats of water closets provided for public, commercial, or industrial buildings shall be of the open-front type."

(8) Section 908 Urinals is amended by adding:

"All urinals shall have integral traps either floor or blow out wall type."

(9) Section 911.2 Construction is amended by adding to the last line:

"Provided shower floor is dropped two (2) inches below finished floor, or a concrete curb is installed three (3) inches above the floor level of the building. Curb shall be poured integral with the floor."

(10) Section 1206.2 is amended by changing in the first line type K to type L and by adding:

"All water pipes shall be wrapped or coated with approved asphalt mixture when passing through concrete floors, or in contact with concrete."

(11) Section 1211 is amended by adding a new item:

"In areas designated by the Health Department, all well pumps for home use shall be of an approved deep-well type installed to the depth determined by the Health Department."

(12) Section 1211.1 Water Supply Control shall be changed to read as follows:

"A main shut-off valve shall be installed on each water service between the meter and the building in an accessible location."

(13) Section 1212.1 Water Service Pipe is amended by adding to the first paragraph:

"Water service pipe size shall be for:

"(a) Residence, Duplex, or not more than 26 fixture units	3/4"
Four (4) apartments or not more than 36 fixture units	1"
Eight (8) apartments or not more than 72 fixture units	1 1/4"
Sixteen (16) apartments or not more than 136 fixture units	1 1/2"
Thirty-two (32) apartments or not more than 264 fixture units	2"

"(b) DEMAND LOAD:

The demand load in the building water supply system shall be based on the number and kind of fixtures installed and probable simultaneous use of these fixtures.

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"(c) SIZE OF HOT WATER MAIN:

The hot water main shall mean that part of the piping from the hot water heater, shall be 3/4 inch inside diameter, except as set forth in Section 1213.3 "

(14) Section 1213.1 is amended by adding thereto:

"Not more than three (3) fixtures shall be supplied from any one (1) 1/2 inch line (hot or cold). Silcocks or hosebibs shall be off of not less than 3/4" main "

(15) Section 1213.3 Size of Fixture Supply is amended by adding:

"The sizes shown are I. D. A fixture is defined as a pipe connecting one (1) or more fixtures to the main. The branch line supplying a hot water heater having a capacity of twenty (20) gallons or more shall be 3/4 inch valve in line to heater. A branch line supplying a hot water heater of less than twenty (20) gallons capacity shall have a main of the same size as the opening on the heater. All fixture branches supplying one (1) or more fixtures or appliances shall be not less than 1/2 inch inside diameter to a point where they emerge from floor or wall "

(16) Section 2113.8 Hazard and Noise is amended by adding:

"Air chamber fifteen (15) inches long or equal shall be provided on each lavatory or washbasin."

(17) Section 1215.5 Relief Outlet Wastes is amended by adding:

"All relief valve tail lines shall be 3/8 inch or larger and run to outside of enclosed building in a safe place."

(18) Section 1216.4 is hereby added to read as follows:

"No water heater shall be allowed to be installed in the attic or loft of any building without a pan with suitable drain run to the outside. Drain shall be not less than 3/4 inch "

(19) Section 1301.3 Aboveground Piping is amended to read as follows:

"Soil and waste piping for the drainage system shall be cast iron, type L, copper, lead or brass "

(20) Section 1301.4 Underground Piping within Buildings is amended by changing the first sentence to read as follows:

"(a) All soil and waste piping within building when underground shall be cast iron or type K copper

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"(b) No horizontal soil drains underground shall be smaller than four (4) inches.

"(c) Three (3) inch vertical soil stack for second floor may receive one (1) bathroom group plus one (1) kitchen sink.

"(d) All mains or branch soil, waste and vent pipe and fittings in any building not over two (2) stories in height shall be of standard weight cast iron.

"(e) In buildings over two (2) stories in height standard weight cast iron pipe and fittings may be used in the top two (2) stories. The remainder of the building shall have extra heavy cast iron pipe and fitting."

(21) Section 1302 Building Sewer is changed to read as follows:

"The building sewer shall be installed in a separate trench from the water service pipe, or separated vertically by one (1) foot of earth. The sewer shall be of cast iron or vitrified clay sewer pipe with neoprene joints, except all sewers from building to septic tanks shall be of cast iron."

(22) Section 1304.2 Fixture Units Per Fixture or Group is amended by adding:

"All residential type washing machines shall be valued at three (3) fixture units and shall have minimum size trap of two (2) inches."

(23) Section 1305.5 Minimum Wet Vents is amended to read as follows:

"(a) Six (6) fixture units except urinal slop or kitchen sinks shall be vented with a two (2) inch individual vent, common vent, wet vent, stack vent, loop or circuit vent.

"(b) When more than six (6) fixture units, the vent shall be three (3) inches minimum to the highest branch.

"(c) No horizontal wet vent shall exceed fifteen (15) feet in length."

(24) Section 1306.2 Waste Stacks Serving Kitchen Sinks is changed to read as follows:

"Waste pipes from kitchen sinks shall be not less than 3" in diameter to the highest branch, with accessible cleanout located outside the building. Above that point the size of the stack shall be governed by the total number of fixture units vented by the stack."

(25) Section 1409.3 Distance of Fixture Trap from vent is hereby added to read as follows:

"The distance shown is from trap to vent or drain. All fixture traps to be a maximum of five (5) feet from weir of trap to vent. No arm shall be smaller than 1 1/4".

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1 1/4 inch 5 feet

1 1/2 inch 5 feet

2 inch 5 feet

"The maximum distance from floor drains shall be:

2 inch 5 feet

3 inch 6 feet

4 inch 10 feet"

(26) Section 1422.3 Fixture Branches is hereby added to read as follows:

"Major or minor fixture branches connected below a water closet branch shall be vented."

(27) Section 1502.1 Inside Conductors is hereby amended to read as follows:

"Conductors placed within a building or pipe shaft shall be cast iron, type L copper, brass, lead, or galvanized wrought iron."

(28) Section 107.1 Inspection Required is hereby amended to read as follows:

"The minimum number of inspections shall be:

1st inspection Under Floor

2nd inspection Under Floor

Sewer inspection

Final inspection."

(Code 1965, § 20-2; Ord. No. 190, § 1.)

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Police Department

§ 17-3

CHAPTER 17.

POLICE DEPARTMENT.¹

- § 17-1. Mayor to appoint officers and employees.
- § 17-2. Officers to protect public peace.
- § 17-3. Powers, rights and duties of police officers.
- § 17-4. Compensation of officers.
- § 17-5. Town manager to regulate and administer police department.
- § 17-6. Only authorized persons may wear uniforms and use police equipment; exceptions.

Sec. 17-1. Mayor to appoint officers and employees.

The town commission does hereby consent to the organization of a police department by the mayor, and for the appointment of police officers and such other employees as may from time to time be deemed necessary, by the mayor with the advice and consent of the commission, as provided by law. (Code 1965, § 21-1.)

Sec. 17-2. Officers to protect public peace.

The officers so appointed as provided by law, shall protect the public, peace and good order, assure the observance of law, and in addition enforce all of the police ordinances of the town and all of the laws of the state and of the United States now or hereafter made, within the town. (Code 1965, § 21-2.)

Sec. 17-3. Powers, rights and duties of police officers.

In order to carry out their duties, the police officers of the town shall have all of the powers, rights and duties of police officers provided by law. (Code 1965, § 21-3.)

1. For charter provisions as to duty of police as to execution and service of writs and processes issued by the municipal courts, see char., § 32. As to police force generally, see char., § 38. As to appointment of extra patrolmen, see char., § 39. As to powers and duties of chief of police generally, see char., § 40.

For state law as to police powers of municipalities generally, see Fla. Stats., §§ 168.01 to 168.13. As to organization and appointment of municipal police force, see Fla. Stats., § 168.01.

As to seizure of dogs and cats running at large, see § 4-11 of this Code. As to supervision of public pound by chief of police, see § 4-12. As to designation of dog and cat warden by chief of police, see § 4-13. As to motor vehicles and traffic regulations generally, see ch. 13.

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Sec. 17-4. Compensation of officers.

The police officers of the town appointed as provided in this chapter shall serve without compensation unless otherwise provided by the town. (Code 1965, § 21-4.)

Sec. 17-5. Town manager to regulate and administer police department.

The town manager shall have the power and authority to regulate and administer the police department of the town and with the approval and consent of the town commission to discipline, suspend or discharge any police officer of the town other than the chief of police when in his opinion such action shall be necessary or desirable. (Code 1965, § 21-5.)

Sec. 17-6. Only authorized persons may wear uniforms and use police equipment; exceptions.

(a) It shall be unlawful for any person who is not a duly appointed and acting member of the police department of the town, or a special officer thereof:

(1) To wear, in the town, the prescribed uniform, badge or other insignia of the members of the police department of the town or that of any other police or law enforcement body, or any distinctive part of any such uniform, any part of which is similar to a distinctive part of the prescribed uniforms of the members of the police department of this town or of any other police or law enforcement agency.

(2) To wear, in the town, any other uniform or badge, or other police equipment which causes such person to resemble a police officer of the town or any other police or enforcement agency.

(3) To operate or cause to be operated any motor vehicle within the town with a siren, blinker light or any insignia thereon bearing any resemblance to any insignia used by the police department of the town or of any other police or law enforcement agency.

(4) To cause any vehicle to be equipped or operated within the town with radios that can be tuned to the town police frequency without written permission from the chief of police.

(b) The foregoing provisions shall not be construed to prevent persons specifically authorized by the laws of the United States of America, the state or any municipality or governmental subdivision of the state, to wear a prescribed uniform which uniform may be similar but not identical to the prescribed uniform of the members of the police department of the town while any such persons are in performance of their official duties.

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(c) The provisions of this section shall not be construed to prevent any person who is employed as a watchman or guard for an established business firm or who is employed in guarding private residences or in an armored car service which services financial institutions, from wearing customary uniforms and performing duties related to security of specifically designated private properties while any such person so employed is upon any such private property and while any such person is going to and from his residence to such private property which is being guarded; provided, that while being upon any public streets, sidewalks, rights of way or public property located within the town any such person shall not display a badge and shall take all necessary precautions that his person does not, by use of uniform or otherwise, resemble any police officer of the town or that of any police or law enforcement agency.

(d) The provisions of paragraph (3) of subsection (a) of this section relating to use of sirens and blinker lights shall not be construed to apply to any emergency vehicles so designated by law or ordinances of this town, and shall not be applicable to ambulances. (Code 1965, §§ 21-6 to 21-8.)

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§ 18-1

Signs and Billboards

§ 18-3

CHAPTER 18.

SIGNS AND BILLBOARDS.

- § 18-1. "Sign" and "billboard" defined.
- § 18-2. Permit to erect or maintain--Required.
- § 18-3. Same--Fees generally; renewal.
- § 18-4. Same--Exemptions from permit fees.
- § 18-5. Size and location.
- § 18-6. Directory, informational and off premises business signs.
- § 18-7. Real estate signs.
- § 18-8. Project signs.
- § 18-9. Prohibited signs.
- § 18-10. Redesign of nonconforming signs.
- § 18-11. Removal of certain signs.
- § 18-12. Waiver of standards.

Sec. 18-1. "Sign" and "billboard" defined.

The words "sign" and "billboard" shall be interchangeable, and shall include any sign, billboard, poster panel, bulletin, placard, writing, printing, picture, display, emblem, drawing, and all printed, painted, lettered, illuminated or figured devices or structures used out of doors or visible from outside the building for advertising purposes. Advertising is defined as "any form of public announcement or device intended to influence opinion on any subject." (Ord. No. 114, § 1, 9-13-66.)

Sec. 18-2. Permit to erect or maintain--Required.

No sign shall be erected or maintained unless a permit has been obtained from the town. Fees shall be paid for all permits, except as hereinafter provided. (Ord. No. 114, § 2, 9-13-66.)

Sec. 18-3. Same--Fees generally; renewal.

(a) Annual permit fees shall be due and payable on the first day of January of each year, and renewals must be taken out and paid for within twenty days after the expiration of the prior permit.

(b) Minimum annual fee shall be three dollars for a sign having a legend up to eight square feet in area, plus ten cents per square foot, or fraction, for any sign over eight square feet.

(c) The common type of real estate broker's signs on stakes that are moved easily by hand, to various locations, are to be licensed on an annual basis, one-half fee after July 1st. However, such "portable" signs may be moved to any new location during the license year by advice to the building inspector, and the payment of a fifty cent change of location fee. This same license and change of location provision shall also be extended to job signs used by builders, architects and other craftsmen during a construction project, and the signs shall not exceed four square feet in area. (Ord. No. 114, § 11, 9-13-66.)

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Sec. 18-4. Same--Exemptions from permit fees.

No permit fees are required for the following signs:

(a) Temporary signs. Outdoor directional and informational signs erected with the approval of the building inspector pertaining to public events sponsored by charitable, civic nonprofit organizations, or for civic or town affairs, which are to be removed immediately after such event or affair. Such signs shall not be erected for a period of more than seven days.

(b) Permanent signs. Residential and civic directories where no business is shown. Size restrictions are: Title block limited to ten square feet. Individual name plates whether on separate panels or painted or affixed to a common panel, shall not exceed one and one-half square feet each. All name plates on each directory must be uniform in size and color.

(c) Name of business signs on the face of building. (Ord. No. 114, § 4, 9-13-66.)

Sec. 18-5. Size and location.

(a) The size of signs shall not exceed one hundred sixty square feet. Such area shall be computed by measuring from ground level to the top of the sign at its highest point and multiplying such distance by the distance between the outside dimensions of the entire structure measured at its widest point. That part of the sign structure carrying the legend of the sign shall not exceed a total of eighty square feet. No sign structure shall exceed sixteen feet in any one dimension.

(b) Signs painted or consisting of letters permanently attached to the face or side wall of any building shall not project more than one inch from the face of the building and only one sign is permitted on any face or side and no more than one face or side wall of any building shall have a sign thereon, except a building located on a corner may have a sign on the face or side of the building facing each street. Any miscellaneous advertising other than the name of the business shall be exhibited either on the standard or the building sign, but not both. The area limitations shall remain eighty square feet.

(c) No more than one business sign on standards shall be allowed for any single business unless the business has a street frontage of more than two hundred fifty feet in which case the business may have an additional sign for each two hundred fifty feet or part thereof in excess of two hundred fifty feet of street frontage but no signs for such business shall be placed so as to be closer than one hundred feet from one another. If the business has frontage on both sides of a street or road only one side shall be considered in computing the number of signs allowed.

(d) Signs shall not be erected or maintained that project over into other property not part of the property upon which the business being advertised is located, or over, or onto the right-of-way of any highway, roadway, street or other public thoroughfare or waterway.

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(e) No sign shall be attached to trees or shrubs, or be painted directly on a fence, or attached to mailboxes.

(f) A business property which faces and abuts the water may also have the name of the business only on the side of a building facing the waterway.

(g) No sign shall be erected or maintained along or adjacent to State Road 789 unless the light is shaded and not directly visible from State Road 789. (Ord. No. 114, § 3, 9-13-66; Ord. No. 197, § 1, 5-19-71.)

Sec. 14-6. Directory, informational and off premises business signs.

(a) Directory, directional, information and off premises business signs shall be permitted off the premises upon which the business is being conducted provided that such business is in a location within the town not fronting on Gulf of Mexico Drive, except as otherwise provided for herein. If there are several businesses in the area, and one sign location can serve to direct inquiries to that area, separate standards of supports will not be permitted. The several business directories must be on a common standard.

(b) Such off premises business directories may have sign plates or panels for individual business not to exceed two feet high by five feet long each, shall be uniform in size and color and in no event shall a combination of business directory sign panels exceed five maximum size signs for a total overall height of ten feet. Parallel structures may be added, if necessary, but in no event may the total structure exceed one hundred twenty square feet.

(c) Directional signs in waterways shall not exceed eight square feet and permits for same shall not be granted unless the sign is an aid to navigation and in the public interest. (Ord. No. 114, § 5, 9-13-66.)

Sec. 18-7. Real estate signs.

"For Sale" and "For Rent" signs shall not exceed four square feet except as hereinafter provided, and there shall not be more than one sign on any one property, except as hereinafter provided. Any owner may display his own personal "For Rent" or "For Sale" sign on property without a license or fee, provided such sign does not exceed one square foot in area. Real estate "For Rent" and "For Sale" signs located on property facing the Gulf of Mexico Drive may have an area up to four square feet for any parcel of property not fronting more than two hundred feet on Gulf of Mexico Drive, if more than two hundred feet and less than five hundred feet, two signs, and any parcel fronting more than five hundred feet on Gulf of Mexico Drive may have a maximum of three signs, or, at the option of the person allowed to erect signs on such property, the square foot area of the two or three signs may be combined into one sign. Property fronting on more than one thoroughfare, whether road or waterway, may have a "For Sale" or "For Rent" sign on either or both frontages, but limited to a total of two signs, also provided that the advertised property with two frontages contains at least twenty thousand square feet of land area. (Ord. No. 114, § 6, 9-13-66.)

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Sec. 18-8. Project signs.

Project signs shall be permitted subject to regulations herein upon the filing with the town manager of an acceptable prospectus and approved plot plan for the project. This project sign must be removed if building permit for the project is not issued within six months, and may remain in place until project is substantially complete or permit expires, whichever is first. This project sign must be removed within one year after the permit has been granted unless a renewal is obtained. Any sign permitted as a project sign shall be removed and the license shall be automatically cancelled at such time as one hundred percent of the project is completed and sold or leased or the applicant has surrendered any of the applicant's control over the project to owners or tenants. A cash bond shall be paid and deposited on or before issuance of each project sign in the amount of fifty dollars, such bond to be retained by the town and repaid upon the removal of the sign in accordance with this provision of this section and if the sign is not removed the town manager shall and he is hereby authorized to remove any such project signs in violation of this section by deducting the cost of removing such sign from the deposit and refunding the balance of the deposit to the person or corporation making the deposit. (Ord. No. 114, § 7, 9-13-66; Ord. No. 197, § 2, 5-19-71.)

Sec. 18-9. Prohibited signs.

(a) No sign shall use exposed neon or fluorescent tubing or have waving parts or flashing lights.

(b) No outdoor advertising banners, pennants or flags of any type designed to call attention to a business shall be permitted and for the purposes of this chapter and the enforcement thereof such shall be deemed to be signs.

(c) No signs of any nature shall be allowed in or on any building or residence in a single family residential area that shall be visible from the outside of the building, when such sign features any business or enterprise. However, this restriction shall not apply to a medical doctor or dentist, who is licensed, and who is operating in an approved area either under present zoning or by variance. It is the expressed legislative intent of the town commission that the foregoing prohibitions against the erection, construction, location or maintenance of signs shall be construed to include the prohibition against the use of any street or right-of-way for the display of merchandise for sale, or the parking of any vehicle or other type of contrivances which are in and of themselves unique and unusual, and are parked for the purpose of attracting attention to a person's place of business, or the parking of vehicles or other types of contrivances to which there is a sign attached advertising the business of, or product sold by the business of any person, firm, or corporation, or designed to attract attention thereto.

(d) The portable type of tent or "A" sign shall not be permitted.

(e) No roof-top signs shall be permitted.

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(f) Signs for a candidate for public office, or for any political party, or for any issue to be voted upon by the general public that suggests how the vote should be cast shall not be permitted.

(g) Any sign in an unsafe condition. (Ord. No. 114, § 8, 9-13-66.)

Sec. 18-10. Redesign of nonconforming signs.

All signs not conforming to the provisions as set forth in this chapter shall be redesigned in such a manner that they will be made conforming within thirty days. (Ord. No. 114, § 9, 9-13-66.)

Sec. 18-11. Removal of certain signs.

Any sign now or hereafter existing, which no longer advertises a bona fide business conducted, or product sold or which is in violation of any of the provisions of this chapter shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or premise upon which such sign may be situated, within twenty days after written notification to remove from the building inspector, and, upon failure to comply with such notice within the time specified in such order, the building inspector is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the buildings, structures, or premises upon which such sign had been attached or located, and shall become a lien thereon. (Ord. No. 114, § 10, 9-13-66.)

Sec. 18-12. Waiver of standards.

The town commission may waive any of the limitations or standards contained in this chapter when it is in the best interest of the town. (Ord. No. 114, § 13, 9-13-66.)

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CHAPTER 19.

STREETS, SIDEWALKS AND PARKS.¹

Article I. In General.

- § 19-1. Drainage culvert construction permit--Required.
- § 19-2. Same--Application.
- § 19-3. Same--Fee.
- § 19-4. Same--Removal of noncomplying culverts.

Article II. Closing of Streets and Parks.

- § 19-5. Authority of town commission.
- § 19-6. Petitions by interested parties.
- § 19-7. Public hearing.
- § 19-8. Action by commission.
- § 19-9. Copy of resolution to be recorded.
- § 19-10. Deposit of expenses.

Article I. In General.

Sec. 19-1. Drainage culvert construction permit--Required.

No drainage culvert shall be constructed within any right of way easements dedi-

1. For charter provision as to authority of town to regulate the use and occupancy of streets, etc., see char., § 7 (h). As to duty of town manager as to construction, etc., of streets, parks, etc., see char., § 42. As to issuance of bonds in connection with street improvements, see char., § 104. As to construction of sidewalks, see char., § 106. As to paving, curbing and grading of streets, see char., § 107. For state law as to powers of town relative to streets and sidewalks, see Fla. Stats., §§ 167.01, 167.02 and 167.09. See also, Fla. Stats., § 167.21. As to dogs and cats, see §§ 4-2 to 4-19 of this Code. As to prohibition against depositing garbage and refuse on streets and sidewalks, see § 10-3. As to presumption as to refuse thrown from motor vehicles, see § 10-4. As to motor vehicles and traffic regulations, see ch. 13. As to peddlers and solicitors, see ch. 15. As to signs and billboards, see ch. 16. As to streets, roads and sidewalks in subdivisions, see § 20-14.

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cated to public use and accepted by the town by any person without first making application for and obtaining a permit from the town to construct such culvert. (Code 1965, § 22-1.)

Sec. 19-2. Same--Application.

Application for a permit under section 19-1 shall be made to the town manager and shall be in a form acceptable to the town manager and shall be in conformity with the town's master plan for drainage facilities. (Code 1965, § 22-2.)

Sec. 19-3. Same--Fee.

An application fee of three dollars shall accompany an application under section 19-2, to partially offset the processing and inspection costs. (Code 1965, § 22-3.)

Sec. 19-4. Same--Removal of noncomplying culverts.

Any noncompliance with sections 19-1 to 19-3 shall result in an order by the town manager to remove any culvert illegally constructed or to provide acceptable as built plans and the required fee within thirty days of such order. (Code 1965, § 22-4.)

Article II. Closing of Streets and Parks.

Sec. 19-5. Authority of town commission.

The town commission may on its own motion, or upon the petition of an interested party, close and discontinue any public park or street within the town. (Code 1965, § 17-1.)

Sec. 19-6. Petitions by interested parties.

Any interested party may sign and file with the town auditor and clerk a petition praying for the closing and discontinuing of any public park or street located within the town. Such petition shall state the interest of petitioner, fully and legally describe the road or park sought to be closed and discontinued and shall set forth the names of all abutting property owners and the legal description of each individual parcel and the owner thereof abutting on such street or park. Such petition shall state fully petitioner's reasons for desiring such road or park to be closed and discontinued. The facts set forth in such petition shall be sworn to by the petitioner. (Code 1965, § 17-2.)

Sec. 19-7. Public hearing.

Upon petition being filed as provided in section 19-6, or upon the motion or resolution of the town commission acting on its own motion, the commission may,

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If in its absolute discretion it deems the facts set forth in the petition warrant the closing or discontinuing of the public park or street described therein, adopt a resolution fixing the date for a public hearing thereon at least fourteen days subsequent to the filing of said petition. A notice of such hearing, giving the time and place thereof, shall be published once in a newspaper published in the county in which the road is located, the publication being at least seven days prior to the time and date set for such hearing. (Code 1965, § 17-3.)

Sec. 19-8. Action by commission.

After the public hearing is held, as provided in section 19-7, and the town commission finds:

- (a) That the public park or street has not been used as such or that any prior use has been abandoned, or
- (b) That the public park or street is of no benefit to the town and the public, or
- (c) That the closing and discontinuing of the public park or street is to the best interest of the public, then in any of such events, the commission may, in its absolute discretion, by resolution, close and discontinue such public park or street. (Code 1965, § 17-4.)

Sec. 19-9. Copy of resolution to be recorded.

Upon the adoption of any resolution closing and vacating and discontinuing any public park or street a copy of such resolution, duly certified or acknowledged by the town auditor and clerk, shall be recorded in the public records in the office of the clerk of the circuit court of the county in which such street or park is located. (Code 1965, § 17-5.)

Sec. 19-10. Deposit of expenses.

Accompanying each petition filed as provided in this article, shall be a deposit in such amount as the town commission may from time to time prescribe to fully and adequately pay any expenses, including but not limited to the expense of publication and recording connected with action on such petition. (Code 1965, § 17-6.)

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Subdivisions and Other Divisions of Land

CHAPTER 20.

SUBDIVISIONS AND OTHER DIVISIONS OF LAND.¹

Article I. In General.

- § 20-1. Title and purpose of chapter.
- § 20-2. Applicability of Building Code, Zoning Ordinance, etc.

Article II. Subdivisions.

- § 20-3. Definitions.
- § 20-4. Planning and construction standards generally.
- § 20-5. Preliminary sketch--Submission; contents; form.
- § 20-6. Same--Filing fee.
- § 20-7. Final plat--Filing; contents; form.
- § 20-8. Same--Documents to be also submitted; filing fee.
- § 20-9. Same--Consideration by town manager and planning and zoning board.
- § 20-10. Same--Approval by town commission.
- § 20-11. Bond covering costs of improvements required.
- § 20-12. Recording and sales prohibited prior to town commission approval.
- § 20-13. Inspection; certificate of completion; release of bond.
- § 20-14. Requirements for streets, roads and sidewalks.
- § 20-15. Drainage requirements.
- § 20-16. Easements.
- § 20-17. Water and sewerage.

Article III. Land Development Other Than Subdivisions.

- § 20-18. Defined.
- § 20-19. Purpose and scope of article.
- § 20-20. Procedure for approval.
- § 20-21. Requirements and standards.
- § 20-22. Filing fees.

1. For charter provisions as to maps and plats, see char., §§ 138 to 141.

For state law as to maps and plats of subdivided land, see Fla. Stats., § 177.01 et seq.

As to planning and zoning board, see §§ 2-14 to 2-21 of this Code. As to building regulations generally, see ch. 6. As to real estate signs, see § 18-7.

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Article I. In General.

Sec. 20-1. Title and purpose of chapter.

This chapter shall be known as the Longboat Key Land Development Code.

The purpose of this chapter is to regulate land development in the interest of stable and economically sound community development; to create a healthful and desirable atmosphere in which to live and work; to provide for the efficient, adequate and economic supply of utilities and services where required by development and growth; to prevent traffic hazards; to provide for safe and convenient traffic circulation, both vehicular and pedestrian; to provide adequate roads and streets in the town and to generally promote, protect and improve the public health, safety, comfort, convenience and general welfare. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-2. Applicability of Building Code, Zoning Ordinance, etc.

Nothing contained in this chapter shall be deemed to relieve any person from the requirements of the Building Code, Zoning Ordinance or any other relevant town ordinance or law of the state. (Ord. No. 174, § 1, 6-17-70.)

Article II. Subdivisions.

Sec. 20-3. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Corner lot. Any lot located at the intersection of two or more roads or streets, or located on a curve whose radius is one hundred twenty-five feet or less measured from the adjacent right of way line.

Dead end street. Any street in which the entrance and the exit are one and the same.

Irregular lot. Any lot not rectangular in shape.

Lot. The smallest unit on a plat within a subdivision which may be utilized for private purposes.

Plat. A map or plan for the division of a parcel of land.

Street. A right of way for vehicular traffic and which is available to use of the general public.

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Subdivision. The subdivision of a parcel of land into three or more lots or parcels for the purpose of transfer of ownership or building development, or if the dedication of a new street is involved, any division of a parcel of land. The term "subdivision" includes resubdivision and when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

Underground drainage provision. Any type of completely covered water-carrying conduit. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-4. Planning and construction standards generally.

All planning and construction of subdivisions shall conform with this Code and ordinances, regulations and standards on file in the town office and shall be subject to state laws applying to health regulations and approvals and the employment of registered professional engineers and land surveyors where applicable. This particularly applies to surveying, platting, storm sewers, sanitary sewers, water supply and fire protection. Provisions for other utilities such as telephone lines, power and light lines, gas lines and street lighting may be involved and shall conform with the state, county and town regulations and such orderly arrangement and construction as the town may consider practicable. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-5. Preliminary sketch--Submission; contents; form.

Before any land is developed as a subdivision, a preliminary sketch of the proposed subdivision shall be submitted to the town manager for consideration and approval. The sketch shall show in scale the entire layout including streets, lots, blocks and proposed public areas, if any, storm drainage, water supply and distribution, waste water treatment and facilities. A preliminary sketch of the proposed subdivision shall also be submitted to the health department of the county in which the subdivision is located for its consideration and approval. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-6. Same--Filing fee.

A filing fee in the amount of fifty dollars to cover the costs of investigation and inspection, shall be paid at the time of filing the preliminary sketch. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-7. Final plat--Filing; contents; form.

After the preliminary sketch has been approved by the town manager and the health department, a final plat, prepared by a licensed professional engineer in accordance with the preliminary sketch, shall be filed with the town manager. A copy shall also be filed with the county health department. The final plat shall include:

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(a) Primary control points approved by the town manager with descriptions and ties to such control points to which all dimensions, angles, bearings and similar data on the plat shall be referred.

(b) Tract boundary lines, right-of-way lines of streets, easements and other right-of-way and property lines, residential lot lines, building setback lines and any other information which will clearly set forth the intent of the development. All shall have accurate dimensions, bearings or deflection angles and radii, arcs and central angles of all curves.

(c) Name and right-of-way width of each street or other rights-of-way or easements. Proposed streets which are in alignment with other streets either existing or proposed shall bear the same name as such existing or proposed streets.

(d) Location, dimensions and purposes of any easement.

(e) Number to identify each lot site.

(f) Letters to identify each block where lot numbers may be duplicated.

(g) Location and description of permanent reference monuments, which shall be placed on all streets at all angle points, street intersections, the point of curvature and points of tangency of curves and at any other places which will facilitate the reproduction of the plat lines on the ground. Where block corners are curves, points of intersection may be monumented instead of points of curvature and points of tangency.

(h) Names of record owners adjoining unplatted land.

(i) Reference to recorded subdivision plats of adjoining platted land by record name.

(j) Title, scale, north arrow and date.

(k) Area of each nonrectangular lot. This may be on a tabulated sheet certified to by the surveyor.

(l) All final plats will be drawn in India ink on tracing cloth eighteen inches wide by twenty-five inches long, including a three inch binding margin on the left hand side. The scale of all plats shall not be smaller than one inch to each one hundred feet shown on the plat.

(m) All lands within the boundaries of the plat shall be accounted for either by blocks, lots, parks, streets, alleys, or excepted parcels. All areas on such plat designed for public use shall be dedicated to public use. All areas so designated shall meet all requirements of this article.

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(n) All lands shown on a plat shall be reasonably suitable and safe for the purposes for which the lands are intended to be used and developed. No plat shall be approved for lands extending beyond the bulkhead line of the town.

(o) All final plats shall contain all the certificates required by the county wherein the plat is to be recorded as well as dedication certificates for streets, roads, easements and other lands intended for the public use. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-8. Same -- Documents to be also submitted; filing fee.

The following documents shall be filed with the town manager along with the final plat:

(a) A certificate of record ownership prepared and certified by a duly licensed title information company transacting business in the county where the subdivision is located, showing ownership of the subdivision area, as well as encumbrances thereon.

(b) A statement from a licensed professional engineer indicating an estimated cost of constructing streets and roads, sidewalks and curbs; water, sewerage, drainage and street lighting structures and systems; and other improvements intended for the use of the subdivision community or the general public. The estimate of construction costs shall be subject to approval by a licensed professional engineer appointed by the town.

(c) A filing fee in the amount of two hundred dollars plus twenty-five dollars for each acre, or portion thereof, included within the subdivision.

(d) The written approval of street names by the post office department.

(e) A letter from the county board of health approving the plans for the subdivision. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-9. Same -- Consideration by town manager and planning and zoning board.

Within fifteen days after receiving the final plat with accompanying documents, the town manager shall forward the same, with his recommendations, to the planning and zoning board. The planning and zoning board shall consider the plans and documents and the recommendations of the town manager, and shall, within thirty days after receipt thereof, forward the same with its own recommendations to the town commission. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-10. Same -- Approval by town commission.

Within thirty days after receipt of the plan, documents and recommendations, the town commission, after due consideration thereof, shall approve the proposed

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subdivision if the same complies with all requirements of law and the ordinances of the town; otherwise it shall disapprove the same. As a condition precedent to the granting of approval, however, a bond covering the construction cost of public improvements shall be filed. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-11. Bond covering costs of improvements required.

A bond covering the cost of construction of proposed streets, roads, water and sewer systems, drainage structures, curbs and sidewalks, street lighting systems and other similar improvements for community and public use shall be required by the town commission. The bond may be either a cash bond or a surety bond made by a surety company legally authorized to do business in the state. The bond shall meet the following requirements:

(a) The bond shall be for the use of the town and all persons supplying the obligor or its contractors or subcontractors, or some or any of them, with labor, services, materials and supplies used directly or indirectly in and about the construction of all improvements required by the regulations of the town for or in connection with the approval of the plat.

(b) The bond shall be in the penal sum of one hundred ten percent of the estimated cost of construction and shall be in a form satisfactory to the town attorney.

(c) The bond shall be for a term sufficient for the obligor to complete the improvements and for a period of one year after acceptance of such improvements by the town.

(d) The condition of the bond shall be that if the obligor shall in all respects fully comply with, carry out and construct, erect and build the improvements shown on the subdivision plans on file in the office of the town manager in accordance with this Code and other ordinances and regulations of the town and any additions, amendments or alterations thereof which are approved by the town, and shall complete all of such work within the time prescribed or within such extended period of time to which the town may agree, and shall promptly make proper payments to all persons supplying the obligor or its contractors or subcontractors with labor, services or materials used directly or indirectly by it or them or some of them in the prosecution of such work and shall promptly repair or replace any of such improvements to the condition required by this chapter should the same, because of defective materials, engineering or workmanship require such repair or replacement within one year after inspection and acceptance of the improvements by the town, then the bond shall be void, otherwise to remain in full force and effect; and if the obligor shall fail or refuse to complete the work set forth in the plans on file with the town manager within the time prescribed or extensions thereof, then the town may complete such work and pay therefor with the proceeds from the bond, and if the obligor shall fail or refuse to pay persons supplying labor, services, materials or supplies used directly or indirectly by the obligor or its contractors or subcontractors, or some or any of them, in the prosecution of the work set forth in the plans on file in the office of the town manager then such persons may enforce

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payment therefor against this bond in the manner authorized by law; and if the town is responsibly required to expend funds in the enforcement of the requirements of this article, then the town may enforce payment thereof against the bond. The bond shall contain the provision that in the event of such default the surety, upon demand by the town, shall deposit in cash, the sum of money sufficient to cover estimated cost of curing any such defaults, plus twenty percent which shall be used by the town to complete the improvements or to cure subject defaults. Surplus funds on deposit shall be refunded by the town to the principal or surety depending upon which one made such advances.

(e) If cash or other liquid security is posted in lieu of a surety bond, on application the town manager may release a sum equal to seventy-five percent of the cost of the work completed in each major category of construction work upon certification by the project engineer of the obligor showing the percentage of completion of each major category of construction work. Such certification shall be subject to the approval of an engineer designated by the town. Twenty-five percent of the bond shall be retained for a period of one year after final acceptance of the work by the town unless the commission at its discretion reduces the retained percentage. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-12. Recording and sales prohibited prior to town commission approval.

No plat of the subdivision may be recorded, nor may any sales of subdivision lots be made, until the subdivision has been approved by the town commission as set forth in this article. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-13. Inspection; certificate of completion; release of bond.

(a) After all work covered by the bond has been completed, application shall be made to the town manager to inspect the work. At the time application is made, a certification by a professional engineer duly licensed in the state, stating that he has inspected the work and it has been completed according to the approved plans, shall also be filed. Thereafter, the town manager shall cause the work to be inspected. If the construction has been completed in a workmanlike manner, in accordance with the approved plans and the standards and requirements of this article, the town manager shall issue a written statement to the applicant, reciting that an inspection has been made and that on the date of the inspection all construction work appeared to be complete, satisfactory and in accord with the requirements of the town.

(b) One year after inspection of the completed work by the town manager, application may be made for a certificate of completion. At the time of making such application, the following documents shall be filed with the town manager:

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(1) Dedication certificates for streets, roads, easements and other lands intended for public use.

(2) Two reproducibles of construction plans corrected to accord with construction as built, together with two reproducibles of the recorded plat.

(3) A statement that plans corrected to show "as built" revisions have been filed with all governmental units having jurisdiction of the subdivision.

(4) A letter or other evidence of approval by the state board of health of the completed facilities of the subdivision.

(5) Proof of compliance with such other requirements as may have been imposed by the town commission.

(6) An affidavit showing ownership of and liens against the land comprising the subdivision dated within five days of the request for a certificate of completion.

After receipt of the foregoing documents, the town manager shall cause the construction work covered by the bond to be finally inspected. If all conditions of the bond have been met and all the requirements of this article have been complied with, the town manager shall then issue a certificate of completion, which may be used to procure release of the bond. The town manager may also execute any other instruments required to procure the release of the bond. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-14. Requirements for streets, roads and sidewalks.²

(a) Right-of-way widths. All streets shown on a plat shall have a right-of-way at least fifty feet in width. When the town has adopted a comprehensive road plan and such plan shows a right-of-way wider than the minimum herein prescribed, then such street right-of-way shall be at least as wide as shown thereon.

(b) Intersections; reverse curves. Street intersections shall be as nearly at right angles as practicable; no intersection shall be at an angle of less than sixty degrees. A tangent of at least one hundred feet in length shall be introduced between reverse curves (P.R.C.) on all arterial and collector streets.

(c) Curbs. All streets and roads shall have curbs which shall be constructed of portland cement concrete and may be either a standing curb with integral gutter or a twenty-four inch wide valley gutter. Curbs must be constructed in accordance with specifications set forth in a construction code for curbs as adopted and amended from time to time by the town and on file in the office of the town auditor and clerk.

(d) Minimum pavement width. The minimum paved traveled way width of all streets shall be twenty-two feet. This twenty-two feet shall be exclusive of curb and gutter or valley gutter.

2. As to streets and sidewalks generally, see ch. 19 of this Code.

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(e) Private roads. If a plat shows areas thereon designated as private roads or streets, such areas shall meet all requirements of this chapter for public streets; except, that it shall not be dedicated to public use. When a private street or road is shown on a plat of a subdivision, the town commission may at the time of final plat approval require reasonable evidence that adequate provision has been made for the future maintenance thereof without cost or expense to the town.

(f) Construction of streets and roads. All streets and roads in new subdivisions shall consist of a properly prepared subgrade, an approved road base and an asphaltic or other approved wearing surface. All construction shall be in accordance with the approved plans and specifications as well as with the graphic standards and construction specifications set forth in a construction code for streets and roads as adopted and amended from time to time by the town and on file in the office of the town auditor and clerk. Any and all required tests shall be at the expense of the subdivider. Tests shall be performed by a duly licensed engineer acceptable to the town.

(g) Dead end streets. Subdivision of property abutting a street shall be provided with a turn-around at the end thereof, having a street right-of-way diameter of at least one hundred feet. The paved traveled way shall have a diameter of not less than seventy feet.

(h) Half-streets. Subdivision of property abutting a street accepted prior to the adoption of this chapter shall provide sufficient street width to afford at least a twenty-five foot right-of-way from the center line of the existing street. Dedication of public or designation of private half-streets shall not be permitted unless the development plan requires the construction of the entire width of the street and the abutting owner agrees in writing to plat the other half of the street as a public or private street.

(i) Major highways. When a subdivision contains or abuts a major highway, either existing or proposed, the street design of the subdivision shall conform to the access requirements and design of such major highway. In order to promote traffic safety and to avoid the creation of hazardous traffic situations, the subdivision shall be so designated as to prohibit access to a state or federal highway from individual lots or parcels.

(j) Location of streets. All subdivision streets and roads shall be located so that present and future traffic and other road requirements may be adequately and fully accommodated. Where practical subdivision streets shall not enter major highways at intervals of less than five hundred feet.

(k) Street signs. All streets shall be provided with street name signs which shall be erected at all street intersections. The size, shape and design of the signs shall be approved by the town manager.

(l) Sidewalks. When a plat of a subdivision shows sidewalks thereon, such sidewalks shall at least meet the following requirements:

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(1) Sidewalks shall be not less than four feet wide; of concrete construction; and not less than four inches thick, reinforced with steel and structurally sound.

(2) Sidewalks shall be located at least five feet from the paved portion of a street right-of-way and at least twelve inches from the boundary of the street right of way. All sidewalks shall be located entirely within the street right-of-way. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-15. Drainage requirements.

(a) Scope. A complete drainage system shall be provided. All areas, including lots, streets, alleys and other areas must be suitably drained. In addition, if the drainage runoff from outside the subdivision passes over or through areas of the subdivision, such runoff shall be included in the drainage system design. All drainage shall be so designed that it leads to a positive and adequate outfall.

(b) Criteria. The drainage system shall be designed for floods resulting from rain storms of (a) twenty-five year intervals for major drainageways, (b) ten year intervals for all other drainage. Either the "rational formula" or other acceptable methods commonly employed for drainage work shall be used in hydraulic calculations. Rainfall intensity data shall be taken from established references. Ultimate land uses shall be assumed for selection of the proper runoff co-efficient whether within the subdivision or not. Weighted runoff co-efficients may be applied where different co-efficients apply within the area comprising drainage basins.

(c) Culverts. Drainage pipe shall be reinforced concrete pipe. Pipes not subjected to wheel traffic loads may be of nonreinforced concrete. All culverts under roadways shall have suitable headwalls made of reinforced concrete or reinforced concrete block. Reinforced concrete block structures will only be allowed where they contain reinforcing steel and the blocks are poured with concrete. All concrete block structures shall be finished outside with a coating of cement.

(d) Drainage structures. Drainage structures such as headwalls, weirs or other structures shall be designed hydraulically and structurally in accordance with accepted engineering practices and in accordance with the standard plans of the town. Whenever underdrains are required, they shall be placed eighteen inches outside of the curb and with a slope parallel to the curb. Minimum size of such pipe shall be four inch perforated.

(e) Plans and specifications. All plans and specifications related to the above shall be prepared by an engineer registered in the state. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-16. Easements.

(a) All subdivision plats shall contain a dedication to the town of the following easements:

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(1) An easement of five feet in width on each side of all side lot lines for surface or underground drainage, but limited if used to one side of any one lot. Where more than one lot is intended as a building site, the outside five feet of the side boundaries of the lots involved shall be subject to said easement as if such building site was one lot. When the site of the easement is fixed by use, the site thereof shall not thereafter be modified except by resolution of the town commission.

(2) The rear five feet of all lots within a subdivision, except those which abut on water, shall be dedicated as an easement for underground and overhead utilities and underground and surface drainage. If lots abut on water and do not abut on a public street then the front five feet of such lots shall be dedicated to the town for such purposes.

(3) The front five feet of all lots abutting a turn-around at the end of a dead end street shall be dedicated as an easement for underground and overhead utilities and underground and surface drainage.

(b) All right of way easements, drainage easements and drainage structures and lands shown on a plat intended for the use of the public shall be dedicated to the town at no expense to the town. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-17. Water and sewerage.³

Water supply and sewerage disposal systems shall be so designed and constructed as to be capable of integration into public water supply or sewerage disposal systems. The town commission may require covenants providing for the dedication of water and sewer distribution lines and easements when such public water supply and sewerage systems, or either of them, become available. (Ord. No. 174, § 1, 6-17-70.)

Article III. Land Development Other Than Subdivisions.

Sec. 20-18. Defined.

A "land development other than a subdivision," for the purpose of this article, shall be deemed to mean land intended to be developed with:

(a) One or more structures containing two or more dwelling units. A dwelling unit, shall be defined as a sleeping room with or without cooking facilities.

(b) One or more structures intended for commercial use of a nonresidential character, or for public use, or for use by clubs, societies or other organizations of a private or semi-private nature. (Ord. No. 174, § 1, 6-17-70.)

3. As to water and sewerage generally, see ch. 11 of this Code.

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Sec. 20-19. Purpose and scope of article.

The purpose of this article shall be to require that the regulations of article II of this chapter, which concern drainage, sewerage, water supply, streets, roads, curbs, sidewalks, easements, street lighting and other public improvements shall apply to land developments other than subdivisions. The provisions of this article shall be applicable to land intended to be developed as private, commercial, semi-public or public buildings, including, but not limited to condominium dwellings or apartments, rental apartments, hotels, motels, clubhouses, multiple dwellings, single-family and two-family dwellings not included as units of a subdivision, and also stores, restaurants, theaters, churches, libraries, schools and other similar structures. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-20. Procedure for approval.

(a) Before any sales or rentals are made of any proposed building or part thereof, or of any unit of land, in a land development other than a subdivision, and before any building permit may be issued in connection with such development, approval of the development must be obtained as set forth herein.

(b) Where it is not intended to subdivide the land development area, the following procedure shall be followed:

(1) A plot plan, drawn to a reasonable scale by a registered engineer, with north arrow and legal description of the tract, shall be filed with the town manager. The plan shall include the location and dimensions of buildings and structures, streets, roads and other rights-of-way, water and sewer lines, drainage facilities, easements for utilities, parking areas, traffic circulation pattern and buffer zones, if applicable. The land developer may submit preliminary plans for approval prior to submitting final plans for approval and submission to the town commission.

(2) If the plot plan complies with all the requirements of law and of this article, the town manager shall, within fifteen days after receipt of the plan, submit the same, with his recommendations, to the town commission. The town commission shall consider the plan and the facilities, utilities and easements shown thereon; if the plan involves matters requiring detailed study or unusual circumstances, the commission may request the advice and recommendations of the planning and zoning board. After consideration of the plan with accompanying recommendations, the commission, within sixty days after receipt of the plan from the town manager, shall approve the plan if it complies with all pertinent laws, ordinances and regulations; otherwise it shall disapprove the plan. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-21. Requirements and standards.

Land developments other than subdivisions shall comply with the same requirements and standards in respect to streets, roads, curbs, sidewalks, water,

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sewerage, and drainage as are established for subdivisions by article II of this chapter. If required, easements may be dedicated to the town for public utilities and for drainage; such easements may extend through portions of the development, if the same is reasonable, or along lot or boundary lines. (Ord. No. 174, § 1, 6-17-70.)

Sec. 20-22. Filing fees.

A filing fee of twenty-five dollars shall accompany each application for approval under this article.

Where the number of dwelling units which are to be constructed is in excess of ten, an additional fee of two dollars shall be charged for each dwelling unit over ten.

Where one or more structures are to be erected for commercial use of a non-residential character, or for public use, or for use by private or semi-private organizations, and the total floor area of the proposed structure or structures will exceed two thousand five hundred square feet, an additional fee of two dollars shall be charged for each five hundred square feet, or fraction thereof, of floor area.

A land development by the town shall not be subject to payment of any fee. (Ord. No. 174, § 1, 6-17-70.)

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Taxation

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CHAPTER 21.

TAXATION. 1

Article I. In General.

§§ 21-1 to 21-5. Reserved.

Article II. Excise Taxes on Electricity,
Metered and Bottled Gas, Etc.

- § 21-6. Definitions.
- § 21-7. Levied schedules.
- § 21-8. Duty of seller to collect, discontinuance of service for failure to pay bill.
- § 21-9. Computation when seller collects monthly.
- § 21-10. When sale is determined to have been made.

Article III. Excise Tax on Cigarettes.

- § 21-11. Levied, amount.
- § 21-12. Collection by state division of beverage.
- § 21-13. Disposition of revenue

Article I. In General.

Secs. 21-1 to 21-5. Reserved.

Article II. Excise Taxes on Electricity,
Metered and Bottled Gas, Etc.

Sec. 21-6. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. For charter provisions as to department of records generally, see char., §§ 43 to 64. As to finance and taxation generally, see char., §§ 67 to 84. As to equalizing board, see char., §§ 85 to 103. As to authority of town to borrow in anticipation of taxes, see char., § 7.
For state law as to authority of town to impose and collect taxes, see Fla. Stats., § 167.43.
As to social security for town employees, see §§ 2-6 to 2-13 of this Code. As to license tax of manufacturer sale of alcoholic beverages, see §§ 3-1, 3-2.
2. For state law authorizing town to levy tax on public services, see Fla. Stats., § 167.431

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Purchase. Every act or transaction whereby possession of, utilization of, control over or title to electricity, metered gas and bottled gas (natural or manufactured), fuel oil and local telephone service, and the duty and obligation to pay therefor, becomes vested in the purchaser within the town, but not any such act or transaction when undertaken or performed by an agency or instrumentality of the government of the United States of America, (other than a national bank or financial institution), the state, (other than a state bank or financial institution), the county or the town. Purchase of less than five gallons of fuel oil, purchase of fuel oil by public or private utilities for use as fuel in the generation of electricity, under section 167.431, Florida Statutes, fuel oil purchase subject to state road tax and purchase by churches, under section 167.432, Florida Statutes, shall be exempt from taxation.

Purchaser. Every person legally liable for the payment of electricity, metered gas and bottled gas (natural or manufactured), fuel oil delivered or local telephone service rendered to him by a seller, unless such person is an agency or instrumentality of the government of the United States of America, (other than a national bank or financial institution), the state, (other than a state bank or financial institution), the county or the town. Purchase of less than five gallons of fuel oil, purchase of fuel oil by public or private utilities for use as fuel in the generation of electricity, under section 167.431, Florida Statutes, fuel oil purchase subject to state road tax and purchase by churches, under section 167.432, Florida Statutes, shall be exempt from taxation.

Telephone service. All such types and kinds of local service as are rendered by telephone companies to any purchaser of such service within the town, but not such service as is rendered in consideration of the deposit of money in telephone coin boxes installed within the town; provided, that the total amount of the guaranteed charge for semi-public coin box telephone service shall be subject to tax. (Ord. No. 183, § 2, 11-4-70; Ord. No. 185, § 1.)

Sec. 21-7. Levied; schedules.

There is hereby levied and imposed by the town upon every purchase of electricity, metered gas and bottled gas (natural or manufactured), fuel oil and local telephone service, included in or reflected by any bill rendered by the seller to the purchaser on and after January 15, 1972, an excise tax, the amount whereof shall be determined and computed in accordance with the following schedules:

Schedule A

To be used when the seller, in accordance with his rules and regulations, renders a bill monthly or oftener to the purchaser to cover purchases made during the period of time to which the bill is applicable.

The amount of excise tax shall be:

Five percent of the first one hundred dollars of the total amount, exclusive of governmental charges and taxes, shown on any such bill as being due and payable on account of such purchases, plus

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Two and one-half percent of the next nine hundred dollars of such total amount, plus

One and one-half percent of any sum in excess of one thousand dollars of such total amount.

Schedule B

To be used when the seller, in accordance with his rules and regulations, renders a bill bimonthly, quarterly or otherwise less frequently than monthly, to cover purchases made during the period of time to which the bill is applicable.

(a) The seller shall determine what part of the total amount, exclusive of governmental charges and taxes, shown on any such bill as being due and payable on account of such purchases is, under his rules and regulations, attributable to the purchases made during each of the monthly periods included within the total period of time covered by such bill.

(b) Compute the amount of excise tax attributable under this article to each such part of the total amount, as so determined, by employing, with respect to each such part, the method and procedure described in Schedule A for monthly bills.

(c) The total amount of excise payable under this article on account of any such bill shall be the arithmetical sum of all of the amounts of excise tax resulting from the computations made with respect to each such part as provided in this article. (Ord. No. 183, § 1, 11-4-70; Ord. No. 209, § 1, 1-5-72.)

Sec. 21-8. Duty of seller to collect; discontinuance of service for failure to pay bill.

It shall be the duty of every seller of electricity, metered or bottled gas (natural or manufactured), fuel oil or local telephone service, to collect from the purchaser, for the use of the town, the tax hereby levied, at the time of collecting the selling price charged for each transaction, and to report and pay over, on or before the fifteenth day of each calendar month, to the treasurer of the town, all such taxes levied and collected during the preceding calendar month. It shall be unlawful for any seller to collect the price of any sale of electricity, metered or bottled gas (natural or manufactured), fuel oil or local telephone service, without, at the same time, collecting the tax hereby levied in respect to such sale or sales, unless such seller shall elect to assume and pay such tax without collecting the same from the purchaser. Any seller failing to collect such tax at the time of collecting the price of any sale, where the seller has not elected to assume and pay such tax, shall be liable to the

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town for the amount of such tax in like manner as if the same had been actually paid to the seller, and the town manager shall cause to be brought all suits and actions and to take all proceedings in the name of the town as may be necessary for the recovery of such tax; provided, that the seller shall not be liable for the payment of such tax upon uncollected bills. If any purchaser shall fail, neglect or refuse to pay to the seller, the seller's charge, and the tax hereby imposed and as hereby required, on account of the sale for which such charge is made, or either, the seller shall have and is hereby vested with the right, power and authority to immediately discontinue further service to such purchaser until the tax and the seller's bill shall have been paid in full. (Ord. No. 183, § 3, 11-4-70.)

Sec. 21-9. Computation when seller collects monthly.

In all cases where the seller of electricity, metered gas or bottled gas (natural or manufactured), fuel oil or local telephone service collects the price thereof at monthly periods, the tax hereby levied may be computed on the aggregate amount of sale during such period; provided, that the amount of tax to be collected shall be the nearest whole cent to the amount computed. (Ord. No. 183, § 4, 11-4-70.)

Sec. 21-10. When sale is determined to have been made.

For the purpose of this article, a sale shall be determined to be made in the town in every instance where electricity, metered or bottled gas (natural or manufactured), fuel oil and local telephone service is delivered to a purchaser residing within the town, regardless of whether the residence or business office or headquarters of the sellers is located within the town or elsewhere. (Ord. No. 183, § 5, 11-4-70.)

Article III. Excise Tax on Cigarettes.³

Sec. 21-11. Levied, amount.

(a) An excise or privilege tax in addition to all other taxes of every kind imposed by law is hereby levied and imposed upon the sale, receipt, purchase, possession, consumption, handling, distribution and use of cigarettes in the town for cigarettes of standard dimensions as defined by the general law of the state in the following amounts:

(1) Upon all cigarettes, as herein defined, four inches long or less, five and one-half mills on each cigarette.

³ For state law as to cigarette tax generally, see Fla. Stats., § 210.01 et seq.

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(2) Upon all cigarettes, as herein defined, more than four inches long and not more than six inches long, eleven mills on each cigarette.

(3) Upon all cigarettes, as herein defined, more than six inches long, twenty-two mills on each cigarette.

(b) The description of cigarettes contained in paragraphs (1), (2) and (3) of subsection (a) are hereby declared to be standard as to dimensions for taxing purposes as provided in this article and should any cigarette be received, purchased, possessed, sold, offered for sale, given away or used of a size other than of standard dimensions, the same shall be taxed at the rate of one cent on each such cigarette.

(c) Where cigarettes as described in paragraph (1) of subsection (a) are packed in varying quantities of twenty cigarettes or less, the following rates shall govern:

(1) Packages containing ten cigarettes or less require a five and one-half cent tax.

(2) Packages containing more than ten but not more than twenty cigarettes require an eleven cent tax.

(d) Where cigarettes, as described in paragraph (2) of subsection (a), are packed in varying quantities of twenty cigarettes or less, the following rates shall govern:

(1) Packages containing ten cigarettes or less require an eleven cent tax.

(2) Packages containing more than ten but not more than twenty cigarettes require a twenty-two cent tax.

(e) Where cigarettes, as described in paragraph (3) of subsection (a) are packed in varying quantities of twenty cigarettes or less, the following rates shall govern:

(1) Packages containing ten cigarettes or less require a twenty-two cent tax.

(2) Packages containing more than ten but not more than twenty cigarettes require a forty-four cent tax. (Code 1965, § 25-1; Ord. No. 136, § 1, 4-1-66.)

Sec. 21-12. Collection by state division of beverage.

The tax levied and imposed in this article shall be collected by the division of beverage of the department of business regulation of the state in the manner prescribed in chapter 210, Florida Statutes. (Code 1965, § 25-2.)

Sec. 21-13. Disposition of revenue.

All funds received by the town by virtue of this article shall be paid into a separate fund to be designated cigarette tax fund and shall be used and expended only for the purposes specified in section 210.03, Florida Statutes. (Code 1965, § 25-3.)

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Water

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CHAPTER 21A.

WATER.

Article I. In General.

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- § 21A-2. Application for service.
- § 21A-3. Responsibilities of town.
- § 21A-4. Consumer's responsibilities.
- § 21A-5. Access to premises.
- § 21A-6. Extensions.
- § 21A-7. Procedure upon change of occupancy.
- § 21A-8. Rates and charges.
- § 21A-9. Meter reading; billing procedure; delinquent notices; discontinuance of service upon failure to pay delinquent bills.
- § 21A-10. Procedure for complaints and adjustment of bills.
- § 21A-11. Discontinuance, restoration and refusal of service generally.
- § 21A-12. Tapping water mains, etc., without permission.
- § 21A-13. Special contract agreement for subdivision extensions, etc.

Article II. Minimum Standards for Potable Water.

- § 21A-14. Use of nonpublic water supply by public places, etc.; penalty for violation of section.
- § 21A-15. Applicability of state standards in determining potability of water.
- § 21A-16. Connection to town water supply required; exception.
- § 21A-17. Testing of town water supply.
- § 21A-18. Temporary or permanent injunctions.

Article I. In General.

Sec. 21A-1. Operation of water department.

The town water department shall operate in accordance with the services, rules and regulations as established by this chapter. (Ord. No. 206, § 1, 10-20-71.)

Sec. 21A-2. Application for service.

Each customer requesting service shall make the necessary application at the Town Hall, and at the same time pay the necessary deposits and meter charge. (Ord. No. 206, § 1, 10-20-71.)

Sec. 21A-3. Responsibilities of town.

(a) The town shall run a service line from its distribution line to the property line where the distribution line exists, or is to be constructed, and runs immediately adjacent and parallel to the property to be served.

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(b) The town may make connections to service other properties not adjacent to its lines upon payment of reasonable costs for the extensions of its distribution lines as may be required to render such service.

(c) The town may install its meter at or near the property line or, at the town's option, on the consumer's property within three feet of the property line.

(d) The town reserves the right to refuse service unless the consumer's lines or piping are installed in such a manner as to prevent cross-connection or backflow. A plumbing inspection by the town will be made to insure compliance with the foregoing.

(e) Under normal conditions, the consumer will be notified of any anticipated interruption of service (Ord. No. 206, § 1, 10-20-71.)

Sec. 21A-4. Consumer's responsibilities.

(a) Where a meter or meter box is placed on the premises of the consumer, a suitable place shall be provided by the consumer therefor, unobstructed and accessible at all times to the water meter reader.

(b) The consumer shall furnish and maintain a private cut-off valve on the consumer's side of the meter; the town shall provide a like valve on its side of such meter.

(c) The consumer's piping and apparatus shall be installed and maintained by the consumer at the consumer's expense, in a safe and efficient manner and in accordance with the town's rules and regulations and in full compliance with the sanitary regulations of the state and county health authorities.

(d) Water furnished by the town shall be used for consumption by the customer and users connected to the system, and is not for resale. Disregard for this rule shall be sufficient cause for refusal or discontinuance of service. (Ord. No. 206, § 1, 10-20-71.)

Sec. 21A-5. Access to premises.

Duly authorized agents of the town shall have access at all reasonable hours to the premises of the consumer for the purpose of installing or removing town property, inspecting piping, reading and testing meters, or for any other purpose in connection with the town's service and facilities. (Ord. No. 206, § 1, 10-20-71.)

Sec. 21A-6. Extensions.

Extensions to the system shall be made only when the consumer shall grant or convey, or shall cause to be granted or conveyed, to the town a permanent easement or right-of-way across any property traversed by the lines. Extensions may also be made subject to construction grant-in-aid contracts approved by the town. (Ord. No. 206, § 1, 10-20-71.)

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Sec. 21A-7. Procedure upon change of occupancy.

- (a) Not less than three days' notice must be given in person or in writing at the town office to discontinue service or to change occupancy.
- (b) The outgoing party shall be responsible for all water consumed up to the time of departure or the time specified for departure, whichever period is longer.
- (c) The new occupant will apply for water service within forty-eight hours after occupying the premises and failure to do so will make him liable for the water consumed since the last meter reading. (Ord. No. 206, § 1, 10-20-71.)

Sec. 21A-8. Rates and charges.

The rates for all water used through water meters installed shall be due and payable on a monthly basis, commencing the first day of the month the town's water system becomes operative as follows:

(a) Classes of service:

(1) Residences, apartments, condominiums and mobile homes:

\$6.25 per month - First 5,000 gallons
\$0.75 per 1,000 gallons - 5,000 to 10,000 gallons
\$0.65 per 1,000 gallons - Over 10,000 gallons

Minimum monthly charge is \$6.25 for each living unit with a 5,000-gallon allowance per unit.

Separate meter for irrigation use: \$0.65 per 1,000 gallons, with the following minimum:

<u>Meter Size</u>	<u>Minimum Charge</u>
1"	\$3.25
1-1/2"	6.50

(2) Hotel or motel units:

\$5.50 per month - First 4,000 gallons
\$0.75 per 1,000 gallons - 4,000 to 10,000 gallons
\$0.65 per 1,000 gallons - Over 10,000 gallons

Minimum monthly charge is \$5.50 for each living unit with a 4,000-gallon allowance per unit.

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(3) Commercial:

\$6.25 per month - First 5,000 gallons
 \$0.75 per 1,000 gallons - 5,000 to 10,000 gallons
 \$0.65 per 1,000 gallons - Over 10,000 gallons

Minimum monthly charge (except where minimum charge is based on apartments, condominiums, mobile homes, hotel or motel units is larger):

<u>Meter Size</u>	<u>Minimum Charge</u>	<u>Allowance</u>
5/8" x 3/4"	\$ 6.25	5,000 gallons
3/4"	19.75	25,000 gallons
1"	29.50	40,000 gallons
1-1/2"	49.00	75,000 gallons
2"	84.75	130,000 gallons
3"	149.75	230,000 gallons

(b) Installation charges and meter deposits. The town shall collect the following charges as installation charges and the following meter deposits:

<u>Meter Required</u>	<u>Meter Installation Charge</u>	<u>Meter Deposit</u>
5/8" x 3/4"	\$120.00	\$ 20.00
3/4"	135.00	20.00
1"	175.00	50.00
1-1/2"	Cost + 10%	75.00
2"	Cost + 10%	100.00
3"	Cost + 10%	300.00
4"	Cost + 10%	400.00

The meter deposit shall be held by the town until all bills against the service shall be paid in full.

(c) Service charges:

Disconnect.....\$25.00
 Reconnect 10.00
 Service call..... 10.00
 inspection fee 2.00

Bills are due when rendered and are delinquent after thirty days. If not paid within the next ten days, bills will be subject to a ten percent surcharge. (Ord. No. 195, § 2, 4-21-71; Ord. No. 203, § 1, 10-20-71; Ord. No. 206.)

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Sec. 21A-9. Meter reading; billing procedure; delinquent notices; discontinuance of service upon failure to pay delinquent bills.

(a) Meters will be read and bills rendered monthly, but the town reserves the right to vary the dates or length of period covered, temporarily or permanently if necessary or desirable.

(b) Bills for water service will be figured in accordance with section 21A-8 and will be based on the amount consumed for the period covered by the meter reading, except where a consumer orders turn-off less than one month after turn-on, the minimum bill to such consumer for such period shall be equal to the minimum charge for one full month's service.

(c) Customers subscribing for water service will commence payment of at least a minimum water bill when water is available and a meter is installed.

(d) Readings from different meters will not be combined for billing.

(e) Bills shall be paid at the Town Hall by mail or in person.

(f) Bills are due when rendered, and are delinquent after thirty days.

(g) Delinquent notices may be mailed to the customer thirty days after the regular monthly billing date, but whether mailed or not, if payment is not made within sixty days after the due date, service may be discontinued.

(h) Failure to receive bills or notices shall not prevent such bills from becoming delinquent, nor relieve the consumer from payment. (Ord. No. 206, § 1, 10-20-71.)

Sec. 21A-10. Procedure for complaints and adjustment of bills.

(a) If the consumer believes his bill to be in error, he shall present his claim at the town office before the bill becomes delinquent. Such claim, if made after the bill has become delinquent, shall not be effective in preventing discontinuance of service as heretofore provided. The consumer may pay such bill under protest, and such payment shall not prejudice his claim.

(b) The town will make a special meter reading at the request of a consumer for a fee of two dollars; provided, however, that if such special reading discloses that the meter was over-read, no charge will be made.

(c) Meters will be tested at the request of the consumer upon payment to the town of the actual cost of making the test; provided, however, that if the meter is found to over-register beyond three percent of the correct volume, no charge will be made.

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(d) If the seal of a meter is broken by other than the town's representative, or if the meter fails to register correctly or is stopped for any cause, the consumer shall pay an amount estimated by the town from the record of his previous bills or from other proper data. (Ord. No. 206, § 1, 10-20-71.)

Sec. 21A-11. Discontinuance, restoration and refusal of service generally.

(a) When services are discontinued and all bills paid, the service deposit will be refunded.

(b) Upon discontinuance of service for nonpayment of bills, the service deposit will be applied by the town toward settlement of the account. Any balance will be refunded to the consumer but if the service deposit is not sufficient to cover the bill, the town may proceed to collect the balance in the usual way provided by law for collection of debts.

(c) Service discontinued for nonpayment of bills will be restored only after such bills are paid in full, such service deposit as may be required by the town is made, and a service charge of ten dollars is paid for each meter reconnected.

(d) The town reserves the right to discontinue its service without notice for the following additional reasons:

- (1) To prevent fraud or abuse.
- (2) Consumer's willful disregard for the town's rules.
- (3) Emergency repairs.
- (4) Legal processes.
- (5) Direction of public authorities.
- (6) Strike, riot, fire, flood, accident or any unavoidable cause.

(e) The town may, in addition to prosecution by law, permanently refuse service to any consumer who tampers with a meter or other measuring device. (Ord. No. 206, § 1, 10-20-71.)

Sec. 21A-12. Tapping water mains, etc., without permission.

No person, without the consent of the town or its proper public official, shall tap any pipe or main belonging to the town water department for the purpose of taking or using water from such pipe or main, or for any other purpose, or take or use any water from such pipe or main, or from any hydrant used for the purpose of taking or drawing water from such pipe or main. (Ord. No. 195, § 1, 4-21-71.)

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Sec. 21A-13. Special contract agreement for subdivision extensions, etc.

Extraordinary circumstances, such as subdivision extensions, industrial users, etc., shall be governed by a special contract agreement. (Ord. No. 206, § 1, 10-20-71.)

Article II. Minimum Standards for Potable Water.

Sec. 21A-14. Use of nonpublic water supply by public places, etc.; penalty for violation of section.

In all schools, hotels, motels, public places or other public buildings where water is served to customers, patrons or the general public, including commercial, industrial, apartments, multiple unit apartments and multiple unit condominiums, duplexes, trailer parks and mobile home parks, which secure their or its water supply from a water supply which does not meet the minimum standards for potable water of the department of air and water pollution control of the state under chapter 10-D-4 of the Rules promulgated pursuant to chapter 120, Florida Statutes, the continued use of such nonpublic water supply is expressly prohibited.

Any person, firm, company, corporation or association or the managing agent of any person, firm, company, corporation or association who violates this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not more than five hundred dollars, or shall be imprisoned for no more than sixty days, with each day of such violation constituting a separate offense. (Ord. No. 200, §§ 1, 5, 10-6-71.)

Sec. 21A-15. Applicability of state standards in determining potability of water.

The existing minimum standards of the department of air and water pollution control of the state for potable water shall govern and determine whether the existing water supply is potable. (Ord. No. 200, § 2, 10-6-71.)

Sec. 21A-16. Connection to town water supply required; exception

The owner, tenant or occupant of each parcel of land within the town which abuts on the street or easement which contains a water main supply water from the town's public water supply which serves or which may be served by the town's water distribution system and is not connected to such water main, or upon which lot or parcel a building has been or shall be constructed for the public, multiple unit apartments and multiple unit condominiums, commercial, industrial, motels, hotels, duplexes and trailer park facilities shall, within thirty days after placing the town's public water system in operation, or within thirty days after construction of such building, connect such building with such water system, and shall cease to use any other water, except for outside use, including lawn sprinkling and auto-

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mobile washing, for consumption purposes; provided, however, that if the existing water supply system meets the minimum standards of the department of air and water pollution control of the state for potable water, connection of such building shall not be required unless connection is otherwise required by law or regulations of the state. All such connections shall be in accordance with the rules and regulations which shall be adopted from time to time by the town commission. Such rules and regulations shall provide a charge for making any such connection in such reasonable amounts as the town commission may fix and establish. (Ord. No. 200, § 3, 10-6-71.)

Sec. 21A-17. Testing of town water supply.

In order to ascertain that the existing water supply meets the minimum standards of the department of air and water pollution control of the state for potable water, the town commission shall cause such water supply to be tested not less than four times per year and if such minimum standards for potable water are not met, such building shall be required to connect to the town's public water system. (Ord. No. 200, § 4, 10-6-71.)

Sec. 21A-18. Temporary or permanent injunctions.

In addition to the remedies provided in this article and notwithstanding the existence of any adequate remedy at law, the town commission is authorized to make application to a court of competent jurisdiction for a temporary or permanent injunction, or both, restraining any person or persons from violating or continuing to violate any of the sections of this article or from failing or refusing to comply with the requirements of this article. (Ord. No. 200, § 5, 10-6-71.)

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CHAPTER 22.

ZONING.¹

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For state law as to municipal zoning generally, see Fla. Stats., §§ 176.01 to 176.24.
As to planning and zoning board, see §§ 2-14 to 2-21 of this Code. As to building regulations generally, see ch. 6.
As to applicability of Zoning Ordinance to subdivisions, see § 20-2.

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Article I. In General.

Sec. 22-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Accessory use or structure. A use or structure on the same lot, with and of a nature customarily incidental and subordinate to the principal use or structure.

Alley. Secondary access to property which is located between the rear or sides of adjacent properties and which is designed exclusively for service use.

Apartment hotel. An apartment building designed primarily for permanent residents with ten or more units furnishing services customarily provided by hotels, including but not limited to, a central office or lobby, room service, food service and daily maid service. For the purpose of this section, a dwelling unit in an apartment hotel shall be construed to be a dwelling unit as herein defined plus kitchen facilities.

Arts and crafts. The making of artifacts in a home where no labor, other than members of the family, is employed; where there is no retail sales display; and where there is no advertising, sign or other public notification of such activity.

Building area. The portion of a lot remaining after required yards have been provided.

Building or structure. Any structure constructed or used for residence, business, industry or other public or private purposes or accessory thereto, including tents, lunch wagons, dining cars, trailers, mobile homes, sheds, garages, carports, animal kennels, structures of all types, storerooms, billboards, signs, gasoline pumps and similar structures, whether stationary or movable.

Bungalow courts. A group of two or more detached single-family dwellings under a single ownership on one or more adjoining lots designed primarily for transient or semi-permanent housekeeping, including cooking facilities, and having a separate outside entrance on the ground floor level for each single-family dwelling.

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Curb elevation. The elevation of an established curb in front of a building measured at the center of such front. When no curb elevation has been established, the administrative officer shall establish such elevation or its equivalent for the purpose of this chapter.

Dwelling unit. One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities. This does not include hotels.

Dwelling, mobile home. Any vehicle or similar portable structure having no foundation other than wheels, jacks or skirtings and so designed and constructed as to permit occupancy for dwelling or sleeping purposes. Transient, travel and camper trailers are explicitly excluded from the definition.

Dwelling, multi-family. A single building containing three or more family dwelling units, designed primarily for permanent independent housekeeping, including cooking facilities, by families living entirely separate and apart from one another.

Family. An individual; or two or more persons related by blood, marriage or legal adoption living together; or a group of individuals of not more than six persons not related by blood or marriage but living together as a single housekeeping unit. Foster children are considered part of a family.

Floor area. All livable, fully enclosed floor areas including screen porches and breezeways and excluding garages and carports or accessory buildings, whether attached or detached, shall be considered "floor area" for the purposes of this chapter.

Garage apartment. An accessory building with storage capacity for one or more motor vehicles, above which or appurtenant to which is attached a permanent or semi-permanent residence for not more than one family.

Height of building. The vertical distance measured from the curb or grade level, whichever is the higher, to the highest point of the roof, and to the mean height level between eaves and ridge for gable, hip or gambrel roof.

Hotels.

(a) H-2 Hotel. Dwelling units under a common ownership interest and under a single management furnishing sleeping accommodations or apartments to transient tenants, and services customarily provided by hotels, including but not limited to, a central office or lobby, twenty-four hour desk and telephone service to each unit, complete food and room service and daily maid service;

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and otherwise complying with the requirements of the Florida State Hotel and Restaurant Commission. Additional detached sleeping accommodations and apartments may be constructed on hotel premises as provided herein, and food and other accessory services may be furnished in said detached units.

(b) H-1 Hotel. Dwelling units under a common ownership interest and under a single management, furnishing sleeping accommodations or apartments to transient tenants, and services customarily provided by hotels, including but not limited to, a central office or lobby, room service, food service and daily maid service; and otherwise complying with requirements of the Florida State Hotel and Restaurant Commission. Additional detached sleeping accommodations and apartments may be constructed on hotel premises as provided herein, and food and other accessory services may be furnished in such detached units.

(c) For the purposes of this section, a dwelling unit shall be defined as a sleeping room with bath, flush toilet, lavatory and storage closet.

Lodging house. A building other than a hotel where sleeping rooms are provided for one or more transient or permanent tenants for compensation.

Lot. A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a public street or on a private street, and shall not be divided by a street or waterway and may consist of:

- (a) A single lot of record.
- (b) A portion of a lot of record.
- (c) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
- (d) A parcel of land described by metes and bounds.

Lot includes plot or parcel.

Lot, corner. A lot abutting upon two or more streets at their intersection.

Lot lines. The lines bounding a lot as defined herein.

(a) Front lot line. Any lot line fronting on a street.

(b) Rear lot line. The lot line opposite the front line or lines, as provided in (a) above. In the case of an irregular, triangular or gore shaped lot, it shall mean a line within the lot at least ten feet long, parallel to and at the maximum distance from, the front lot line.

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(c) Side lot lines. Any lot line not a front lot line or a rear lot line.

Medical clinic. Any building used for medical or surgical examination and/or treatment of out-patients.

Mobile home park. An area of land developed into spaces for mobile home dwellings and accessory uses.

Motel. A building on a lot or lots in single ownership and under single management, furnishing sleeping accommodations or apartments primarily to transient tenants, including but not limited to, a central office or lobby, and otherwise complying with the requirements of the Florida State Hotel and Restaurant Commission.

Additional detached sleeping accommodations and apartments may be constructed on motel premises as provided herein, and other accessory services may be furnished in the detached units.

Nonconforming use. The use of a building or land that does not conform with the regulations of the district in which it is situated.

Parking area. A portion of a lot of a shape and surface for parking one motor vehicle for each two hundred fifty square feet thereof, each space of which is clearly marked and is directly or indirectly accessible by motor vehicle from a street on which the lot abuts.

Permitted uses. Any building, or part thereof, erected, altered or used, or land or water used, in whole or part, permitted under the terms of this charter.

Principal use of structure. A building in which is conducted the principal use of the lot on which it is situated. In a residence district, any dwelling shall be deemed to be the principal building on the lot on which the same is situated. An attached carport, shed, garage or any other structure with one or more walls or a part of a wall being a part of the principal building and structurally dependent, totally or in part, on the principal building, shall comprise a part of the principal building and be subject to all regulations applied to the principal building. A detached and structurally independent carport, garage or other structure shall conform to the requirements of an accessory building. A detached and structurally independent garage, carport or other structure conforming as an accessory building may be attached to the principal building by an open breezeway not to exceed six feet and enclosed on one or both sides, including louvers, lattice or screening, shall cause the entire structure to be constructed as the principal building and shall be subject to the regulations applicable to the principal building.

Private club. Buildings exclusively occupied by fraternal or social organizations or associations operated exclusively for the comfort and convenience of its members.

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Public beach. Public or private lands abutting on the waters of Sarasota Bay or the Gulf of Mexico used by one or more persons as an entrance to, or exit from, the adjacent waters, or for sunning, camping, picnicking or for other similar activities; provided, that privately owned lands used for such purposes by the owner or owners thereof and their invited guests shall not constitute a public beach.

Rental unit. Any dwelling unit permitted under the terms of this chapter to be rented for periods of one day or longer.

Special exception. Any use permitted by the zoning board of adjustment as specified in individual district regulations; when such use is compatible to surrounding uses; will not create additional traffic hazards or parking problems; and does not deviate from the terms of this chapter.

Statement of zoning compliance. A statement signed by the town manager setting forth that a building or structure complies with this chapter, or that a building or structure or parcel of land or water area may be lawfully employed for a specified use or both.

Street. Any roadway either dedicated to public use or used as a nondedicated principal access to two or more buildings.

Structural alterations. Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

Used or occupied. Includes the words intended, designed or arranged to be used or occupied.

Variance. A relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.

Yard. An open unoccupied area of land surrounding a building, unobstructed from the ground to the sky, except as otherwise provided herein. A driveway or off-street parking area may be a portion of a yard.

(a) **Front yard.** A yard across the full width of the lot, extending from the edge of the overhang on the front line of the building to the front line of the lot.

(b) **Rear yard.** A yard across the full width of the lot, extending from the edge of the overhang on the rear line of the building to the rear line of the lot.

(c) **Side yard.** A yard between the edge of the overhang on the side line of the building and the adjacent side line of the lot, extending from the front yard to

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the rear yard. If there be no front yard, the side yard shall be considered as extending to the front line of the lot, and if there be no rear yard, the side yard shall be considered as extending to the rear line of the lot.

(d) Waterfront yard. A yard on lots abutting a waterfront extending between the edge of the overhang of the building and the mean high water line or retaining wall, whichever is closest to the building.

(e) When two or more principal buildings are located on a lot, there shall be provided around each such building a yard which shall meet the minimum yard set-back requirements of the district, but in no event shall two buildings be closer than twenty feet apart.

(f) The required yard for each building shall be determined by measuring from the building overhang and extending outward the distances provided for in the particular district. (Ord. No. 160, § 17, 10-15-69.)

Sec. 22-2. Official zoning map--Establishment of districts; adoption; amendments.

The town is hereby divided into zones or districts as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

The official zoning map shall be identified by the signature of the mayor, attested by the town auditor and clerk, and bearing the seal of the town under the following words: "This is to certify that this is the Official Zoning Map referred to in Section IV. A of Ordinance Number 160 of the Town of Longboat Key, Florida" together with the date of October 15, 1969.

If, in accordance with the provisions of this chapter and chapter 176, Florida Statutes, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by the town commission, together with an entry on the official zoning map as follows: "On (date), by official action of the town commission, the following (change) changes were made in the Official Zoning Map: (brief description of nature of change)", which entry shall be signed by the mayor and attested by the town auditor and clerk. The amending ordinance shall provide for an effective date and shall provide that the town auditor and clerk shall duly enter the change or amendment upon the official zoning map on or before said date.

No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person or persons shall be considered in violation of this chapter and punishable as provided under this chapter.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which

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shall be located in a designated place easily accessible to the public shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the town. (Ord. No. 160, § 4, 10-15-69.)

Sec. 22-3. Same--Replacement.

In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the town commission may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending this chapter or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor attested by the town auditor and clerk, and bearing the seal of the town under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. 160 of the Town of Longboat Key, Florida." Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment. (Ord. No. 160, § 4, 10-15-69.)

Sec. 22-4. Rules for interpretation of district boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(a) Boundaries indicated as approximately following the center line of streets, highways or alleys shall be construed to follow such center lines.

(b) Boundaries indicated as approximately following platted property lines shall be construed to follow such lot lines.

(c) Boundaries indicated as approximately following town limits shall be construed as following town limits.

(d) Any platted parcel of land divided by a zoning district boundary shall be construed as being entirely within the zoning district within which most of the lot falls, unless it is specifically intended that such boundary shall divide the platted lot.

(e) Boundaries indicated as following mean high water line shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual mean high water line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.

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(f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) to (e) shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(g) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (a) to (f), the zoning board of adjustment shall interpret the district boundaries.

(h) Where a district boundary divides a parcel of land which was in single ownership at the time of passage of this ordinance², the zoning board of adjustment may permit, as a special exception, the extension of the regulations for either portion of the parcel not to exceed fifty feet beyond the district line into the remaining portion of the parcel of land.

(i) Off-shore land which may be created must be zoned before any building permit may be issued. (Ord. No. 160, § 4, 10-15-69.)

Sec. 22-5. Application of district regulations.

The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

(a) No building shall be erected, reconstructed or structurally altered or repaired, nor shall any building or land be used for any purpose other than is permitted in the district in which such building or land is located unless specifically authorized.

(b) No building shall be erected, reconstructed or structurally altered or repaired to exceed the height, number of stories or size provisions herein established for the district in which such building is located.

(c) No lot area shall be so reduced or diminished that the yards or other open spaces required herein shall be smaller than prescribed by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations hereinafter set forth.

(d) No yard nor other open space required for any building for the purpose of complying with the provisions of these regulations shall be considered as providing a yard or open space for any other building; provided, that no yard or open space on an adjoining property or right-of-way shall be considered as providing a yard or open space on a lot whereon a building is to be erected.

(e) Every building hereafter erected shall be located on a lot as herein defined, and in no case shall there be more than one principal building on one lot, except as herein provided.

2. Editor's note.--The ordinance from which this section is derived was adopted on second reading on October 15, 1969.

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(f) No schools, churches or theaters shall be located within one hundred feet of State Road 789 (Gulf of Mexico Drive).

(g) No loudspeakers or dumps shall be permitted in any district; nor shall any truck, trailer, tent, automobile, streetcar, bus, airplane, boat or barge, garage, barracks or barracktype military building, shanty, lean-to or other improvised or temporary type structure be used or permitted for dwelling purposes in any district.

(h) No public beach shall be permitted in any district on private land.

(i) No property shall be subdivided in any manner inconsistent with the terms of this chapter.

(j) No natural grades of the upland or Gulf bottoms within five hundred feet of the mean high water line of the Gulf of Mexico shall be lowered. This provision is not to be considered a restriction against leveling minor irregularities in the surface of the ground.

(k) All buildings and other structures shall be at least equal to the requirements of the Southern Standard Building Code.

(l) No livestock, fowl or domestic animals other than ordinary household pets shall be kept or maintained in any district.

(m) Where a commercial, marina, mobile home park, motel or hotel district abuts a residential district, a landscaped visual and aural buffer area of not less than ten feet in width measured at right angles to the property lines shall be established along the entire length of side and rear lot lines except where such lot lines abut a street or waterfront and the area shall be so planted as to be eighty percent or more opaque when viewed horizontally at any point between two feet and six feet above average ground level.

(n) No land shall be graded or elevations or grades changed in such a way as to change the natural flow of surface waters toward adjacent lands in a manner detrimental to such lands.

(o) Pumps to maintain dry pits shall not be used and are prohibited in the construction of canals or other excavations when such excavations exceed an area of five thousand square feet below the water table.

(p) On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and a half and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along the street lines fifty feet from the point of the intersection.

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(q) Notwithstanding other provisions of this chapter, fences and walls may be permitted in any required yard or along the edge of any yard subject to the following provisions:

(1) Front yards. Three feet in height and set back from the property line one and one-half feet.

(2) Side yards.

a. Three feet in height to the building line and six feet in height for the remaining side yard.

b. Set back from the property line one and one-half feet.

(3) Rear yards. Three feet in height.

(4) Waterfront yards. Three feet in height.

(r) Buffering materials shall consist of decorative fencing or walls not to exceed the height of six feet or decorative trees and shrubs. Buffers shall be attractively landscaped and neatly maintained, and shall otherwise be unoccupied except for permitted utilities. The buffering is to provide adequate reciprocal visual and aural screening to protect property values on adjacent land uses.

(s) In calculating the area of any parcel of land to be used in determining minimum lot size or density per acre, any area used or to be used for street or roads, either public or private, shall be excluded. Any navigable waterways or boat basin to be excavated within the parcel of land shall be excluded to the extent that such waterway or boat basin exceeds fifteen percent of the area of the parcel. This regulation does not apply to P-D district.

(t) No house trailer, travel trailer or camper shall be stored for more than fifteen days in any district, except in a carport, garage or T-1 district.

(u) No pier or wharf or other structure projecting into the water beyond the mean high water line shall be constructed, reconstructed, maintained or structurally altered which:

(1) Has any superstructure, building, equipment or facility erected, placed, located or maintained thereon and which is more than three feet in height above such pier or wharf.

(2) Is constructed so as to interfere with the riparian rights of other property owners.

(3) Extends beyond the mean high water line in excess of thirty feet except this limitation may be extended where the zoning board of adjustment grants a variance in a manner prescribed by law.

(4) Comes closer than thirty feet to an extension of the side lot lines projected into the water. (Ord. No. 160, § 5, 10-15-69; Ord. No. 171, § 1, 4-15-70; Ord. No. 180, § 1, 7-20-70; Ord. No. 214, §§ 2, 3, 3-15-71.)

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Sec. 22-6. Off-street parking requirements.

(a) Number of spaces. There shall be provided at the time of the erection of any main building or structure or at the time any main building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, floor area or seats, minimum off-street automobile parking space with adequate provisions for ingress or egress in accordance with the following requirements:

- (1) Single-family dwellings, two spaces.
- (2) Multi-family dwellings, one and one-half spaces for each dwelling unit.
- (3) Churches, temples or places of worship, funeral homes, public buildings, theaters, auditoriums, areas and places of assembly, at least one space for each three seats.
- (4) Retail business, commercial, professional or personal service establishments, kennels, animal hospitals, libraries, museums, medical or dental offices or clinics and office buildings, one space for each two hundred fifty square feet devoted to retail sales or to actual retail use for commercial, professional or personal services. Shopping centers shall be required to have one space for each one hundred square feet.
- (5) Country clubs, golf clubs, tennis clubs and organizations designed to provide outdoor sporting or recreational activities, one space for each five members, or one space for every four hundred square feet of floor space or floor area of the primary building or buildings associated with the organization, whichever requirement is greatest.
- (6) Hotel apartment, one space for each rental unit.
- (7) Hospitals and sanitariums, one space for each patient bed.
- (8) Nursing homes, rest homes and convalescent homes, one space for each two patient beds.
- (9) Hotels, motels and bungalow courts, one space for each guest room or one space for each bathroom, whichever is greatest, plus one space for each three employees, and in addition, space as required elsewhere for auxiliary commercial use.
- (10) Private clubs, lodges, fraternities and sororities, one space for each five seats in the largest assembly area in the building, plus one space for each guest room, if any.
- (11) Restaurants or other eating places (nondrive-ins), one space for each four seats, plus one space for each three employees.

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(12) Rooming houses, boardinghouses and dormitories, one space for each two beds.

(13) Marinas, one space for each two docking accommodations plus one space for each two hundred fifty square feet of floor area devoted to retail sales, plus one car space for each four passenger capacity in a charter boat, and in addition, spaces as required elsewhere for auxiliary commercial uses.

(b) Location.

(1) Such parking space as required in this section shall in no part exist upon, and no portion of any vehicle shall overhang the right-of-way of any public road, street, alley or walkway. There shall be no off-street parking in the front yards of one and two family residential districts except as normally exists in driveways.

(2) Parking spaces for all one and two family dwellings shall be located on the same lot with the main buildings.

(3) Parking spaces for all other uses shall be provided on the same lot with the main building, or not more than three hundred feet distant, as measured along the nearest pedestrian walkway; provided, that such area is under the same ownership as the principal use and is in a zoning classification where such parking is permitted.

(4) Parking requirements for two or more uses, of the same or of different types, may be provided by the establishment of the required number of spaces for each use in a common parking area, provided that all such uses being served by a common parking area are under the same ownership.

(5) Off-street parking areas shall be set back a minimum of ten feet from all rear and side property lines, and five feet from all front property lines. (Ord. No. 160, § 8, 10-15-69.)

Sec. 22-7. Off-street loading requirements.

(a) Number of spaces.

(1) Every institution, commercial or industrial building or similar use having a floor area of ten thousand square feet or more, and requiring the receipt or distribution by vehicle of materials or merchandise, shall have at least one permanently maintained off-street loading space for each ten thousand square feet of gross floor area or fraction thereof.

(2) Retail operations, wholesale operations and industrial operations with a gross floor area of less than ten thousand square feet shall provide sufficient space for loading and unloading operations in order that the free movement of vehicles and pedestrians over a sidewalk, street or alley, shall not be impaired.

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(b) Location and dimension of spaces. Each space shall have direct access to an alley or street and shall have the following minimum dimensions: Length, thirty feet; width, twelve feet; height, fourteen feet. (Ord. No. 160, § 8, 10-15-69.)

Sec. 22-8. Building permits required.

No building, electrical, plumbing or earth work pertaining to construction or other specified work in this chapter shall be started; no structure shall be placed, erected, altered, remodeled or extended until an application for a permit has been made in accordance with the provisions of this chapter; and no work in connection with the foregoing shall be started until a permit is issued covering all work to be done. (Ord. No. 160, § 9, 10-15-69.)

Sec. 22-9. Compliance with chapter certificate of occupancy.

No land or building within the town shall be occupied or used, or altered or changed in use, except as provided in this chapter, or until a certificate of occupancy of such structure shall have been issued by the town manager. (Ord. No. 160, § 9, 10-15-69.)

Sec. 22-10. Temporary use permits.

(a) In case of real estate development projects in any district, the owner-developer may request a temporary use permit to permit necessary commercial promotional storage and fabrication activities which occur during construction of the project and which terminate upon completion of the project. The following activities may be permitted under such temporary use permit on the real estate being developed.

- (1) Model homes or apartments.
- (2) Real estate sales offices limited to the sales of dwelling units on those premises.
- (3) Construction material and equipment storage.

(b) Applicant for a temporary use permit shall present plans indicating the area in which the temporary use permit is to apply, the nature of the activities which will occur, and the time for which the temporary use permit is requested. The application shall be submitted to the town manager who shall make a recommendation to the town commission. The town commission may grant or deny a temporary use permit and in addition it may attach suitable conditions, stipulations and safeguards. No public hearing is required. Prior to granting a temporary use permit, the town commission shall insure that any nuisance or hazardous feature involved is suitably separated from adjacent uses, excessive vehicular parking problems will not be created. Each temporary use permit shall be granted for a specific period of time, at the end of which, if the use permitted as a temporary use has not been discontinued, it shall be deemed a violation of this chapter and subject to the penalties provided for in this chapter. (Ord. No. 171, § 7, 4-15-70, Ord. No. 160, § 8, 7-20-70.)

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Sec. 22-11. Schedule of fees and charges.

The following fees and charges in connection with matters pertinent to zoning petitions for changes in zoning:

Application for rezoning	\$25.00 and payments to cover all costs of advertising for public hearings

(Ord. No. 160, § 13, 10-15-69.)

Sec. 22-12. Chapter declared to be minimum requirements.

In interpreting and applying the provisions of this chapter, the provisions shall be held to be the minimum requirements for the promotion of public health, safety and general welfare. Where this chapter imposes a greater restriction upon the use of a building or land, or upon the height, bulk or size of a building or structure, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or permits, or by easements, covenants or agreements, the provisions of this chapter shall govern. Where any other ordinances, rules, regulations or permits, or any easements, covenants or agreements impose greater restrictions upon the use of a building or land, or upon the height, bulk or size of a building or structure, or require larger open spaces than are required under the regulations of this chapter such provisions shall govern. (Ord. No. 160, § 14, 10-15-69.)

Sec. 22-13. Administration and enforcement of chapter.

The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the town manager. (Ord. No. 160, § 9, 10-15-69.)

Sec. 22-14. Amendments -- Procedure.³

(a) The regulations, restrictions and boundaries set forth in this chapter may, from time to time, be amended, supplemented, changed or repealed, in the manner prescribed by law.

(b) The procedure for amendment of this chapter shall be as follows:

(1) A petition for such change shall be filed with the town auditor and clerk. In cases where a request to rezone lands is made, the petition shall include the names and addresses of all owners of the land; the names and addresses of property owners immediately adjacent and in rear thereof extending three hundred feet from the perimeter of such area; the new zone classification desired; a legal description of the land proposed to be rezoned; a plan of the area, showing the land proposed to be rezoned and the reasons for such zone change. The petition shall be signed by at least sixty percent of the owners of the lands proposed to be rezoned. A fee

3. As to procedure for petitioning for change in zoning, see § 2-21 of this Code.

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of twenty-five dollars shall be paid by the petitioners at the time the petition is made, and the petitioner shall make payments to cover all costs of advertising for the public hearings.

(2) Any rezoning requests initiated by the town commission shall be subject to the same procedure specified in paragraph (1) of this subsection except that no signatures shall be required nor any fee charged for such request.

(3) Any one petition for rezoning of lands shall contain a request for change to no more than one zone classification.

(4) Upon receipt of a petition or request for rezoning as prescribed, the town auditor and clerk shall refer the petition to the planning and zoning board for their consideration and recommendation.

(5) Promptly upon receipt of the petition or request for rezoning, the planning and zoning board shall set a date for a public hearing on the petition or request and publish legal notice of the hearing, giving the time and place of it, at least fifteen days prior to the date of the public hearing. This legal notice shall be published in a newspaper of general circulation within the town. In addition, a copy of the legal notice shall be sent by certified mail by the petitioners to all owners of property involved in the petition or request, and to all owners of property immediately adjacent and in the rear thereof extending three hundred feet from the perimeter of such area.

(6) In its consideration of rezoning petitions or requests, the planning and zoning board shall consider and evaluate the proposed changes in relation to all pertinent factors, including the following:

a. The character of the district and its peculiar suitability for particular uses.

b. Conservation of the value of buildings and land, and encouraging the most appropriate use of land throughout the incorporated area.

c. The applicable portions of any current civic plans and programs, such as land use, thoroughfares, neighborhoods, recreation, schools, utilities and drainage and housing.

d. The needs of the town for land areas for specified purposes to serve population and economic activities.

e. Whether there have been any substantial changes in the character of development of areas in or near an area under consideration for rezoning.

f. Report the findings and recommendations to the town commission.

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(7) Following the public hearing before the town commission, as required by the town Charter, the town commission may, by ordinance, amend, supplement, change or repeal the regulations, restrictions and district boundaries established within this chapter.

(8) Proposals, including amendments of this chapter, and rezoning petitions, originating with the town commission or the planning and zoning board shall be processed as in paragraphs (5) and (6) above. (Ord. No. 160, § 12, 10-15-69; Ord. No. 180, § 10, 7-20-70.)

Sec. 22-15. Same--Limitations.

No district shall be established which shall contain an area of less than ninety thousand square feet, except public and quasi-public and marina districts may contain an area of less than ninety thousand square feet but not less than fifteen thousand square feet. In computation of the necessary square footage to meet this requirement, contiguous areas of the same district classification may be added to the area sought to be rezoned, but only districts of the same classification may be combined in making the computation of the necessary square footage. (Ord. No. 160, § 12, 10-15-69.)

Sec. 22-16. Same--Protest by property owners.

In case of a protest against a change in zoning classification of a particular property presented at the public hearing of the planning and zoning board or town commission signed by the owners of twenty per cent or more, either of the area of the lots included in the proposed change or of those involved within three hundred feet from the perimeter of subject property, such amendment shall not become effective except by the favorable vote of five members of the town commission. (Ord. No. 160, § 12, 10-15-69.)

Sec. 22-17. Abatement, etc., of violations; penalties for violations.

In case any building is, or is intended to be erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is, or is intended to be used in violation of this chapter, the town attorney, in addition to the remedies herein provided, is hereby authorized, with approval of the town commission, to institute any appropriate action or one proceeding at law or equity to prevent, restrain, correct or abate such violation.

Any person violating any of the provisions of this chapter or chapter 176, Florida Statutes shall, for each violation, upon conviction thereof, pay a fine of not less than ten dollars nor more than two hundred dollars or shall be imprisoned for not less than two days nor more than ten days, or both. Each day that any violation is permitted to exist shall constitute a separate offense. (Ord. No. 160, § 15, 10-15-69.)

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Article II. R-1A District.

Sec. 22-18. Intent of district.

The R-1A Single-Family Residential District (Large Estates) is intended to apply to an area predominantly developed with single-family dwellings or by its location, trend of development or planned development designated in the comprehensive plan or land use plan appropriate to such use. The lot areas are large and the district is designated to preserve and protect the characteristics of large estate residential uses. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-19. Permitted uses.

(a) **Principal uses.** Within any R-1A District, no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for the following use:

Single-Family Dwellings.

(b) **Accessory uses.** The following uses may be used in conjunction with the principal use:

(1) Garage, carport or space for the housing or parking of private automobiles when located on the same lot and not involving the conduct of any business.

(2) A name plate not exceeding two square feet in area.

(3) Arts and crafts as herein defined.

(4) Noncommercial piers and landing places.

(5) Other customary accessory uses of single-family dwellings. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-20. Special exception.

When, after a review of an application and completion of the procedure as required by this chapter, the following uses may be permitted by special exception in an R-1A District:

Ordinary public utility uses and rights-of-way; provided, that all above ground utility uses, except aerial cables, be provided with a five foot visual buffer wherever such use is adjacent to a residential lot; and provided further, that all above ground structures connected with such uses be designed and constructed to be compatible with adjacent uses. (Ord. No. 160, § 7, 10-15-69.)

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Sec. 22-21. Prohibited uses.

All uses not specifically permitted within the R-1A District are prohibited. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-22. Area regulations.

The following regulations shall apply to any building erected or any use of land within the R-1A District:

(a) Minimum lot size. All lots shall contain a minimum of thirty thousand square feet of area with a minimum width of one hundred feet fronting a street.

(b) Maximum lot coverage. No building shall occupy more than thirty-five percent of its lot area.

(c) Minimum floor area. Any principal building erected within the R-1A District shall contain a minimum of one thousand five hundred square feet of floor area.

(d) Maximum building height. No building shall be erected to exceed three stories or thirty-five feet in height.

(e) Minimum yard setbacks. Any building erected within the R-1A District shall conform to the following minimum yard setbacks:

(1) Front yard. There shall be a front yard of not less than twenty feet in depth.

(2) Side yards. There shall be side yards of not less than ten feet.

(3) Rear yard. There shall be a rear yard of not less than ten feet.

(4) Waterfront yards. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:

a. Gulfside: One hundred fifty feet from the mean high water line; provided, however, that setbacks for gulfside yards on lots with a depth less than two hundred fifty feet shall be reduced in order that the building area including the front yard shall be one hundred feet in depth and in no event shall setbacks for gulfside yards be less than fifty feet in depth.

b. Bayside: Twenty feet from mean high water line.

c. Canal: Ten feet from mean high water line. (Ord. No. 160, § 7, 10-15-69; Ord. No. 194, § 2, 7-15-71.)

Article III. R-1B District.

Sec. 22-23. Intent of district.

The R-1B Single-Family Residential District (Small Estates) is intended to apply to an area predominantly developed with single-family dwellings or by its

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location, trend of development or planned development designated in the comprehensive plan or land use plan, appropriate to such use. The lot areas are small and the district is designed to preserve and protect the characteristics of small estate residential uses. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-24. Permitted uses.

(a) Principal uses. Within any R-1B District, no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for the following use:

Single-family dwellings.

(b) Accessory uses. Same as R-1A District. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-25. Special exceptions.

Special exceptions in an R-1B District shall be the same as in an R-1A District. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-26. Prohibited uses.

All uses not specifically permitted within the R-1B District are prohibited. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-27. Area regulations.

The following regulations shall apply to any building erected or any use of land within the R-1B District:

(a) Minimum lot size. All lots shall contain a minimum of fifteen thousand square feet of area with an average width between the front and rear lines to be at least one hundred feet with at least forty feet fronting on street.

(b) Maximum lot coverage. No building shall occupy more than thirty-five percent of its lot area.

(c) Minimum floor area. Any principal building erected within the R-1B District shall contain a minimum of one thousand five hundred square feet of floor area.

(d) Maximum building height. No building shall be erected to exceed three stories or thirty-five feet in height.

(e) Minimum yard setbacks. Any building erected within the R-1B District shall conform to the following minimum yard setbacks:

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- (1) Front yard. There shall be a front yard of not less than twenty feet in depth.
- (2) Side yards. There shall be side yards of not less than ten feet.
- (3) Rear yard. There shall be a rear yard of not less than ten feet in depth.
- (4) Waterfront yards. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:
 - a. Gulfside: One hundred feet from the mean high water line; provided, however, that setbacks for gulfside yards on lots with a depth less than two hundred fifty feet shall be reduced in order that the building area including the front yard shall be one hundred feet in depth and in no event shall setbacks for gulfside yards be less than fifty feet in depth.
 - b. Bayside: Twenty feet from mean high water line.
 - c. Canal: Ten feet from mean high water line. (Ord. No. 160, § 7, 10-15-69; Ord. No. 198, § 2, 7-15-71.)

Article IIIA. R-1C District.

Sec. 22-27.1. Intent of district.

The R-1C Single-Family Residential and Church District (Low Density) is intended to apply to areas predominantly developed with single-family dwellings and by its location, trend of development or planned development designated in the comprehensive plan or land use plan, appropriate for such use including churches. (Ord. No. 214, § 1, 3-15-71.)

Sec. 22-27.2. Permitted uses.

(a) Principal uses. Within any R-1C District, no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for the following uses:

(1) Single-family dwellings, subject to the area regulations of the R-1 District.

(2) Church and Sunday school.

(b) Accessory uses.

(1) Same as R-1A District.

(2) Customary accessory uses of church and Sunday schools. (Ord. No. 214, § 1, 3-15-71.)

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Sec. 22-27.3. Special exceptions.

Special exceptions in an R-1C District shall be the same as in R-1A District. (Ord. No. 214, § 1, 3-15-71.)

Sec. 22-27.4. Prohibited uses.

All uses not specifically permitted within the R-1C District are prohibited. (Ord. No. 214, § 1, 3-15-71.)

Sec. 22-27.5. Area Regulations.

The following regulations shall apply to any building erected or any land used for church and Sunday school purposes within the R-1C District.

(a) Church and Sunday school.

(1) Minimum lot size. All lots shall contain a minimum of fifty thousand square feet of area with an average width between the front and rear lines to be at least two hundred feet with at least one hundred fifty feet fronting on the street.

(2) Maximum lot coverage. No building shall occupy more than thirty-five percent of its lot area.

(3) Minimum floor area. Any principal building erected within the R-1C District shall contain a minimum of twenty-five hundred square feet of floor area.

(4) Maximum building height. No building shall be erected to exceed three stories or thirty-five feet in height, except for steeple or bell tower.

(5) Minimum yard setbacks. Any building erected within the R-1C District shall conform to the following minimum yard setbacks:

a. Front yard. There shall be a front yard of not less than one hundred feet in depth.

b. Rear yard. There shall be a rear yard of not less than thirty feet in depth.

c. Side yards. There shall be side yards of not less than thirty feet.

d. Waterfront yards. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:

1. Gulfside: One hundred fifty feet from the mean high water line.

2. Bayside: Fifty feet from mean high water line.

3. Canal: Thirty feet from mean high water line.

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(b) Buffer zone. Where abutting a residential area, buffer zone shall be required as in section 22-5(m) concerning district regulations. (Ord. No. 214, § 1, 3-15-71.)

Article IV. R-1 District.

Sec. 22-28. Intent of district.

The R-1 Single-Family Residential District (Low Density) is intended to apply to an area predominantly developed with single-family dwellings or by its location, trend of development or planned development designated in the comprehensive plan or land use plan, appropriate to such use. The lot areas are small and the district is designed to protect and preserve the characteristics of low density residential uses. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-29. Permitted uses.

(a) Principal use. Within any R-1 District, no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for the following use:

Single-family dwellings.

(b) Accessory uses. Same as R-1A District. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-30. Special exceptions.

Special exceptions in an R-1 District shall be the same as in an R-1A District. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-31. Prohibited uses.

All uses not specifically permitted within the R-1 District are prohibited. (Ord. No. 160, § 7, 10-15-69.)

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Sec. 22-32. Area regulations.

The following regulations shall apply to any building erected or any use of land within the R-1 District:

(a) Minimum lot size. All lots shall contain a minimum of ten thousand square feet of an area with an average width between the front and rear lines to be at least one hundred feet with at least forty feet fronting on the street; provided, that all lots which existed on October 15, 1969 shall contain a minimum of nine thousand five hundred square feet of area with an average width between the front and rear lines to be at least eighty feet with at least forty feet fronting on street.

(b) Maximum lot coverage. No building shall occupy more than thirty-five percent of its lot area.

(c) Minimum floor area. Any principal building erected within the R-1 District shall contain a minimum of twelve hundred square feet of floor area.

(d) Maximum building height. No building shall be erected to exceed three stories or thirty-five feet in height.

(e) Minimum yard setbacks. Any building erected within the R-1 District shall conform to the following minimum yard setbacks:

(1) Front yard. There shall be a front yard of not less than twenty feet in depth.

(2) Rear yard. There shall be a rear yard of not less than ten feet in depth.

(3) Side yards. There shall be side yards of not less than ten feet.

(4) Waterfront yards. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:

a. Gulfside: One hundred fifty feet from the mean high water line; provided, however, that setbacks for gulfside yards on lots with a depth less than two hundred fifty feet shall be reduced in order that the building area including the front yard shall be one hundred feet in depth and in no event shall setbacks for gulfside yards be less than fifty feet in depth.

b. Bayside: Twenty feet from mean high water line.

c. Canal: Ten feet from mean high water line. (Ord. No. 160, § 7, 10-15-69; Ord. No. 171, § 3, 4-15-70; Ord. No. 180, § 3, 7-20-70; Ord. No. 198, § 2, 7-15-71.)

Article V. R-1S District.

Sec. 22-33. Intent of district.

The R-1S Single-Family Residential District (Medium Density) is intended to apply to an area predominantly developed with single-family dwellings or by its

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location, trend of development or planned development designated in the comprehensive plan or land use plan, appropriate to such use. The lot areas are small and the district is designed to preserve and protect the characteristics of medium density residential uses. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-34. Permitted uses.

(a) Principal uses. Within any R-1S District, no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for the following use:

Single-family dwellings.

(b) Accessory uses. Same as R-1A District. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-35. Special exceptions.

Special exceptions in an R-1S District shall be the same as in an R-1A District. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-36. Prohibited uses.

All uses not specifically permitted within the R-1S District are prohibited. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-37. Area regulations.

The following regulations shall apply to any building erected or any use of land within the R-1S District:

(a) Minimum lot size. All lots shall contain a minimum of seven thousand square feet of area with an average width between the front and rear lines to be at least sixty feet with at least thirty feet fronting on street.

(b) Maximum lot coverage. No building shall occupy more than thirty percent of its lot area.

(c) Minimum floor area. Any principal building erected within the R-1S District shall contain a minimum of seven hundred fifty square feet of floor area.

(d) Maximum building height. No building shall be erected to exceed thirty-five feet.

(e) Minimum yard setbacks. Any building erected within the R-1S District shall conform to the following minimum yard setbacks:

(1) Front yard. There shall be a front yard of not less than twenty feet in depth.

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- (2) Rear yard. There shall be a rear yard of not less than ten feet in depth.
- (3) Side yards. There shall be side yards of not less than ten feet.
- (4) Waterfront yards. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:

- a. Gulfside: One hundred fifty feet from the mean high water line; provided, however, that setbacks for gulfside yards on lots with a depth less than two hundred fifty feet shall be reduced in order that the building area including the front yard shall be one hundred feet in depth and in no event shall setbacks for gulfside yards be less than fifty feet in depth.

- b. Bayside: Twenty feet from mean high water line.

- c. Canal: Ten feet from mean high water line. (Ord. No. 160, § 7, 10-15-69; Ord. No. 198, § 2, 7-15-71.)

Article VI. R-2 District.

Sec. 22-38. Intent of district.

The R-2 One, Two and Multiple Family Dwelling District (Medium Density) is intended to apply to an area predominantly developed with one, two and multiple family dwellings or by its location, trend of development or planned development designated in the comprehensive plan or land use plan, appropriate to such uses. The lot areas are small and the district is designed to preserve and protect the characteristics of medium density one, two and multiple dwelling uses. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-39. Permitted uses.

(a) Principal uses. Within any R-2 District, no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for one or more of the following uses:

- (1) Single-family dwellings, subject to the area regulations of the R-1 District.
- (2) Two-family dwellings.
- (3) Multiple-family dwellings.

(b) Accessory uses. The following uses may be used in conjunction with one or more of the principal uses:

- (1) Same as in the R-1A District.
- (2) Customary accessory uses of two-family dwellings.

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(3) Customary accessory uses of multiple-family dwellings. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-40. Special exception.

After a review of an application and completion of the procedure as required by this chapter, the following uses may be permitted by special exception in an R-2 District:

(a) Same as in the R-1A District.

(b) Churches and accessory uses.

(c) Ordinary public utility uses and rights-of-way; provided, that all above ground utility uses except aerial cables are provided with a five foot visual buffer wherever such use is adjacent to residential lot, and provided further, that all above ground structures connected with such uses are designed and constructed to be compatible with adjacent uses.

(d) Day nurseries and nursery schools.

(e) Dockage and rental of boats, including sale of marine fuels and lubricants and small dockside repairs, when operated in conjunction with one or more of the principal uses. Such facilities shall be enjoyed exclusively by residents of the subject premises and guests, and shall not be made available to the general public except in an emergency. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-41. Prohibited uses.

The following uses are prohibited in an R-D District:

(a) All commercial and industrial uses.

(b) All other uses not specifically permitted. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-42. Area regulations.

The following area regulations shall apply to buildings erected or any use of land within the R-2 District:

(a) Two-family.

(1) Minimum lot size. All lots shall contain a minimum of ten thousand square feet of area with an average width between the front and rear lines to be at least sixty feet with at least thirty feet fronting on a street.

(2) Maximum lot coverage. No building shall occupy more than thirty percent of its lot area.

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(3) Minimum floor area. Any principal building erected within the R-2 District shall contain a minimum of six hundred fifty square feet for a one bedroom dwelling unit plus one hundred square feet for each additional bedroom in a dwelling unit.

(4) Maximum building height. Any building erected shall not exceed three stories or thirty-five feet in height.

(5) Minimum yard setbacks.

a. Front yard. There shall be a front yard of not less than twenty feet in depth.

b. Side yards. There shall be provided on each side of every dwelling a side yard of not less than ten feet in width.

c. Rear yard. There shall be a rear yard of not less than ten feet in depth.

d. Waterfront yards. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:

1. Gulfside: One hundred fifty feet from the mean high water line; provided, however, that setbacks for gulfside yards on lots with a depth less than two hundred fifty feet shall be reduced in order that the building area including the front yard shall be one hundred feet in depth and in no event shall setbacks for gulfside yards be less than fifty feet in depth.

2. Bayside: Twenty feet from mean high water line.

3. Canal: Ten feet from mean high water line.

(b) Multiple-family.

(1) Minimum lot size. All lots shall contain a minimum of fifteen thousand square feet, plus five thousand square feet for each unit over three in the first story and four thousand square feet for each unit on the second story and three thousand square feet for each unit on the third story with a minimum of one hundred feet fronting on a street.

(2) Maximum lot coverage. The building or buildings shall occupy no more than thirty percent of the total lot area. An additional ten percent of the total lot area may be used for covered parking only.

(3) Minimum floor area. Any principal building erected within the R-2 District shall contain a minimum of six hundred fifty square feet for one bedroom dwelling units plus one hundred square feet for each additional bedroom in a dwelling unit.

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(4) Maximum building height. No building shall be erected to exceed three stories or thirty-five feet in height, unless the first story is used for covered parking. In which case the height may be increased to four stories or forty-five feet in height. If this provision is used, the second floor will be considered the first, the third will be considered the second, etc., for the purpose of this chapter. The floor used for parking shall be excluded from the height when calculating setbacks.

(5) Minimum yard setbacks.

a. Front Yard. There shall be a front yard of not less than thirty feet in depth.

b. Side yards. There shall be provided on each side of every dwelling a side yard of not less than fifteen feet plus one additional foot for each ten feet of lot width above one hundred feet of average lot width; except, that the side yard is not required to exceed twenty-five feet.

c. Rear yard. There shall be a rear yard of not less than twenty-five feet in depth.

d. Waterfront yards. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:

1. Gulfside: One hundred fifty feet from the mean high water line; provided, however, that setbacks for gulfside yards on lots with a depth less than two hundred fifty feet shall be reduced in order that the building area including the front yard shall be one hundred feet in depth and in no event shall setbacks for gulf-side yards be less than fifty feet in depth.

2. Bayside: Thirty feet from mean high water line.

3. Canal: Twenty feet from mean high water line.

(6) Uses for which area regulations are not specified. Permitted uses for which no area regulations are specified in this district shall be subject to the area regulations specified for such use elsewhere in this chapter or shall be subject to regulations imposed by the zoning board of adjustment as condition for special exception. In such cases where more than one set of regulations are established for a single use, the most restrictive regulations shall apply.

(7) Maximum density. No more than seven dwelling units per acre. (Ord. No. 160, § 7, 10-15-69; Ord. No. 219, § 1, 5-17-72.)

Article VII. M-1 District.

Sec. 22-43. Intent of district.

All Marina Districts are intended to apply to an area used exclusively for a marina and related activities. (Ord. No. 160, § 7, 10-15-69.)

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Sec. 22-44. Permitted uses.

(a) Principal uses. Within any M-1 District no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for one or more of the following uses:

- (1) Rental of open wet storage.
- (2) Sale of marine fuel and lubricants.
- (3) Sale of bait and fishing equipment.

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- (4) Rental of boats or motors or both, and the maintenance thereof.
- (5) Rental of dock space for charter boats not exceeding six passenger capacity.
- (6) Dockside repairs only.
- (7) Launching ramp.
- (8) Sale of sundries.

(b) Accessory uses. Accessory buildings customary to a marina operation shall be permitted after the main retail building has been completed. Accessory uses may include one single-family residence (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-45. Area regulations.

The following are minimum land and building requirements:

- (a) There shall be a minimum land area of not less than fifteen thousand square feet.
- (b) The land area shall have not less than one hundred feet waterfront as measured between the points at which the side lines of the property intersect the water line.
- (c) There shall be not more than one retail store building with a minimum of two hundred square feet and a maximum area of six hundred square feet.
- (d) Not more than one single-family dwelling may be erected and maintained which shall have a floor area of not less than six hundred fifty square feet in the case of a one bedroom house, plus one hundred square feet for each additional bedroom.
- (e) Minimum yard setbacks.
 - (1) Front yard. There shall be a front yard of not less than twenty feet in depth.
 - (2) Side yards. There shall be side yards of not less than ten feet in width; except, that they shall be not less than twenty feet where abutting a residential district. (Ord. No. 160, § 7, 10-15-69.)

Article VIII. M-2 District.

Sec. 22-46. Permitted uses.

- (a) Principal uses. Within any M-2 District no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for one or more of the following uses:

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- (1) All uses included in M-1.
 - (2) Sale of marine equipment and supplies but not including motors.
 - (3) Operation of a motel or boatel.
 - (4) Rental of dock space for charter boats of more than six passenger capacity.
- (b) Accessory use. Restaurant with or without bar and package liquor sales. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-47. Prohibited uses.

The following uses are prohibited in an M-2 District:

Those prohibited in an M-1 District. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-48. Area regulations.

The following are minimum land and building requirements in an M-2 District:

- (a) There shall be a minimum land area of not less than twenty thousand square feet.
- (b) The land area shall have not less than one hundred feet waterfront as measured between the points at which the side lines of the property intersect the water line.
- (c) Any retail store building shall have a minimum area of twelve hundred square feet.
- (d) Any motel or boatel shall conform to all requirements of the H-1 District.
- (e) Except for motel or boatel uses, the minimum yard setbacks shall be:
 - (1) Front yard. There shall be a front yard of not less than twenty feet in depth.
 - (2) Side yards. There shall be side yards of not less than ten feet in width; except, that they shall be not less than twenty feet where abutting a residential district. (Ord. No. 160, § 7, 10-15-69.)

Article IX. M-3 District.

Sec. 22-49. Permitted uses.

Within any M-3 Marina District no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for one or more of the following uses:

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- (a) All uses as permitted in M-1 and M-2.
- (b) Storage of all types of boats.
- (c) Repair facilities for boats up to and including forty-two feet in length.
- (d) Marine lifts or railways.
- (e) Covered wet storage of boats.
- (f) Sale of boats or motors or both. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-50. Special exception.

After a review of an application and completion of the procedure as required by this chapter, the following use may be permitted by special exception:

Repair facilities for boats over forty-two feet. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-51. Prohibited uses.

The following uses are prohibited in an M-3 District:

Those prohibited in an M-1 District. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-52. Area regulations.

The following are minimum land and fronting requirements in an M-3 District:

- (a) There shall be minimum land area of not less than twenty thousand square feet.
- (b) The land area shall have not less than one hundred fifty feet waterfront as measured between the points at which the side lines of the property intersect the water line.
- (c) Any boat storage facility shall not exceed twenty-five feet in height.
- (d) There shall be no maximum lot coverage.
- (e) The principal building shall contain a minimum of twelve hundred square feet.
- (f) No building shall be erected to exceed three stories or thirty-five feet.
- (g) The minimum yard setbacks shall be:
 - (1) Front yard. There shall be a front yard of not less than twenty feet in depth.

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(2) Side yards. There shall be side yards of not less than ten feet in width; except, that they shall be not less than twenty feet where abutting a residential district. (Ord. No. 160, § 7, 10-15-69; Ord. No. 214, § 4, 3-15-71.)

Article X. T-1 District.

Sec. 22-53. Intent of district.

The T-1 Mobile Home Park District is intended to apply to an area predominantly developed with mobile home dwellings or by its location, trend of development or planned development designated in the comprehensive plan or land use plan, appropriate to such use. In order to assure that all requirements of the T-1 District are met, no area shall be zoned to T-1 until all plans for development are approved by the town commission subject to the recommendation of the planning and zoning board. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-54. Permitted uses.

(a) Principal uses. Within any T-1 District, no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for the following use:

Mobile home park with a minimum of fifty spaces.

(b) Accessory uses. The following uses may be used in conjunction with one or more of the principal uses:

(1) Accessory patio enclosures and storage buildings customarily associated with mobile home residences.

(2) Retail store buildings which may contain a restaurant, lounge, small shops and service establishments intended to serve the inhabitants of the mobile home park subject to the area regulations of the C-1 District.

(3) Outdoor recreation facilities operated in conjunction with the principal use.

(4) Other accessory uses customarily associated with mobile home parks. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-55. Special exceptions.

There are no special exceptions in a T-1 District. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-56. Prohibited uses.

All uses not specifically permitted within the T-1 District are prohibited. (Ord. No. 160, § 7, 10-15-69.)

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Sec. 22-57. Area regulations.

The following regulations shall apply to any mobile home park erected or any use of land within the T-1 District:

(a) Minimum park size. All parks shall contain a minimum of fifteen acres in area.

(b) Maximum density. No more than five mobile home spaces per gross acre are permitted.

(c) Minimum mobile home space size. All spaces for mobile homes shall contain a minimum of four thousand square feet of area with an average width between the front and rear lines to be at least sixty feet with at least fifty feet fronting on the street.

(d) Maximum building height. No accessory building shall be erected to exceed three stories or thirty-five feet.

(e) Minimum yard setbacks. Any building or mobile home erected within the T-1 District shall conform to the following minimum yard setbacks:

(1) Front yard. There shall be a front yard of not less than seven and a half feet in depth.

(2) Rear yard. There shall be a rear yard of not less than seven and a half feet in depth.

(3) Side yards. There shall be side yards of not less than seven and a half feet in depth.

(4) Waterfront yards. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:

a. Gulfside: One hundred fifty feet from the mean high water line; provided, however, that setbacks for gulfside yards on lots with a depth less than two hundred fifty feet shall be reduced in order that the building area including the front yard shall be one hundred feet in depth and in no event shall setbacks for gulfside yards be less than fifty feet in depth.

b. Bayside: Twenty feet from mean high water line.

c. Canal: Ten feet from mean high water line.

(f) Street improvements. Street paving and drainage structures shall comply with the construction standards set forth in the town subdivision regulations

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contained in chapter 20 of this Code. All streets shall be at least fifty feet in width and shall have a turn-around at each dead end.

(g) Recreation area. A recreation area consisting of a minimum of three acres of land or ten percent of the total area of the park, whichever is greater, is required.

(h) Occupancy. No occupancy shall be permitted until the entire recreation area and at least twenty-five mobile home dwelling spaces are completed according to the approved plans. (Ord. No. 160, § 7, 10-15-69; Ord. No. 198, § 2, 7-15-71.)

Sec. 22-58. Nonconforming mobile home parks.

Any nonconforming mobile home park existing on or before the effective date of this ordinance,⁴ the plans of which were approved by any county or state officials as evidenced by a current state health department permit, may continue to operate and is permitted to use such mobile home spaces as are shown on such permit and may make such improvements as desired on any new or existing mobile home on such spaces, after obtaining a permit from the town. (Ord. No. 160, § 7, 10-15-69.)

Article XI. H-1 District.

Sec. 22-59. Intent of district.

The H-1 Hotel and Motel District is intended to apply to an area predominantly developed with hotels, motels, apartment hotels and bungalow courts or by its location, trend of development or planned development designated in the comprehensive plan or land use plan appropriate to such uses. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-60. Permitted uses.

(a) Principal uses. Within any H-1 District, no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for one or more of the following uses:

- (1) Hotels, motels, apartment hotels and bungalow courts.
- (2) Multiple family dwellings.
- (3) Single-family dwellings subject to the area regulations of the R-1 District.
- (4) Two family dwellings subject to the area regulations of the R-2 District.
- (5) Private clubs and lodges.

4. Editor's note. -- The ordinance from which this section is derived was adopted on second reading on October 15, 1969.

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(b) Accessory uses.

(1) Restaurant, lounge, small retail shops and service establishments and recreation facilities when operated in conjunction with one or more of the principal uses. No shop or service establishment may exceed five hundred square feet in area, excepting restaurants and lounges.

(2) Dockage and rental of boats, including the sale of marine fuels and lubricants and small dockside repairs, when operated in conjunction with one or more of the principal uses. Such facilities shall be enjoyed exclusively by residents of the subject premises and guests and shall not be made available to the general public except in an emergency.

(3) Day nurseries and nursery schools when operated as an accessory use to one or more of the principal uses.

(4) Customary accessory uses of hotels and motels, multiple family dwellings, office buildings and private clubs. (Ord. No. 160, § 7, 10-15-69; Ord. No. 171, § 4, 4-15-70; Ord. No. 180, § 5, 7-20-70.)

Sec. 22-61. Special exceptions.

After a review of an application and completion of the procedure as required by this chapter, the following uses may be permitted by special exception in an H-1 District:

(a) Ordinary public utility uses and rights-of-way; provided, that all above ground utility uses except aerial cables are provided with a five foot visual buffer wherever such use is adjacent to residential lot, and provided further, that all above ground structures connected with such uses are designed and constructed to be compatible with adjacent uses.

(b) Churches and accessory uses.

(c) Office buildings. (Ord. No. 160, § 7, 10-15-69; Ord. No. 171, § 5, 4-15-70; Ord. No. 180, § 6, 7-20-70.)

Sec. 22-62. Prohibited uses.

The following uses are prohibited in an H-1 District:

(a) All commercial uses except as specifically permitted herein.

(b) Commercial parking lots not operated as an accessory use to one or more of the principal uses

(c) All residential uses except as specifically permitted herein.

(d) All other uses not specifically permitted. (Ord. No. 160, § 7, 10-15-69.)

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Sec. 22-63. Area regulations.

The following regulations shall apply to any building erected or any use of land within the H-1 District:

(a) Hotels, motels, apartment hotels and multiple-family dwellings.

(1) Minimum lot size. All lots shall contain a minimum of twenty thousand square feet plus two thousand square feet for each unit over seven in the first story and fifteen hundred square feet for each unit on the second and third stories, with a minimum of one hundred feet fronting on a street.

(2) Maximum lot coverage. No building shall occupy more than thirty percent of its lot area. An additional ten percent of the total lot area may be used for covered parking only.

(3) Minimum floor area. Any principal building erected within the H-1 District shall contain a minimum of three hundred square feet per unit for hotels and motels; four hundred square feet per unit for apartment hotels and six hundred fifty square feet for a one bedroom dwelling unit, plus one hundred square feet for each additional bedroom in a dwelling unit.

(4) Maximum building height. No building shall be erected to exceed three stories or thirty-five feet in height, unless the first story is used for covered parking, in which case the height may be increased to four stories or forty-five feet in height. If this provision is used, the second floor will be considered the first, the third will be considered the second, etc., for the purpose of this chapter. The floor used for parking shall be excluded from the height when calculating setbacks.

(5) Minimum yard setbacks. Any building erected in the H-1 District shall conform to the following minimum yard setbacks.

a. Front yard. There shall be a front yard of not less than thirty-five feet in depth.

b. Side yards. There shall be provided on each side of every dwelling a side yard of not less than fifteen feet plus one additional foot for each ten feet of lot width above one hundred feet of average lot width; except, that the side yard is not required to exceed twenty-five feet.

c. Rear yard. There shall be a rear yard of not less than twenty-five feet in depth.

d. Waterfront yards. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:

1. Gulfside: One hundred fifty feet from the mean high water line; provided, however, that setbacks for gulfside yards on lots with a depth less than two hundred fifty feet shall be reduced in order that the building area including the

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front yard shall be one hundred feet in depth and in no event shall setbacks for gulf-side yards be less than fifty feet in depth.

2. Bayside: Thirty feet from mean high water line.

3. Canal: Twenty feet from mean high water line.

(6) Maximum density. No more than ten dwelling units per acre.

(b) Bungalow courts.

(1) Minimum lot size. All lots shall contain a minimum of fifteen thousand square feet plus thirty-six hundred square feet plus thirty-six hundred square feet for each unit over three with a minimum of one hundred feet fronting a street.

(2) Maximum lot coverage. No building or buildings shall occupy more than thirty percent of its lot area.

(3) Minimum floor area. Any bungalow erected within the H-1 District shall contain a minimum of six hundred fifty square feet for a one bedroom dwelling unit plus one hundred square feet for each additional bedroom in a dwelling unit.

(4) Maximum building height. No building shall be erected to exceed three stories or thirty-five feet in height.

(5) Minimum yard setbacks. Any bungalow erected in the H-1 District shall conform to the following minimum yard setbacks:

a. Front yard. There shall be a front yard of not less than twenty feet in depth.

b. Side yards. There shall be provided on each side of every dwelling a side yard of not less than fifteen feet plus one additional foot for each ten feet of lot width above one hundred feet of average lot width; except, that the side yard is not required to exceed twenty-five feet.

c. Rear yard. There shall be a rear yard of not less than twenty-five feet.

d. Waterfront yards. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:

1. Gulfside: One hundred fifty feet from the mean high water line; provided, however, that setbacks for gulfside yards on lots with a depth less than two hundred fifty feet shall be reduced in order that the building area including the front yard shall be one hundred feet in depth and in no event shall setbacks for gulf-side yards be less than fifty feet in depth.

2. Bayside: Thirty feet from mean high water line.

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3. Canal: Twenty feet from mean high water line.

(6) Maximum density. No more than ten dwelling units per acre.

(c) Private clubs and lodges.

(1) Minimum lot size. All lots shall contain a minimum of fifteen thousand square feet with a minimum of one hundred feet fronting on a street.

(2) Maximum lot coverage. No building shall occupy more than thirty percent of its lot area.

(3) Minimum floor area. Any principal building erected shall contain a minimum of twelve hundred square feet.

(4) Maximum building height. No building shall be erected to exceed three stories or thirty-five feet in height.

(5) Minimum yard setbacks. Any building erected shall conform to the following minimum yard setbacks:

a. Front yard. There shall be a front yard of not less than thirty-five feet.

b. Side yards. There shall be provided on each side of every dwelling a side yard of not less than fifteen feet plus one additional foot for each ten feet of lot width above one hundred feet of average lot width; except, that the side yard is not required to exceed twenty-five feet.

c. Rear yard. There shall be a rear yard of not less than twenty-five feet.

d. Waterfront yards. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:

1. Gulfside: One hundred fifty feet from the mean high water line; provided, however, that setbacks for gulfside yards on lots with a depth less than two hundred fifty feet shall be reduced in order that the building area including the front yard shall be one hundred feet in depth and in no event shall setbacks for gulfside yards be less than fifty feet in depth.

2. Bayside: Thirty feet from mean high water line.

3. Canal: Twenty feet from mean high water line.

(6) Maximum density. No more than ten dwelling units per acre.

(d) Uses for which no area regulations are specified. Uses for which no area regulations are specified in this district shall be subject to the area regulations specified for such use elsewhere in this chapter or shall be subject to regu-

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lations imposed by the zoning board of adjustment as condition for special exception. In such cases where more than one set of regulations are established for a single use, the most restrictive regulation shall apply. (Ord. No. 160, § 7, 10-15-69; Ord. No. 219, § 2, 5-17-72.)

Article XII. H-2 District.

Sec. 22-64. Intent of district.

The H-2 Large Hotel, Motel and Multiple-Family District is intended to apply to an area predominantly developed with large hotels, motels and multiple-family dwellings or by its location, trend or development or planned development designated in the comprehensive plan or land use plan appropriate to such uses. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-65. Permitted uses.

(a) Principal uses. Within any H-2 District, no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for one or more of the following uses:

- (1) Hotels, motels, apartment hotels and bungalow courts.
- (2) Multiple family dwellings.
- (3) Single-family dwellings subject to the area regulations of R-1 district.
- (4) Two family dwellings subject to the area regulations of R-2 district.
- (5) Private clubs and lodges.

(b) Accessory uses. The following uses may be used in conjunction with one or more of the principal uses:

(1) Restaurant, lounge, small retail shops and service establishments and recreational facilities when operated in conjunction with one or more of the principal uses. No shop or service establishment may exceed five hundred square feet per unit in area excepting restaurants or lounges.

(2) Dockage and rental of boats, including the sale of marine fuels and lubricants and small dockside repairs when operated in conjunction with one or more of the principal uses. Such facilities shall be enjoyed exclusively by residents of the subject premises and guests and shall not be made available to the general public except in an emergency.

(3) Day nurseries and nursery schools when operated as an accessory to one or more of the principal uses.

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(4) Customary accessory uses of large hotels and motels, multiple family dwellings and country clubs. (Ord. No. 160, § 7, 10-15-69; Ord. No. 171, § 6, 4-15-70; Ord. No. 180, § 7, 7-20-70.)

Sec. 22-66. Special exceptions.

After a review of an application and completion of the procedure as required by this chapter, the following uses may be permitted by special exception in an H-2 District:

(a) Ordinary public utility uses and rights-of-way; provided, that all above ground utility uses except aerial cables are provided with a five foot visual buffer wherever such use is adjacent to a residential lot; and provided further, that all above ground structures connected with such uses are designed and constructed to be compatible with adjacent uses.

(b) Churches and accessory uses.

(c) Restaurant and lounge not operated as an accessory use.

(d) Office building and accessory use. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-67. Prohibited uses.

The following uses are prohibited in an H-2 District:

(a) All commercial uses except as specifically permitted herein.

(b) Commercial parking lot not operated as an accessory use to one or more of the principal uses.

(c) All residential uses except as specifically permitted herein.

(d) Any storage except as an accessory use and then only enclosed storage areas, shall be permitted. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-68. Area regulations.

The following regulations shall apply to any building erected or any use of land within the H-2 District:

(a) Hotels, motels, apartment hotels and multiple-family dwellings.

(1) Minimum lot size. All lots shall contain a minimum of thirty thousand square feet plus the following:

a. Ground floor. Twelve hundred square feet per unit in excess of fifteen.

b. Second and third stories. Twelve hundred square feet per unit.

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c. Fourth to sixth stories. Nine hundred square feet per unit.

(2) Minimum lot width. All lots shall have a minimum width of one hundred fifty feet fronting a street.

(3) Maximum lot coverage. No building shall occupy more than thirty percent of its lot area. An additional ten percent of the total lot area may be used for covered parking only.

(4) Minimum floor area. Any principal building erected within the H-2 District shall contain a minimum of three hundred square feet per unit for hotels and motels; four hundred square feet per unit for apartment hotels and six hundred fifty square feet for a one bedroom dwelling unit plus one hundred square feet for each additional bedroom in a dwelling unit.

(5) Maximum building height. No building shall be erected to exceed six stories or sixty-five feet in height unless the first story is used for covered parking, in which case the height may be increased to seven stories or seventy-five feet in height. If this provision is used the second floor will be considered the first, the third will be considered the second, etc., for the purpose of this chapter. The floor used for parking shall be excluded from the height when calculating setbacks.

(6) Maximum density. No more than fourteen dwelling units per acre.

(7) Minimum yard setbacks. Any building erected within the H-2 District shall conform to the following yard setbacks:

a. Front yard. There shall be a front yard of not less than thirty-five feet plus one foot for each two feet of building height over thirty-five feet.

b. Side yard. There shall be side yards of not less than twenty feet in depth plus one additional foot for each ten feet of lot width above one hundred fifty feet of average lot width; except, that this portion of the side clearance calculation is not required to exceed twenty-five feet. To this width an additional one foot per each two feet of building height over thirty-five feet is to be added.

c. Rear yard. There shall be a rear yard of not less than twenty-five feet plus one foot per each two feet of building height over thirty-five feet.

d. Waterfront yard. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:

1. Gulfside: One hundred fifty feet from the mean high water line; provided, however, that setbacks for gulfside yards on lots with a depth less than two hundred fifty feet shall be reduced in order that the building area including the front yard shall be one hundred feet in depth and in no event shall setbacks for gulfside yards be less than fifty feet in depth.

2. Bayside: Thirty feet from mean high water line.

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3. Canal: Twenty feet from mean high water line.

(b) Bungalow courts, private clubs and lodges and office buildings. Subject to the area regulations of the H-1 District.

(c) Uses for which no area regulations are specified. Shall be subject to the area regulations specified for such use elsewhere in this chapter or shall be subject to regulations imposed by the zoning board of adjustment as condition for special exception. In such cases where more than one set of regulations are established for a single use, the most restrictive regulations shall apply. (Ord. No. 160, § 7, 10-15-69; Ord. No. 219, § 3, 5-17-72.)

Article XIII. G-1 District.

Sec. 22-69. Intent of district.

The G-1 Golf and Country Club District is intended to apply to an area used exclusively for a golf and country club. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-70. Permitted uses.

(a) Principal uses. Within any G-1 District, no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for one or more of the following uses:

(1) The use and improvement of lands as a course for the game of golf in accordance with generally recognized standards and rules therefor.

(2) A country club having swimming pools, tennis courts or other recreational uses.

(b) Accessory uses. The following uses may be used in conjunction with one or more of the principal uses:

(1) Clubhouse and other buildings which, with the premises thereof, may contain restaurant and beverage facilities for the sale of food and beverage, alcoholic or otherwise, recreation room facilities, locker rooms and shops for the sale of golfing and other sporting and accessory equipment and paraphernalia connected with the activities conducted on the premises.

(2) Tennis courts.

(3) Swimming pools.

(4) Putting greens.

(5) Practice driving ranges.

(6) Maintenance areas.

(7) Storage of tools and equipment used in connection with maintenance of the premises.

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(8) Garaging and rental of mechanized vehicles for use on the golf course.

(9) Comfort stations.

(10) Other accessory uses customarily provided on a golf course or associated with a country club. (Ord. No. 160, § 7, 10-15-69.)

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Sec. 22-71. Area regulations.

The following regulations apply to any building or land use within the G-1 Golf and Country Club District:

(a) Minimum golf course size. The minimum golf course size shall be nine holes with a total length of at least two thousand two hundred and fifty yards and shall contain one acre for every seventy yards of length.

(b) Minimum requirements for clubhouse. Governed by the area regulations for private clubs and lodges in the H-1 District.

(c) Residential units. No residential units may be constructed in the Golf and Country Club District except living quarters for club employees. (Ord. No. 160, § 7, 10-15-69.)

Article XIV. C-1 District.

Sec. 22-72. Intent of district.

The C-1 Limited Commercial District is intended to apply to an area predominantly developed with limited commercial buildings or by its location, trend of development or planned development designated in the comprehensive plan or land use plan, appropriate to such uses. The lot areas are small and the district is designed to preserve and protect the characteristics of limited commercial buildings. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-73. Permitted uses.

(a) Principal uses. Within any C-1 District, no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for one or more of the following uses:

- (1) Banks and offices, including medical clinics and office buildings.
- (2) Bakery, the products of which are sold only at retail on the premises.
- (3) Laundromats, laundry and dry cleaning pickup stations.
- (4) Service and repair shops, including but not limited to beauty salons, barbershops, shoe repair, hat cleaning, radio and TV repair, watch and clock repair.
- (5) Restaurants, lounges, tearooms, cafeterias, delicatessens and other eating establishments including dance and entertainment.
- (6) Florists, interior decorating, antique shops.
- (7) Studios, photography, art, music, dancing.

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(8) Retail stores, including but not limited to: Apparel, book, confectionery, department, drug and sundries, electrical, food and grocery, furniture, paint, haberdashery, costume jewelry, hardware, leather goods, millinery, modiste, notions, photograph supplies, package liquors, sporting goods, radio and TV, phonograph records, stationery, shoe, toy, tailor, variety, art goods and artists' supplies, business machines, music stores.

(9) Commercial parking lots.

(10) Private clubs.

(11) Any other retail store or service establishment that is consistent with those included above, and further that will be in harmony with the spirit of this chapter and comprehensive plan.

(b) Accessory uses. The following uses may be used in conjunction with one or more of the principal uses:

(1) Enclosed storage spaces.

(2) Drive-in service windows and similar facilities so long as they do not provide exits or entrances on State Road 769.

(3) One single-family dwelling for use by owner or lessee which shall be attached to principal purpose building. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-74. Special exceptions.

After a review of an application and completion of the procedure as required by this chapter, the following uses may be permitted by special exception in a C-1 District:

(a) Churches.

(b) Hospitals.

(c) Ordinary public utility uses and rights-of-way; provided, that all above ground utility uses except aerial cables are provided with a five foot visual buffer wherever such use is adjacent to a residential lot; and provided further, that all above ground structures connected with such uses are designed and constructed to be compatible with adjacent uses.

(d) Day nurseries and nursery schools.

(e) A pier or wharf in cooperation with a yacht club for the following uses: Rental of open wet storage, sales of marine fuels and lubricants and temporary dockage while using club facilities. (Ord. No. 160, § 7, 10-15-69.)

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Sec. 22-75. Prohibited uses.

The following uses are prohibited in a C-1 District:

- (a) Wholesale establishments.
- (b) Cemeteries or public uses of an industrial nature.
- (c) Any storage except as an accessory use and then only enclosed storage areas shall be used.
- (d) Service stations, automobile repairs or storage garage.
- (e) New and used automobile, trailer or farm equipment sale and service.
- (f) Drive-in establishments except drive-in windows as an accessory use.
- (g) Fabricating, manufacturing or processing activities.
- (h) Transportation terminal.
- (i) Secondhand merchandise establishment.
- (j) Any commercial or industrial use deemed obnoxious or detrimental to the public health, safety and welfare.
- (k) Residential uses except as an accessory use. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-76. Area regulations.

The following regulations shall apply to any building erected or any use of land within the C-1 District.

- (a) Minimum lot size. All lots shall contain a minimum of five thousand square feet with fifty feet minimum width fronting a street.
- (b) Maximum lot coverage. None.
- (c) Minimum floor area. Any principal building erected within the C-1 District shall contain a minimum of twelve hundred square feet on the ground floor.
- (d) Maximum building height. No building shall be erected to exceed six stories or sixty-five feet.
- (e) Minimum yard setbacks. Any building erected in the C-1 District shall conform to the following minimum yard setbacks:

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- (1) Front yard. There shall be a front yard of not less than twenty feet.
- (2) Rear yard. There shall be a rear yard of not less than fifteen feet unless a service alley with a minimum width of twenty feet is provided and then no rear yard shall be required.
- (3) Side yards. There shall be provided side yards of not less than ten feet unless all structures are fire-resistive or fire-proof, and then no side yard shall be required; except, that no structure shall be constructed within twenty feet of a residential zone.
- (4) Waterfront yard. There shall be provided on all lots abutting a waterfront, minimum waterfront yards as follows:
 - a. Gulfside: One hundred feet from the mean high water line; provided, however, that setbacks for gulfside yards on lots with a depth less than two hundred fifty feet shall be reduced in order that the building area including the front yard shall be one hundred feet in depth and in no event shall setbacks for gulfside yards be less than fifty feet in depth.
 - b. Bayside: Twenty feet from mean high water line.
 - c. Canal: Ten feet from mean high water line.
- (f) Uses for which no area regulations are specified. Such uses shall be subject to the area regulations specified for such use elsewhere in this chapter or shall be subject to regulations imposed by the zoning board of adjustment as condition for special exception. In such cases where more than one set of regulations are established for a single use, the most restrictive regulations shall apply. (Ord. No. 160, § 7, 10-15-69; Ord. No. 198, § 2, 7-15-71.)

Article XV. C-1A District.

Sec. 22-77. Intent of district.

The C-1A Restricted Commercial District is intended to apply to an area developed as a planned shopping center or by its location or planned development designated in the comprehensive plan appropriate to such use. The provisions of the C-1A District are intended to protect the character of planned shopping centers and insure that such character shall be appropriate to the surrounding uses and that conditions and safeguards shall be established to assure, insofar as possible, that the development will protect and enhance the value of surrounding property, in addition to achieving other public purposes. In order to assure that all requirements of the C-1A District are met, no area shall be zoned to C-1A until all plans for development are approved by the town commission subject to the recommendation of the planning and zoning board. (Ord. No. 160, § 7, 10-15-69.)

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Sec. 22-78. Permitted uses.

(a) Principal uses. No building, structure, land or water shall be used, in whole or in part, in a C-1A District except for one or more of the following uses:

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- (1) Banks and trust companies and other financial institutions.
 - (2) Professional and business offices.
 - (3) Bakery, the products of which are sold at retail on the premises.
 - (4) Laundromat, laundry and dry cleaning pickup stations.
 - (5) Service and repair shops including but not limited to: Beauty salons, barbershops, shoe repairing, hat cleaning, radio and television repair, watch and clock repair.
 - (6) Restaurants, tearooms, cafeterias, delicatessens and other eating and drinking establishments.
 - (7) Studios, photography, art, music and dancing.
 - (8) Florists, interior decorating, antique shops.
 - (9) Retail stores, including but not limited to: Book, confectionery, department, drug and sundries, food and grocery, furniture, hardware, paint, haberdashery, costume jewelry, leather goods, millinery, modiste, notions, photograph and phonograph records and supplies, package liquors, sporting goods, radio and television, office supplies and stationery, shoe, toy, tailor, variety, art goods and artists' supplies, business machines, music stores.
 - (10) Indoor theater, indoor amusement enterprises, including but not limited to: Bowling alley, pool and billiards.
 - (11) Service stations.
 - (12) Any other retail store or service establishment that in the judgment of the town manager is consistent with those included above and will not detract from the character of the shopping center and further, is in harmony with the spirit of this chapter and the comprehensive plan.
- (b) Accessory uses. The following accessory uses may be used in conjunction with one or more of the principal uses:
- (1) Enclosed storage spaces.
 - (2) Drive-in service windows and similar facilities so long as they do not provide exits or entrances directly on State Road 789.
 - (3) Ordinary public utility uses and rights-of-way; provided, that all above ground utility uses except aerial cables are provided with a five foot visual buffer wherever such use is adjacent to a residential lot; and provided further, that all above ground structures connected with such uses are designed and constructed to be compatible with adjacent uses. (Ord. No. 160, § 7, 10-15-69.)

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Sec. 22-79. Prohibited uses.

The following uses are specifically prohibited in the C-1A District:

- (a) Residential dwellings.
- (b) Commercial nursery or greenhouse.
- (c) Business using outdoor displays, canopies or sheds.
- (d) Fortune tellers and clairvoyants.
- (e) Churches, cemeteries and public uses of an industrial nature.
- (f) Trailer camps, courts or parks.
- (g) Wholesale establishments, except offices.
- (h) Mortuary or funeral homes.
- (i) Laundries, automobile, commercial, cleaning and dyeing plants.
- (j) Storage yards or any outside storage of goods, or any facility specifically designed or used for storage purposes except as an accessory use subject to the provisions of this article.
- (k) Auto repair shops and storage garages.
- (l) New and used automobile, trailer or farm equipment sales and service facilities.
- (m) Drive-in food services.
- (n) Sales from stands, wagons, trucks, etc., on vacant property or parked on or adjacent to streets, highways or roads.
- (o) Shops: Carpenter, sheet metal, paint, sign painting, silver plating, soldering, upholstery, umbrellas, bicycle or motorcycle rental or repair, exterminating, secondhand or rummage, feed, tire recapping, live bait, taxidermy, woodworking. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-80. Submission of development plan with request for rezoning.

Any petition for rezoning to a C-1A District shall be accompanied by certain information concerning ownership of lands involved, proposals for financing development and such other material as may be necessary to demonstrate that

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the petition or request is a bona fide move for actual development and not merely an attempt for special advantage. This material shall indicate a time schedule for development.

(a) Development plan. In addition to the aforementioned information, development plans covering the entire tract proposed for the planned shopping center, indicating existing conditions and development for an additional area including at least three hundred feet from the boundaries of such tract, or such greater distance as may be indicated by circumstances of the case, shall be submitted with the petition for rezoning. Existing natural features shall be indicated as well as existing streets, easements, utility installations, lot lines and structures, with indications as to use.

The plan will show, with dimensions, a properly organized and conveniently related arrangement of buildings, off-street parking and loading facilities, internal automotive and pedestrian circulation, entrances and exits to public streets and pedestrian ways, service areas and facilities, drainage, utility connections, landscaping, fencing and walls, exterior lighting on the premises, size, location and orientation of signs and relation to and safeguards for all property surrounding the tract.

(b) Approval of vehicular circulation plan, parking and loading facilities. The portions of the plan relating to location and design for ingress, traffic controls, arrangement of off-street parking and loading, and internal circulation pattern shall be referred to a qualified engineer for study, and no approval shall be granted without his written approval of plans submitted. Additional conditions and safeguards on such matters may be included by the planning and zoning board or town commission.

(c) General conditions which planning and zoning board may attach. In reviewing the proposed development plan, the planning and zoning board may recommend and the town commission may condition approval on specified changes in the proposal. Where conditions are attached, approval will be withheld except upon written agreement by the applicant to conform to such conditions.

In particular, where the site plan indicates potential adverse effects on the neighboring property, the planning and zoning board may recommend and the town commission may require rearrangement of the plan, increased yard width, walls or fences, vegetative screening, or other arrangements or devices necessary to provide reasonable protection.

(d) Rezoning from C-1A District. Rezoning from the C-1A District shall become possible by action of the town commission if actual building construction has not commenced within twelve months after such rezoning is established. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-31. Area regulations.

The following regulations shall apply to any building erected or any use of land within the C-1A District:

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(a) Minimum property size. A planned shopping center shall be constructed on a tract of land of not less than three acres.

(b) Maximum building height. No building or structure shall exceed six stories or sixty-five feet in height.

(c) Minimum yard setback. The development plan of a planned shopping center shall provide safeguards for all property surrounding the tract whereon the shopping center is to be located.

(d) Minimum frontage. Planned shopping centers shall be permitted only if they have at least three hundred feet frontage. (Ord. No. 160, § 7, 10-15-69.)

Article XVI. C-2 District.

Sec. 22-82. Intent of district.

The C-2 General Commercial and Marina District is intended to apply to an area predominantly developed with general commercial buildings and marinas or by its location, trend of development or planned development designated in the comprehensive plan or land use plan, appropriate to such uses. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-83. Permitted uses.

(a) Principal uses. Within any C-2 District, no building, structure, land or water shall be used, constructed, reconstructed or structurally altered except for one or more of the following uses:

- (1) All principal uses permitted in the C-1 District.
- (2) Service stations with facilities for minor repairs.
- (3) Drive-in establishment, but not drive-in restaurants.
- (4) Marinas, including the following:
 - a. Rental of boats or motors or both.
 - b. Rental of boat slips or dock space.
 - c. Boat storage, wet or dry, open or enclosed.
 - d. Rental of dock space for charter boats.
 - e. Sale of marine equipment, bait, marine fuels and lubricants.
 - f. Boat and motor sales.

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g. Boat service and repair, including travel lifts and other equipment for removing boats up to forty-two feet in length.

h. On-shore lodgings subject to the area regulations of the H-1 District.

i. Accessory retail uses subject to the area regulations specified for such uses.

(5) Any other commercial establishment deemed to be no less objectionable to the character of the district than those permitted.

(b) Accessory uses. The following accessory uses may be used in conjunction with one or more of the principal uses:

(1) Enclosed storage spaces.

(2) Drive-in service windows and similar facilities so long as they do not provide exits or entrances on State Road 789.

(3) One single-family dwelling for use by owner or lessees which shall be attached to principal purpose building. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-84. Special exceptions.

After a review of an application and completion of the procedure as required by this chapter, the following uses may be permitted by special exception in a C-2 District:

(a) Veterinary hospital, dog and cat kennel.

(b) Sign painting.

(c) Storage rooms and enclosed warehousing not operated as an accessory use.

(d) Ordinary public utility uses and rights-of-way; provided, that all above ground utility uses except aerial cables are provided with a five foot visual buffer wherever such use is adjacent to a residential lot; and provided further, that all above ground structures connected with such uses are designed and constructed to be compatible with adjacent uses.

(e) Bus station. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-85. Prohibited uses.

The following uses are prohibited in a C-2 District:

(a) Open storage areas except as specifically permitted

(b) Fabricating, manufacturing or processing activities.

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- (c) Transportation terminals except bus stations.
- (d) Wholesale establishments.
- (e) Secondhand merchandise establishments.
- (f) Drive-in restaurants.
- (g) Any other commercial or industrial use deemed to be equally obnoxious or detrimental to the public health, safety and welfare.
- (h) Residential uses except as accessory use. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-86. Area regulations.

The following area, etc., regulations shall apply to any building erected or any use of land within the C-2 District:

(a) All commercial uses except marinas and service stations. Same as in the C-1 District.

(b) Service stations.

(1) Minimum lot size. All lots shall contain a minimum of ten thousand square feet with a minimum width of one hundred feet fronting a street.

(2) Maximum lot coverage. None.

(3) Minimum floor area. Any principal building erected shall contain a minimum of four hundred square feet exclusive of interior servicing area.

(4) Maximum building height. No building shall be erected to exceed two stories or twenty-five feet.

(5) Minimum yard setbacks. Any building erected shall conform to the following minimum yard setbacks:

a. Gasoline pumps, air dispensing equipment, service islands shall be set back a minimum of twenty-five feet from the property line.

b. Rear setback. Same as for other principal uses.

c. Side setback. There shall be provided side yards of not less than ten feet on each side.

(6) Tank storage. All receptacles, tanks, or facilities for the storage of combustible products in excess of two hundred gallon quantities shall be located underground.

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(c) Marinas.

(1) Minimum lot size. All lots shall contain a minimum of twenty thousand square feet with a minimum of one hundred feet water frontage measured between the points at which the side lines of the property intersect the water lines.

(2) Maximum lot coverage. None.

(3) Minimum floor area. Any principal building erected shall contain a minimum of twelve hundred square feet.

(4) Maximum building height. No building shall be erected to exceed three stories or thirty-five feet.

(5) Minimum yard setbacks.

a. Front yard. There shall be a front yard of not less than twenty feet in depth.

b. Side yards. There shall be side yards of not less than ten feet in width; except, that they shall be not less than twenty feet where abutting a residential district.

(6) No pier or wharf or other structure projecting into the water beyond the mean high water line shall be constructed, reconstructed, maintained or structurally altered which:

a. Has any superstructure, building, equipment or facility erected, placed, located or maintained thereon and which is more than three feet in height above such pier or wharf.

b. Is constructed so as to interfere with the riparian rights of other property owners.

c. Extends beyond the mean high water line in excess of thirty feet except this limitation may be exceeded where the zoning board of adjustment grants a special exception in a manner prescribed by law.

d. Comes closer than thirty feet to an extension of the side lot lines projected into the water. (Ord. No. 160, § 7, 10-15-69.)

Article XVII. P-1 District.

Sec. 22-87. Intent of district.

The P-1 Public and Quasi-Public District is intended to apply to an area predominantly developed with public and quasi-public uses, or by its location, trend of development or planned development designated in the comprehensive plan.

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appropriate to such uses. It is intended to group such uses within P-1 District to eliminate possible land use conflicts between public and quasi-public uses and other types of uses and, because of the geographic character of Longboat Key, to concentrate public and quasi-public uses in a location that is readily accessible and convenient to all inhabitants and parts of Longboat Key. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-88. Permitted uses.

(a) Principal uses. Within any P-1 District, no building, structure, land or water shall be used, constructed or reconstructed or structurally altered except for one or more of the following uses:

(1) Parks and playgrounds, provided:

a. Such parks and playgrounds are primarily for the use of the residents and property owners of the town and their guests or lessees, subject to such rules and regulations as the town commission may from time to time promulgate, or

b. Such parks and playgrounds are used in conjunction with a permitted use.

(2) Schools, public and private but not those operated as a commercial enterprise.

(3) Golf courses and clubhouses with accessory buildings used in conjunction therewith.

(4) Governmental buildings and uses.

(5) Shuffleboard courts, tennis courts, swimming pools and other types of facilities intended for outdoor or indoor recreation; provided, that such facilities are to be used solely in conjunction with any other principal use permitted under this classification.

(6) Marinas, when owned or leased and operated as a public facility.

(7) Churches and other places of worship.

(8) Chamber of commerce, libraries, museums, theaters, community centers.

(9) Hospital.

(10) Police and fire stations.

(11) Any other public or quasi-public use that is consistent with those permitted uses herein listed that will be in harmony with the spirit of this chapter and with the comprehensive plan.

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(b) Accessory uses. The following uses may be used in conjunction with one or more of the principal uses, providing that no accessory building is used until the main building is complete:

(1) Small commercial establishments including small restaurants, and dining areas, intended to serve the visiting public or employees within one or more of the principal uses when such establishment is operated as a part of one or more of the principal uses.

(2) Ordinary public utility uses and rights-of-way; provided, that all ground utility uses, except aerial cables, are provided with a five foot visual buffer wherever such use is adjacent to residential lot; and provided further, that all above ground structures connected with such uses are designed and constructed to be compatible with adjacent uses. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-89. Prohibited uses.

All uses not specifically permitted within the P-1 District are prohibited. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-90. Area regulations.

(a) The plans for all uses constructed within the P-1 District will be reviewed by the planning and zoning board and forwarded to the town commission for approval, who will, upon the advice of qualified personnel, ascertain that proposed lot sizes, lot coverage, floor area, building heights, yard setbacks and off-street parking provisions are adequate to meet the requirements of this chapter and further, that such uses are harmonious to the adjacent uses and to the area.

(b) Uses permitted in the P-1 District that are permitted in other districts elsewhere in this chapter shall conform to the area regulations for such uses specified in the district in which they are permitted. (Ord. No. 160, § 7, 10-15-69.)

Article XVIII. P-D District.

Sec. 22-91. Intent of district.

The intent of the P-D Planned Development District is to provide for flexibility in the development of large tracts of land under single ownership. The purpose is to avoid monotonous repetition of pattern, to provide open spaces for recreational or public use and to encourage thoughtful and imaginative land use. (Ord. No. 160, § 7, 10-15-69.)

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Sec. 22-92. Permitted uses.

The following uses and structures are permitted in a P-D District:

- (a) Single-family dwellings.
- (b) Two family dwellings.
- (c) Multiple family dwellings.
- (d) Marinas (as permitted in M-1 and M-2 Districts).
- (e) Hotels, motels, bungalow courts and clubs.
- (f) Commercial, as permitted in C-1A District.
- (g) Recreational areas, both private and public (except public beaches).
- (h) Public buildings, schools and churches.

Accessory uses and structures will also be permitted, as appropriate. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-93. Prohibited uses.

The following uses are prohibited in a P-D District:

- (a) Uses and structures authorized solely in T-1, M-3, C-1 and C-2 Districts.
- (b) Uses not permitted in section 22-92. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-94. Standards.

(a) Maximum area of land coverage. The maximum area of land coverage by all structures shall not exceed thirty percent of the gross area of the planned development district. In computing the gross area, the area of streets, lakes, canals and internal waterways may be included; but submerged land in the Gulf or in Sarasota Bay may not be included.

(b) Lot size, lot coverage, setbacks. There shall be no specific requirements in regard to lot size, lot coverage and setbacks; except, that reasonable provision shall be made for light and air and for the safety and comfort of the occupants.

(c) Maximum building height. Fifteen stories.

(d) Density. The maximum density of a Planned Development District shall be five living units per acre of gross area.

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(e) Maximum commercial area. The maximum area where commercial use may be permitted shall not exceed five percent of the gross area of the Planned Development District.

(f) Recreational uses. A minimum of fifteen percent of the gross area of the Planned Development District shall be for recreational use.

(g) Buffer zone and district perimeter. No building shall be located closer than twenty-five feet to the perimeter of the Planned Development District, nor shall any parking or any other uses be permitted within said twenty-five feet, along portions of the perimeter where the land use proposed for the planned development is different in kind from the land use existing or authorized upon abutting land. In such cases, visual and aural buffers shall also be provided in accordance with at least the minimum requirements established by this chapter.

Where Gulf of Mexico Drive constitutes a portion of the perimeter, however, no buffer zone shall be required.

(h) Signs. Any signs displayed or intended to be displayed in a Planned Development District shall be subject to the provisions of chapter 18 of this Code, as well as any other ordinances relating thereto.

(i) Off-street parking and loading requirements. Off-street parking and loading requirements, as prescribed elsewhere in this chapter, shall apply within the Planned Development District.

(j) Minimum floor area. The minimum floor area shall be seven hundred and fifty square feet per dwelling unit for a one bedroom unit; one thousand square feet per dwelling unit for a two or more bedroom unit. A minimum floor area of three hundred square feet shall be required for motel and hotel units.

(k) Improvements.

(1) Streets and roads. Streets and roads intended to be dedicated to the public use or which will be available to the use of the general public shall conform to the specifications and standards set forth in the construction code for streets and roads as adopted and amended from time to time by the town and on file in the office of the town auditor and clerk. Width of right-of-way and pavement, the angles of street intersections, and tangents on reverse curves shall conform to the requirements of chapter 20 of this Code.

(2) Drainage, sidewalks and curbs. Drainage facilities, sidewalks and curbs shall conform to the requirements of sections 19-1 to 19-4 and chapter 19 of this Code.

(3) Sewerage and water. Sewerage and water systems shall comply with county and state requirements. Each system shall be so designed as to be capable of being integrated with a town-wide system, if such system becomes available. (Ord. No. 160, § 7, 10-15-69.)

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Sec. 22-95. Procedure.

Before any development is undertaken or use is made of land in a Planned Development District, the following procedures shall be followed:

(a) Preapplication conference. Before submitting an application for a planned development, an applicant at his option may confer with the town manager to obtain information and guidance before entering into binding commitments and incurring substantial expense in the preparation of plans, surveys and other data.

(b) Plans required to be filed. If an applicant intends to develop simultaneously all the land in the district, it will be necessary to file only a final development plan. If, however, the district will be developed in stages, over an indefinite period of time, it will be necessary to file:

(1) An outline development plan for the entire district.

(2) Final development plans for each stage of construction when it is desired to proceed with construction for that stage of the total development.

All plans shall be filed with the town auditor and clerk. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-96. Outline development plan.

The outline development plan shall consist of one or more maps or plats of the entire Planned Development District, together with a written statement.

(a) Map or plan. The map or plan, which shall be drawn to a reasonable scale with north arrow by a duly licensed professional engineer, shall show the following:

(1) The boundary lines of the total Planned Development District, accurate in scale and bearing, together with the total area of the district, excluding off-shore submerged land, except for such submerged land for which a valid fill permit has been issued by the appropriate governmental authorities and is in force and effect at the time of filing.

(2) The nature of the uses or permitted uses of land in adjoining areas within three hundred feet of the perimeter of the district.

(3) The portions of the district that will be devoted to separate land uses.

(4) Existing streets, drainage, structures, buildings, easements and other important topographic or exceptional features upon the tract or adjacent thereto.

(5) Parcels of land intended to be dedicated to public use, if any.

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(6) Any other item deemed of importance.

(b) Written statement. The written statement, which shall be filed with the town auditor and clerk shall contain the following information:

(1) A legal description of the Planned Development District, excluding off-shore submerged land, except for such submerged lands for which a valid fill permit has been issued by the appropriate governmental authorities and is in force and effect at the time of filing.

(2) The type of buildings and number of living units planned for each portion of the district.

(3) A showing that the total number of living units will not exceed the total of five units per gross acre.

(4) An affirmation by the applicant that to the best of his knowledge and belief, no persons other than the applicant have or claim to have any interest that might affect applicant's right to develop the entire district.

(c) Referral to planning and zoning board and consideration by town commission. The outline development plan must be considered by the town commission after reference to and consideration by the planning and zoning board.

(1) The planning and zoning board shall consider all pertinent matters, including the following:

a. The compatibility of the proposed land uses with one another and with the existing and proposed land uses of adjoining areas.

b. The conformity of the plan to the standards and requirements of this chapter.

c. Any other relevant matter.

(2) The applicant may be represented at any meeting of the planning and zoning board, at which the plan is considered, by agent or attorney, and the board may admit to its meetings such witnesses as it desires. Following its consideration of the plan, the board shall render its written report and recommendations to the town commission, together with the reasons for their recommendations. A copy of its report shall also be furnished to the applicant.

The report must be filed within sixty days after applicant's original plan was delivered to the town auditor and clerk.

(3) The hearing on and approval of outline development plan by town commission shall be as follows:

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a. After receipt of the outline development plan and the report of the planning and zoning board, the town commission shall hold a public hearing in regard to the plan.

b. At least fifteen days prior to the date established for the public hearing, notice of the date, time and place thereof shall be published in a newspaper of general circulation in the town. Further, applicant shall send notice of the date, time and place of the hearing by registered or certified mail to all landowners within three hundred feet of the perimeter of the Planned Development District.

Applicant shall pay all costs of giving notice of the hearing.

c. Within thirty days after the hearing, and after due consideration of all testimony and other matters affecting the plan, the town commission shall approve or disapprove the plan, or it may approve a modified plan if the applicant agrees. The commission shall not unreasonably withhold their approval if the plan is in general conformity with the provisions of the Planned Development District and other provisions of this chapter.

d. When the outline development plan has been approved, the approval shall be noted upon the official zoning map of the town and the map shall be marked to indicate the land areas and their approved uses within the Planned Development District.

e. After approval by the town commission, the outline development plan may not be changed or modified unless the commission gives its approval.

1. If it is proposed to change the use of any area within the Planned Development District, the commission shall require that the applicant file a new or revised plat or map and a new or revised written statement, giving the information required in subsections (a) and (b) of this section for the areas to be changed, and the requested change shall be processed in the same manner as is required for an original plan by subsections (c) and (d) of this section.

2. If the requested changes or modification relate to matters other than those set forth in paragraph 1 immediately above, the commission may, in its discretion, dispense with all or part of the requirements of subsections (a), (b) and (c), except that all changes and modifications shall be noted on the official zoning map, as specified by subsection (d). (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-97 Final development plan generally.

A final development plan shall be filed with the town auditor and clerk whenever the applicant is ready to proceed with construction in all, or part, of the Planned Development District. If it has been necessary to file an outline development plan, the final development plan shall either conform substantially to such plan as approved or contain such modifications of the outline development plan as may be simultaneously approved by the town commission upon acceptance of

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the final development plan. The final development plan shall consist of maps, plans, drawings and written statements as set forth below:

(a) Map or plan. The map or plan required to be filed as a part of the final development plan shall be prepared by a licensed professional engineer. It shall be drawn to a reasonable scale and shall include the following:

(1) Primary control points with descriptions and ties to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.

(2) Boundary lines of the area covered by the final development plan, with accurate distances and bearings.

(3) Property and boundary lines of each separate tract within the development area, including lot lines of proposed subdivisions, with lot and block numbers.

(4) Location and width of streets, roads and similar rights-of-way whether existing or proposed, and whether they are proposed extensions of roads already existing outside the development area.

(5) Proposed location of drainage systems and structures, water and sewerage systems and structures, and their relationship to similar systems outside the development area.

(6) Sidewalks, curbs, street lighting system, if any.

(7) The nature of the land use in adjoining area.

(8) Location and use of buildings or improvements, proposed or existing.

(9) North arrow, scale data, name of engineer preparing the map or plat.

(10) Areas to be conveyed, dedicated or reserved for public use, or for recreational use, or for the use or enjoyment of particular groups of occupants of the area. Where it is intended to dedicate a road or other property to the public use, the map or plat shall so indicate.

(11) Buffer zones.

(12) A legal description, with the total acreage, of the area.

(13) The names to be assigned to the development or any subdivision thereof.

(b) Plans and drawings. Plans and drawings shall include the following:

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(1) A plan of each building site showing the approximate location of all buildings, structures and improvements, and showing the open area around and between buildings and structures.

(2) Elevation and perspective drawings of all proposed structures and improvements except single-family dwellings and their accessory buildings. The drawings need not be the result of final architectural decisions and need not be in detail.

(3) Traffic circulation plan including traffic-control devices.

(4) Off-street parking and loading facilities if not shown on building site plans.

(5) Landscaping plans for buffer zones showing buffering materials used.

(c) Written statements.

(1) An explanation of the purpose of the development.

(2) A statement in regard to the permanent maintenance planned for facilities not intended to be reserved for the use of the applicant. If streets, roads, curbs, sidewalks, service and parking areas, recreational areas or facilities or other similar facilities are to be dedicated to the public use, an explanation shall be given. If such facilities are not intended to be dedicated to the public use, but are intended for the use and enjoyment of the occupants, the town commission shall require the establishment of a satisfactory method for the maintenance of such facilities. A home or property owners association may be required, in accordance with requirements outlined by chapters 617 or 711, Florida Statutes.

(3) A statement in regard to facilities or areas intended to be reserved for the use of the applicant and the method to be followed for the maintenance thereof. The applicant may be required to execute protective covenants running with the land, or pursue some other reasonable method to insure the maintenance and continuation of the facility or use of the area.

(4) Protective covenants and restrictions to be incorporated in deeds for lots or other parcels of land.

(5) The proposed schedule of development indicating the date when construction is planned to begin in regard to each of the component areas within the area to be developed and the date when each component is expected to be completed. The schedule will also indicate what recreational, public or common use areas or other open areas will be provided at each development stage.

(6) A certificate of record ownership certified by a reputable title information company showing fee simple title of the area to be developed and showing all encumbrances to such title. If fee simple title shall be in more than one person, then all of such persons must join with the applicant in requesting approval

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of the completed development plan, or, they may constitute one of their number as agent and attorney to act for all in processing approval of the application.

(7) A tabulation showing that the density of the area to be developed is in accord with the outline development plan; or, if no such plan has been filed, a tabulation showing that the density does not exceed five living units per gross acre. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-98. Approval of final development plan.

The final development plan, as a condition precedent to the commencement of construction, must be submitted for approval to the planning and zoning board and the town commission.

(a) Planning and zoning board. The board shall consider the following matters in connection with the plan.

(1) The conformity of the plan with the requirements of this chapter and with the outline development plan, if any.

(2) The adequacy of arrangements made for light and air, for safety and health and for the comfort and amenities of the occupants of the area. While no specific regulations exist in this district in regard to lot size, lot coverage or setbacks, the board, in judging the adequacy of arrangements for light and air, safety, health, comfort and amenity, may consider as norms the regulations established elsewhere in this chapter or other relevant town ordinances, pertinent to buildings or developments of the type proposed under the final development plan.

(3) The compatibility of the uses within the area and the compatibility of the uses or structures on the perimeter of the area with abutting uses, if such uses have not already been authorized by the outline development plan.

After consideration of the foregoing and other relevant matters, the planning and zoning board shall, within sixty days after receipt of the plan, forward its written report and recommendation to the town commission, and a copy shall be forwarded to the applicant.

(b) Approval by town commission. The board shall also be given proof that state and county health departments have approved water and sewerage systems. The town commission, after consideration of the plan and the report and recommendation of the planning and zoning board, shall give its approval to the plan; or it shall disapprove the plan, or it may approve a modified plan if the applicant agrees. The commission's action shall be taken within thirty days after receipt of the plan and report from the planning and zoning board. If, however, an outline development plan has not been filed, the procedures and requirements of subsections (a), (b) and (c) of section 22-96 shall be followed and action by the commission shall be taken within thirty days after the public hearing has been held. (Ord. No. 160, § 7, 10-15-69.)

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Sec. 22-99. Recording of plat.

Upon approval of the final development plan by the town commission, a plat of the land affected thereby shall be prepared for recording in the manner provided by law for the recording of subdivision plats. The plat must then be approved by the town attorney. Thereafter, the town commission, if all requirements have been met, shall give its final approval for the recording of the plat and the words, "Approved by the Town of Longboat Key" shall be written on the plat, and the mayor shall subscribe his signature and title on behalf of the town. Thereafter, the plat and protective covenants shall be recorded at the expense of the applicant in the manner provided by law. Upon such recording, the town shall be deemed to have accepted all property dedicated to public use as shown on the plat. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-100. Changes after approval of final development plan.

No changes may be made in the final development plan after approval thereof except upon application to and specific authorization by the town commission. Changes affecting the purposes and intent of the plan or the type of use of any area shall be referred to the planning and zoning board for its report and recommendation in the manner hereinabove prescribed for approval of final development plans. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-101. Failure to begin planned development.

If no construction has begun or no use established in the planned development within one year from the approval of the final development plan, the final development plan shall lapse and be of no further effect. The town auditor and clerk shall file a notice of revocation with the final development plan and shall also note the same upon the official zoning map of the town. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-102. Building permits.

Building permits shall be issued only in conformity with the final development plan as approved by the town commission. Nothing contained herein shall be deemed to relieve the applicant of the requirements of the Building Code of the town and a building permit for each structure must be obtained pursuant to such code. (Ord. No. 160, § 7, 10-15-69.)

Sec. 22-103. Certificate of occupancy.

Certificates of occupancy shall not be issued for completed structures until the utilities, service facilities and open areas as shown on the final development plan have been completed in accordance with the development schedule for that stage of construction. (Ord. No. 160, § 7, 10-15-69.)

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Article XIX. Nonconforming Lots, Uses, Etc.

Sec. 22-104. Intent of chapter.

A nonconforming use is a use which is legal before a zoning ordinance and district is established but which is not permitted within the district after establishment of the ordinance and district. There are nonconforming uses of land, nonconforming uses of structures and premises, nonconforming characteristics of use and nonconforming structures.

It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. (Ord. No. 160, § 6, 10-15-69.)

Sec. 22-105. Extension and enlargement.

A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land shall not be extended or enlarged after October 15, 1969 by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to October 15, 1969 or to the effective date of amendment of this chapter and upon which actual building construction has been diligently carried on. "Actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except, that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided, that work shall be diligently carried on until completion of the building involved. (Ord. No. 160, § 6, 10-15-69.)

Sec. 22-106. Nonconforming lots of record.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record on October 15, 1969 or at the effective date of an amendment of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements of area or width, or both, that are generally applicable in the district; provided, that yard dimensions and other requirements not involving area or width shall conform to the regulations for the district in which such lot is located. Variance of yard requirements and other requirements not involving area may be obtained only through action of the zoning board of adjustment.

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If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record on October 15, 1969 or at the time of amendment of this chapter, and if all or part of the lots do not meet the requirements for lot area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of such parcel shall be used which does not meet lot area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with area below the requirements in this chapter. (Ord. No. 160, § 6, 10-15-69; Ord. No. 171, § 2, 4-15-70; Ord. No. 180, § 2, 7-20-70.)

Sec. 22-107. Nonconforming uses of land.

Where, on October 15, 1969 or at the effective date of amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(a) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on October 15, 1969 or at the effective date of amendment of this chapter; unless such use is changed to a use permitted in the district in which such use is located.

(b) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on October 15, 1969 or at the effective date of amendment of this chapter.

(c) If any such nonconforming use of land ceases for any reason for a period of more than one hundred eighty consecutive days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(d) No additional structure which does not conform to the requirements of this chapter shall be erected in connection with such nonconforming use of land. (Ord. No. 160, § 6, 10-15-69.)

Sec. 22-108. Nonconforming structures generally.

Where a lawful structure exists on October 15, 1969 or at the effective date of amendment of this chapter that could not be built under the terms of this chapter by reason of restriction on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No such structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(b) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved. (Ord. No. 160, § 6, 10-15-69.)

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Sec. 22-109. Nonconforming uses of structures or of structures and premises in combination.

If a lawful use involving individual structures, or of structures and premises in combination, exists on October 15, 1970 or at the effective date of amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(b) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use on October 15, 1969 or at the time of amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(c) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use; provided, that the zoning board of adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the zoning board of adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

(d) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

(e) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for eighteen months during any three-year period, except when government action impedes access to the premises, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. (Ord. No. 160, § 6, 10-15-69.)

Sec. 22-110. Reconstruction of nonconforming structures.

A nonconforming structure may be rebuilt; provided, that the original cubic content, area or number of dwelling units is not exceeded. (Ord. No. 160, § 6, 10-15-69.)

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Sec. 22-111. Uses under special exception provisions not nonconforming uses.

Any use for which a special exception is permitted in this chapter, other than a change through zoning board of adjustment action from a nonconforming use to another use not generally permitted in the district, shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district. (Ord. No. 160, § 6, 10-15-69.)

Article XX. Zoning Board of Adjustment.

Sec. 22-112. Established; composition; appointment; terms of office; removal of members; vacancies; chairman.

There is hereby established a zoning board of adjustment. The word "board" when used in this section shall be construed to mean the zoning board of adjustment. The board consists of five members to be appointed by the mayor, subject to confirmation by the town commission. Members shall be appointed for three year terms. Two members' terms expire in 1969, one in 1970 and two in 1971. Members of the board may be removed for cause by the mayor, subject to the confirmation of the town commission, upon written charges and after public hearing. Vacancies on the board shall be filled for the unexpired term by the mayor, subject to the approval and confirmation of the town commission. The mayor shall appoint a chairman subject to confirmation by the town commission annually from the members of the board. The board shall elect its own vice-chairman and any other officers. (Ord. No. 160, § 10, 10-15-69; Ord. No. 198, § 1, 7-15-71.)

Sec. 22-113. Meetings; rules of procedure; minutes; witnesses.

The meeting of the board shall be held the first Tuesday of any month upon the call of the chairman and in the absence of the chairman, the vice-chairman, and at such times as the board may determine. The board shall adopt its own rules of procedure and shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. The chairman of the board, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. Every rule and regulation, and every amendment or repeal thereof, shall be filed in the office of the board and shall be a public record. (Ord. No. 160, § 10, 10-15-69; Ord. No. 198, § 1, 7-15-71.)

Sec. 22-114. Appeals generally.

Appeals to the zoning board of adjustment may be taken by any person aggrieved by any decision of the town manager with respect to zoning ordinances. Such appeal shall be taken by filing with the town manager, and with the zoning board of

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adjustment, a notice of appeal specifying the grounds thereof, within thirty days from the rendering or entry of the decision, order or rule from which the appeal is taken. The notice of appeal shall specify the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken.

The zoning board of adjustment shall fix a reasonable time for hearing of the appeal and give public notice fifteen days prior to the hearing. The petitioners shall furnish names and evidence of notification to all property owners involved in the petition or request and to all owners of property immediately adjacent and in rear thereof extending three hundred feet from the perimeter of such area.

An appeal stays all proceedings in furtherance of the action appealed from, unless the town manager from whom the appeal is taken certifies to the zoning board of adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the zoning board of adjustment or by a court of record on application, on notice to the town manager and for cause shown. (Ord. No. 160, § 10, 10-15-69; Ord. No. 198, § 1, 7-15-71.)

Sec. 22-115. Administrative review.

The zoning board of adjustment shall have the power and duty to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the town manager in the enforcement of this chapter or chapter 176, Florida Statutes. (Ord. No. 160, § 11, 10-15-69.)

Sec. 22-116. Special exceptions.

The zoning board of adjustment shall have the power to hear and decide only such special exception as the zoning board of adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exception should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter or other applicable ordinances; or to deny special exceptions not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the zoning board of adjustment unless and until:

(a) Written application for a special exception shall be submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

(b) Public notice shall be given by the zoning board of adjustment at least fifteen days in advance of public hearing. The owner of the property for which special exception is sought or his agent shall be notified by mail. Notice of such hearing shall be posted on the property for which special exception is sought, at the Town Hall, and in one other public place at least fifteen days prior to the public hearing.

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(c) The public hearing shall be held. Any party may appear in person or by agent, or attorney.

(d) The zoning board of adjustment shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

(e) In considering an application for special exception, the zoning board of adjustment shall consider, among other things, the following particulars:

- (1) That the use will be reasonably compatible with surrounding uses.
- (2) That the land or building area involved is adequate under the terms of district regulations.
- (3) That a parking problem will not be created.
- (4) That unusual traffic hazards will not be created.
- (5) That excessive traffic will not be generated on adjacent residential streets.
- (6) That any minor nuisances or hazards incidental to the special exception use will be adequately separated and buffered from adjacent uses.

Prior to the date set for the public hearing, applicant shall have furnished the zoning board of adjustment evidence that all owners of property within three hundred feet of the perimeter of applicant's property shall have been notified by registered mail of applicant's petition.

Prior to the final decision of the board, the application for special exception may be submitted to the planning and zoning board for its recommendation as to the disposition of the application and as to appropriate conditions and safeguards which may be included.

In no case shall special exception constitute any variance from the terms of this chapter, or grant approval to establish or expand any use not conforming to the intent of the regulations in the district affected.

In granting any special exception, the zoning board of adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed to be in violation of this chapter and punishable as provided by this chapter. The zoning board of adjustment shall prescribe a time limit within which the action for which the special exception is required, shall be begun or completed, or both. Failure to begin

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or complete, or both, such action within the time limit set shall void the special exception. (Ord. No. 160, § 11, 10-15-69.)

Sec. 22-117. Variances.

The zoning board of adjustment shall have power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. As used in this chapter, a variance is authorized only for height, size of structure, size of yards, average width, rear lines, street frontage and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance except as specifically permitted elsewhere in this chapter nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district. A variance from the terms of this chapter shall not be granted by the zoning board of adjustment unless and until:

(a) A written application for a variance is submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings or structures in the same district.

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(3) That the special conditions and circumstances do not result from the actions of the applicant.

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.

(b) No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

(c) Notice of public hearing shall be given as specified for special exceptions.

(d) Proof of notification to adjacent land owners must be furnished the zoning board of adjustment prior to the date of the public hearing as specified for special exceptions.

(e) The public hearing shall be held. Any party may appear in person or by agent, or attorney.

(f) The zoning board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that

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the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

(g) The zoning board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(h) In granting any variance, the zoning board of adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable as provided by this chapter. (Ord. No. 160, § 11, 10-15-69; Ord. No. 171, § 8, 4-15-70; Ord. No. 180, § 9, 7-20-70.)

Sec. 22-118. Decisions of the zoning board of adjustment.

In exercising any of the above listed powers, the zoning board of adjustment may, so long as the action is in conformity with the terms of this chapter, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as should be made, and to that end shall have all of the powers of the town manager from whom the appeal was taken.

The concurring vote of four members of the zoning board of adjustment shall be necessary to reverse any order, requirement, decision or determination of the town manager, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter. (Ord. No. 160, § 11, 10-15-69.)

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