2000 TOWN CODE

LONGBOAT KEY
CODE OF ORDINANCES

1996

INCLUDING 1997, 1998, 1999, and 2000 SUPPLEMENTS

A Codification of the General Ordinances of the Town of Longboat Key, Florida

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2000 TOWN CODE

LONGBOAT KEY, FLORIDA

TABLE OF CONTENTS

Chapter

CHARTER

TITLE I: GENERAL PROVISIONS

10. General Provisions

TITLE III: ADMINISTRATION

30. Town Commission
31. Officials
32. Departments and Agencies
33. Boards and Commissions
34. Employment Policies
35. General Policy
36. Elections
37. Finance and Taxation
38. Purchasing
39. Code of Ethics

TITLE V: PUBLIC WORKS

50. General Provisions
51. Charges, Rates, and Billing
52. Sewers
53. Water
54. Water Shortage Orders

TITLE VII: TRAFFIC CODE

70. General Provisions
71. Traffic Rules
72. Stopping, Standing, and Parking
73. Bicycles
74. Parking Schedules
75. Traffic Schedules

TITLE IX: GENERAL REGULATIONS

90. Aircraft and Airports
91. Animals
92. Beaches and Parks
93. Boats and Waterways
94. Fire Prevention Code
95. Garbage, Rubbish, Junk and Recycling
96. Health and Sanitation
97. Streets and Sidewalks
98. Trees

Chapter

99. Abandoned and Seized Property
100. Sea Turtles
101. Burglar Alarm Systems

TITLE XI: BUSINESS REGULATIONS

110. Alcoholic Beverages
111. Occupational Licenses
112. Peddlers
113. Film Industry

TITLE XIII: GENERAL OFFENSES

130. General Offenses

TITLE XV: LAND DEVELOPMENT CODE

150. Buildings
151. Shoreline Construction
152. Dredging and Filling
153. Electricity
154. Flood Control
155. Plumbing Code
156. Signs
157. Subdivision Regulations
158. Zoning Code
Appendix: Land Use Charts and Illustrations
159. Zoning and Subdivision Fees; Temporary Use Permits
160. Comprehensive Plan

TABLE OF SPECIAL ORDINANCES

Table

I. Franchises
II. Zoning Map Changes

PARALLEL REFERENCES

References to Florida Statutes
References to 1971 Code
References to Ordinances

INDEX

ORDINANCE NO. 82-14

AN ORDINANCE ENACTING A CODE OF ORDINANCES OF THE TOWN OF LONGBOAT KEY, FLORIDA; RECODIFYING, RENUMBERING, REVISING, AND REARRANGING SECTIONS OF THE CODE OF ORDINANCES OF THE TOWN; ADDING NEW MATTER AND REPEALING VARIOUS ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the present Code of Ordinances of the Town of Longboat Key is inadequately arranged in regard to titles, topics, and subject matter, some sections being now insufficient in form and substance for the proper preservation of the public peace, health, safety, and welfare of the Town and for the proper conduct of its affairs, and,

WHEREAS, American Legal Publishing Company has completed the recodifying, renumbering, revising, and rearranging of the general and permanent ordinances of the Town in printed form pursuant to an agreement with said Company, and,

WHEREAS, not less than two (2) copies of the recodification have been on file in the office of the Town Clerk and subject to public inspection, and,

WHEREAS, in the interest of certainty with respect to ordinance provisions and to comply with law, it is deemed necessary forthwith to publish such recodification, renumbering, revision, and rearrangement of said ordinances in book form as the Code of Ordinances.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA:

Section 1. Revision and Recodification. The general and permanent ordinances of the Town are revised, rearranged, recompiled, and renumbered as to sections into the following component titles: I-General Provisions, III-Administration, V-Public Works, VII-Traffic, IX-General Regulations, XI-Business Regulations, XIII-General Offenses, XV-Land Development Code.

Section 2. Adoption of Codified Ordinances. The general and permanent ordinances of the Town, so revised, rearranged, recompiled, and renumbered as to section and recodified, in form the same as that on file in the office of the Clerk, bearing number the same as this ordinance, are hereby approved, adopted, and enacted, and the same shall be printed and published in book form in the manner provided in Article II, Section 19 of the Charter of the Town of Longboat Key, Florida, and when so printed, published, and assembled in book form and certified as correct by the Town Clerk shall be admitted in evidence and accepted by the courts and all persons as to the existence, effectiveness, and regularity of all enactments so published in said book form, as of the effective date designated herein.

Section 3. Other Amendments and Supplements. The Code of Ordinances may be amended or supplemented at any time and, when any amendment or supplement is adopted in such form as to indicate the intention of this Commission to make the same a part thereof, such amendment or supplement shall be incorporated in, and deemed a part of, the Code of Ordinances so that any reference to the Code of Ordinances shall be understood and construed as including the Code of Ordinances, and any and all such amendments and supplements thereto.

Section 4. Form of Amendment or Supplement. All amendments and supplements enacted as a part of the Code of Ordinances shall be integrated therewith by following the form of arrangement and plan hereby and therein adopted. Each title shall be subdivided into chapters, and each chapter shall be subdivided into sections.

Section 5. Interpretation. (a) In the interpretation of any provision of the Code of Ordinances, or of any ordinance amending or supplementing the same, general terms, phrases, and expressions therein shall be liberally construed so as to carry out the intent and meaning of this Commission, and shall have the meaning commonly ascribed thereto, unless a different meaning is required by the context or to give effect to such ordinance.

(b) The headings of sections contained in the Code of Ordinances shall be printed in all capital letters and are to be deemed to be in the nature of "catch words," and in case of conflict between such heading and the contents of any section, the contents of the section shall control, notwithstanding such headings.

Section 6. Separability. Each section and each part of each section of the Code of Ordinances is hereby declared to be an independent section or part of a section and notwithstanding any other evidence of legislative intent that if any such section or part of a section, or any provision thereof, or the application thereof to any person or circumstances, is held to be invalid, the remaining sections or parts of sections and the application of such provision to any other person or circumstances, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared to be the legislative intent that the Code of Ordinances would have been adopted independently of such section, sections, or part of a section so held to be invalid.

Section 7. Repeal of Prior Ordinances. The Code of Ordinances contains all of the provisions of a general and permanent nature pertaining to the subjects therein enumerated and embraced. All prior ordinances, parts of ordinances, and sections of the prior Code of Ordinances in force on November 4, 1981, which are incorporated in or pertain to the subjects enumerated and embraced in the Code of Ordinances of the Town are hereby repealed as of 12:01 A.M. on the day following adoption of this ordinance.

Section 8. Prior Ordinances not Affected by Repeal. 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 on or before the second reading of this ordinance; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money by 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 of 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 the second reading of this ordinance.

Section 9. Subsequent Ordinances. New and/or amending ordinances have been adopted since the printing of Code of Ordinances being herein adopted beginning with Ordinance 81-39, which will have to be supplemented to this Code of Ordinances. Such new and/or amending ordinances shall remain in effect and shall not be affected by the repeal set out in Section 7.

Section 10. Effective Date. This ordinance shall take effect upon second reading in accordance with law and the Charter of the Town of Longboat Key.

Passed on first reading this 1st day of September, 1982.

Passed and adopted finally on second reading this 15th day of September, 1982.

Harry P. Kirst
Vice-Mayor

E. Jane Pool
Town Clerk

[redacted]

LONGBOAT KEY - ADOPTING ORDINANCE

4

LONGBOAT KEY CHARTER

On March 9, 1999, the town's voters approved Ordinance 98-32, adopted by the Town Commission on December 17, 1998, except for one option, which adopted a new Charter as herein set out. On March 17, 1998, the town's voters approved Ordinance 97-28 adopted by the Town Commission on January 5, 1998. On November 7, 1989, the town's voters approved Ordinance 89-15, adopted by the Town Commission on September 21, 1989, which adopted fourteen Charter amendments. Prior to this Charter, the town's voters adopted a new Charter on March 20, 1975, as approved in Ordinance 75-2, adopted by the Town Commission on February 19, 1975. The town's previous Charter was derived from Special Acts 1957, Ch. 1540, and Special Acts, Chs. 59-1511, 59-1512, 61-2422, 65-1862, and 69-1265.

Article I. Boundaries, Powers and Form of Government

1. Purpose
2. Body corporate and politic
3. Boundaries
4. Form of government
5. Powers of municipality
6. Powers of town commission
7. Amended Charter, references
8. Ethics in government

Article II. Town Commission

1. Commission districts
2. Creation of commission; residency requirements, election and terms of office of commissioners
3. Nominations; character of service
4. Elections generally
5. Conduct of elections
6. Hours polls to be open; canvass of returns; certification of election
7. Judge of qualifications
8. Vacancies
9. Recall of town commissioners
10. Mayor and vice-mayor
11. Functions and powers of mayor
12. Relationship of town commission with administration
13. Meetings
14. Special and Emergency meetings
15. Penalty for absence
16. Enactment of ordinances
17. Emergency measures
18. Codification of ordinances
19. Oath of office
20. Appointment of advisory boards

21. Duty to impose and levy taxes
22. Comprehensive plan for town
23. Investigations

Article III. Town Manager

1. Appointment; qualifications, compensation
2. Removal
3. Acting town manager
4. Powers and duties of the town manager

Article IV. Town Clerk

1. Appointment and qualifications
2. Powers and duties

Article V. Town Finances

1. Finance director
2. Fiscal year
3. Submission of budget and budget message
4. Budget message
5. Budget
6. Capital program
7. Town commission action on budget
8. Public records
9. Amendments after adoption
10. Lapse of appropriations
11. Budget work programs and allotments
12. Certificate of available funds
13. Audit of accounts
14. Audit and certification of claims
15. Investment advisory committee
16. Bonds

Article VI. Town Attorney

1. Appointment and qualifications
2. Assistant town attorneys
3. Duties

Article VII. Charter Amendments

1. Proposal of amendments
2. Method of referendum
3. Referendum on Charter amendments

4. Adoption of amendment
5. Supplemental method of amendment

Article VIII. Transitional and Separability

1. Existing ordinances not inconsistent with amended Charter
2. Title to all properties reserved
3. Obligation of contracts preserved
4. Officers held over until successors qualify
5. Separability clause
6. Effective Date.

Article I. Boundaries, Powers and Form of Government

Sec. 1. Purpose.

We, the people of the Town of Longboat Key, desiring to avail ourselves of the right to establish a home rule charter form of government do, in accordance with the Constitution and the Laws of the State of Florida, ordain and establish this Charter and form of government for the Town of Longboat Key, Florida.

Sec. 2. Body corporate and politic.

The inhabitants of the Town of Longboat Key, Florida, as its boundaries are established pursuant to Article I, Section 3, 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. The use of any word importing male gender within this Charter shall extend and be applied to both male and female.

Sec. 3. Boundaries.

The corporate boundaries of the Town shall be established by ordinance and shall remain fixed as existing on the date this Charter takes effect. The Town shall have the power to change its boundaries in the manner prescribed by law.

Sec. 4. Form of government.

The form of government established under this Charter shall be a "commission-manager" form as herein defined. The commission shall consist of seven (7) electors to be nominated and elected as hereinafter provided. The commission shall constitute the governing body of the town, with the duties and responsibilities hereinafter provided, and shall appoint a chief administrative officer to be known as "town manager" to exercise all the powers, perform the duties and assume the responsibilities hereinafter provided.

Sec. 5. Powers of municipality.

In accordance with the Constitution and the Statutes of the State of Florida, the Town of Longboat Key shall have all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services; and it may exercise any of its powers for municipal purposes, except when expressly prohibited by law, provided:

(a) The town shall not sell any real property owned by the town unless the town commission first determines that such real property may not be needed for current or future municipal use, and not less than thirty (30) days prior to sale, causes a notice to be published in a newspaper of general circulation within the town giving notice of its intention to sell.

(b) No revenue bonds as defined by State law shall be issued by the town or any public entity controlled by the town without approval at a referendum held in the manner prescribed by law. The town commission may waive the requirement for a referendum for said revenue bonds if it determines, in its sole discretion, that there exists an emergency such that it is in the best interest of the town to issue the bonds without referendum.

(c) Notwithstanding the above, a referendum shall not be required for refinancing existing bonds.

Sec. 6. Powers of town commission.

(a) All powers of the Town of Longboat Key, except those vested in the town manager, town clerk, and town attorney, or as otherwise provided in this Charter, are vested in the town commission. The town commission may prescribe by ordinance or resolution the manner in which such powers are exercised. The town commission shall have power to pass all ordinances and laws not inconsistent with the Constitution and the Laws of the United States and the State of Florida as in its judgment may be necessary and proper for the government and preservation of peace and order within the town.

(b) The town commission shall have the power to impose by ordinance such fines, penalties and forfeitures as it deems necessary for the enforcement of ordinances of the town.

Sec. 7. Amended Charter; references.

(a) This Charter constitutes the amended Charter of the Town of Longboat Key and is adopted pursuant to Florida Statutes, Section 166.031.

(b) References to "Charter" or "amended Charter" throughout refer to this amended Charter; references to "town" refer to the Town of Longboat Key; references to "commission" refer to the town commission; and references to "manager" refer to the town manager.

Sec. 8. Ethics in government.

A public office is a public trust. The people shall have the right to secure and sustain that

2000 TOWN CODE

trust against abuse. To assure this right, the town commission shall provide by ordinance a town ethics code establishing standards of conduct for town officers, employees, candidates and advisory board members, including without limitation elected town commissioners, and requiring disclosure of financial or other interests and voting conflicts, and providing procedures for such disclosures.

To further assure this right, the town commission shall appoint a minimum of three (3) independent Special Masters. When a complaint alleging a breach of public trust is filed with the town clerk concerning a candidate for town commission or an elected town commissioner, or any member of an advisory board, an independent Special Master shall be chosen by lot from the list maintained by the town to conduct investigations and make public reports. The Special Masters shall be selected based upon their qualifications, which shall include at a minimum being members of the Florida Bar and neither living nor conducting substantial business within the Town of Longboat Key.

The town commission shall create by ordinance duties and powers of the Special Masters and provide for enforcement of all ethical standards, procedures for processing complaints of violations and penalties. When the Special Master has determined that an ethical violation has been committed, he shall have the power to take disciplinary action, including public censure and reprimand, forfeiture of salary, restitution of any pecuniary benefits received because of the violation committed, removal from office, or recommendation to the State of Florida that the individual be removed from public office. Any person aggrieved by a decision of a Special Master shall apply to the circuit court for judicial relief within thirty (30) days after rendition of the decision.

The town manager shall insure that all employees abide by the established standards of conduct for employees, as set forth by the town, and shall have the power to reprimand, puniah, demote, dismiss or take other disciplinary action concerning employees who breach ethical standards. The town commission shall select a Special Master by lot to review all complaints alleging ethical misconduct regarding either the town manager or the town attorney and the Special Master shall make findings of fact as to whether the misconduct occurred and shall forward said findings to the town commission for further action.

Any member of the town commission or an appointed board who is convicted of a felony, or for any misdemeanor arising directly out of his conduct of duties, shall forfeit his office.

The town code of ethics may have additional or different types of provisions than those of the state law, and may be stricter or more relaxed in its terms, provided however, that the provisions of the town ethics code shall not be inconsistent with state law, and all town officers and employees shall continue to be governed by the ethical standards provided therein.

Article II. Town Commission

Sec. 1. Commission districts.

There are hereby created five (5) commission districts in the Town of Longboat Key as presently established by ordinance of the town. 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. All districts shall have substantially an equal number of electors registered therein.

The town commission shall, by ordinance, redistrict the town within six (6) months after the general election held in March if the number of registered electors in any district exceeds by twenty percent (20%) the number of registered electors in any other district in order that all districts may have substantially an equal number of electors registered therein; provided that final action in 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.

Sec. 2. Creation of commission; residency requirements, election and terms of office of commissioners.

(a) The town commission shall consist of seven (7) electors of the town. Two (2) commissioners shall be elected at large. The remaining five (5) commissioners shall reside in and be nominated from each of the five districts of the town as set forth in Section 1. 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 day after their election as provided herein. Beginning with electors elected as town commissioners in the general election of 1999, no elector shall serve more than three (3) consecutive terms as town commissioner without an interval of one complete term out of office. One (1) commissioner-at-large and commissioners from odd-numbered districts shall be elected in even-numbered years, and one (1) commissioner-at-large and commissioners from even-numbered districts shall be elected in odd-numbered years.

(b) Any commissioner, except those elected at large, who changes his permanent residence to an area outside the district from which elected shall be deemed to have vacated his office and position on the town commission. Any commissioner who is redistricted during the course of his term by ordinance as required by Section 1 of this Article, shall continue to hold office for that district until the expiration of his term.

Sec. 3. Nominations; character of service.

The town commission shall provide by ordinance for procedures for nominations for the office of town commissioner, provided all nominations and elections shall be conducted on a nonpartisan basis without regard for a designation of the political party affiliation of any nominee on any nominating petition or ballot. All members of the town commission shall serve without compensation but shall be reimbursed for expenses incurred in connection in connection with

official duties.

Sec. 4. Elections 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 Tuesday of February and the general election shall be held on the third Tuesday of March, or, when practicable, in conjunction with any County election held in March by the coordinating County, either Sarasota or Manatee County. The names of the two (2) candidates who receive the first and second highest number of votes cast for a particular office in the preliminary election shall be placed on the ballot for that office at the general election. If no more than two (2) electors qualify as candidates for nomination for each office to be voted upon, then no preliminary election need be held; and such qualified candidates shall be nominees at the next following general election.

Sec. 5. Conduct of elections.

The town commission shall, by ordinance, prescribe the method and manner of holding all elections in the town and shall provide when and how special elections shall be called and held, which are not provided for by the terms of this Charter. All elections shall be conducted substantially in accordance with the laws governing state elections insofar as there is no conflict with the terms of the Charter.

Sec. 6. Hours polls to be open; canvass of returns; certification of election.

The polls shall be open at the voting places from 7:00 a.m. to 7:00 p.m., or as otherwise provided by law, on the same day, 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 the Supervisor of Elections or his deputy and delivered to the town clerk who shall transmit the returns to the town commission at a meeting to be held at 7:00 PM 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 declared by the commission to be the result of the election. The town clerk shall thereupon furnish a certificate of election to each person shown to have been elected, and each such person shall take office at that meeting.

Sec. 7. Judge of qualifications.

The town commission shall be the judge of the election and qualification of its own members, subject to review by the courts.

Sec. 8. Vacancies.

(a) Vacancies in the town commission shall be filled by the town commission, with any

person so appointed to be a qualified elector from the district of the vacated commissioner, to serve until the next general municipal election. At the next general municipal election, the vacancy shall be filled by election; the person elected in such election to serve the remaining unexpired term of the town commissioner whose vacant office is being filled. If a vacancy is not filled by the town commission within thirty (30) days after the vacancy occurs, a special election shall be held within ninety (90) days after such a vacancy occurs; and the person so elected shall serve the remaining unexpired term.

(b) Any vacancy resulting from a recall election shall be filled in the manner provided by state laws applicable to recall of municipal officials.

Sec. 9. Recall of town commissioners.

All members of the town commission shall be subject to recall as provided by the Laws of the State of Florida.

Sec. 10. Mayor and vice-mayor.

(a) The town commission shall, at a meeting to be held at 7:00 p.m. on the day following the general municipal election or thereafter when necessary to fill a vacancy, elect one (1) of its members as mayor of the town and another of its members as vice-mayor. If the members of the town commission are unable to agree within five (5) days after the time fixed herein or within five (5) days after any vacancy occurs, upon the selection of the mayor and vice-mayor, then such officers shall be chosen by lot, conducted by the town attorney, who shall certify the result of such lot in the minutes of the town commission.

(b) In the event of illness, disability, death or absence of the mayor, the vice-mayor shall have all powers, duties and authority of the mayor. If the vice-mayor signs any instrument in place of the mayor, then it shall be presumed without further proof that the mayor was either ill, disabled, deceased or absent from the town. In the event of the illness, disability, death or absence from the town of both the mayor and vice-mayor, a quorum of the town commission may by resolution, entered in the minutes of the town commission, appoint an acting mayor for such length of time or for such particular purpose as may be necessary.

Sec. 11. Functions and powers of mayor.

The mayor shall preside at all meetings of the commission and perform such other duties consistent with the office as may be imposed by it, shall have a voice and a vote in the proceedings of the commission but no veto power, and 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. This shall not be considered as conferring upon the mayor the administrative or judicial functions of a mayor under the general laws of the state. The mayor shall be recognized as the 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. The powers and duties of the mayor shall be such as are conferred by the town commission in

pursuance of the provisions of this Charter, and no others.

Sec. 12. Relationship of town commission with administration.

(a) Except for purposes of inquiry, the town commission and its members shall deal with the administrative service solely through the town manager. Neither the town commission nor any member shall give orders to any subordinates of the town manager, either publicly or privately. No individual member of the town commission shall give orders to the town manager, either publicly or privately.

(b) The provisions of Section 12(a) shall not limit or restrict the right of the town commission as a body from inspecting or making inquiry regarding any work performed by any department or division of the town and shall not limit or restrict the right of the town commission to make investigations as provided in Section 23 of this Article.

(c) Neither the town commission nor any of its members shall in any manner dictate the appointment or removal of any town administrative officers or employees whom the town manager or any subordinate is empowered to appoint, but town commissioners may express their views and fully and freely discuss with the town manager anything pertaining to appointment and removal of such officers and employees.

Sec. 13. Meetings.

(a) At 7:00 p.m. on the Wednesday following each general municipal election under this Charter, the town commission shall meet at the usual place for holding the meeting of the legislative body of the town, at which time 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 for a regular voting meeting and once each month for a regular non-voting workshop, except that the regular non-voting workshop and the regular monthly voting meeting in the month of August may be cancelled by the commission if cancelled at least thirty (30) days prior to the day on which the meeting would normally be conducted.

(b) All meetings of the town commission and of the committees thereof shall be public. 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 minutes of its proceedings.

Sec. 14. Special and Emergency Meetings.

(a) Special Meetings. The mayor, or any two (2) members of the commission, may call special meetings of the commission upon at least twenty-four (24) hours written notice to each member, served personally, or left at the member's place of business or usual place of residence; provided, the aforesaid requirement of written notice of special meetings may be waived at said special meeting by the unanimous vote of the entire town commission recorded in the minutes of the

meeting; but in any event, there shall be no such requirement of written notice where notice is given at the meeting immediately preceding the special meeting and so recorded in the minutes of that meeting. An affirmative vote of not less than four (4) members shall be necessary for all actions taken at a special meeting.

(b) Emergency Meetings. The mayor or two members of the commission may call emergency meetings of the commission. The most appropriate and effective notice under the circumstances shall be provided for emergency meetings. The method of providing notice shall be recorded in the minutes of the meeting. A vote that the meeting is an emergency shall be the first order of business. The affirmative vote of the majority of the commissioners present plus one shall be necessary to confirm that the meeting is an emergency meeting. Failure to obtain this affirmative vote shall preclude conducting any further business at the meeting except adjournment. An affirmative vote of not less than four (4) members shall be necessary for all other actions taken at an emergency meeting.

Sec. 15. Penalty for absence.

Absence from all meetings and workshops for two (2) consecutive calendar months shall operate to vacate the seat of a member, unless such absence is excused by the commission prior to the end of the two-month period. The month of August shall be excluded when computing these two consecutive months.

Sec. 16. Enactment of ordinances.

(a) The enactment of all ordinances and resolutions by the Town of Longboat Key shall be in substantial conformance with state law.

(b) The majority of the members of the town commission shall constitute a quorum. A lesser 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 not less than four (4) members shall be necessary to adopt any ordinance or resolution and the passage of all ordinances shall be taken by "yeas" and "nays" and entered in the minutes. On final passage, the vote of each member of the town commission voting shall be entered on the official record of the meeting. All ordinances or resolutions passed by the town commission shall become effective ten (10) days after passage or as otherwise provided therein. Should an ordinance or resolution receive an affirmative vote of less than four (4), but the affirmative votes of enough when added to the absent members to make four (4), the ordinance or resolution shall be rescheduled from meeting to meeting until the matter can be decided by a concurring vote of four (4) or more members of the commission.

(c) Every ordinance or resolution shall upon its final passage be recorded in a book kept for that purpose and shall be signed by the mayor and the town clerk.

(d) Codes, including the building code and other codes of the Town of Longboat Key, which are in printed form and are on file and available for public inspection at the office of the town clerk, need not be published in a newspaper in order to become effective, but may by reference

be made a part of any town ordinance now or hereafter adopted.

Sec. 17. Emergency measures.

(a) 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.

(b) 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.

Sec. 18. Codification of ordinances.

(a) The town commission shall provide for the continuing revision and codification of all of the general and permanent ordinances of the town to be published in book form, with sufficient copies available to the general public at a reasonable cost.

(b) Every such revision or codification, after adoption by the town commission, shall be received in any of the courts of this state as prima fade evidence of the existence and contents of the laws and ordinances therein contained.

Sec. 19. 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 clerk. Such oath shall be in the form prescribed for state officers by the Constitution of the state.

Sec. 20. Appointment of advisory boards.

(a) The town commission shall establish permanent boards by ordinance and ad hoc committees by resolution. Members of such boards or committees shall serve without compensation at the pleasure of the town commission for such terms as it deems necessary and desirable. At a minimum, the permanent boards of the town shall be the Planning and Zoning Board, the Zoning Board of Adjustment and the Code Enforcement Board, the duties and responsibilities of which shall be established by ordinance.

(b) The town commission, at its discretion, shall appoint a Charter Review Committee to review the Charter but in no event shall such review be less than once in a ten (10) year period from the date of adoption of this Charter.

Sec. 21. Duty to impose and levy taxes.

The town commission shall levy and impose such ad valorem and other taxes as authorized by law as, in its judgment, are necessary to provide sufficient revenues to carry on the government of the town; provided, unless levied to pay debt service including sinking fund reserves for approved bonded indebtedness of the town, no more than five (5) mills on the dollar of assessed valuation shall be levied or collected as a tax on real property unless previously approved by a majority of electors voting in a regular or special election or referendum.

Sec. 22. Comprehensive plan for town.

(a) The town commission shall cause plans to be developed on a continuing basis for the future development and maintenance of the town, considering the health, safety, morals, environmental protection, aesthetics, convenience and general welfare of the town and its residents.

(b) The present density limitations provided in the existing comprehensive plan as adopted March 12, 1984 shall not be increased without the referendum approval of the electors of Longboat Key.

Sec. 23. Investigations.

The town commission 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 mayor or such other officer authorized by the town commission and shall be served by any officer authorized by law to serve such process. The town commission in making such investigation shall have the power to cause testimony to be given under oath and shall have the power to apply to any court of competent jurisdiction to punish for contempt any person refusing to testify or to produce any books, papers, documents or other evidence under his control which relates to the matter under investigation.

Article III. Town Manager

Sec. 1. Appointment; qualifications; compensation.

The town commission shall, by an affirmative vote of at least five (5) members, appoint a town manager who shall serve at the pleasure of the town commission and for such compensation as determined by the commission. The manager shall be appointed solely on the basis of professional and administrative qualifications.

Sec. 2. Removal.

The town manager may be removed from office upon the affirmative vote of five (5) members of the town commission. Written notice of the removal action specifying the effective date of removal shall be promptly provided to the town manager.

Sec. 3. Acting town manager.

By letter filed with the town clerk the manager, or in his absence, the town commission, shall designate a qualified town administrative officer to exercise the powers and perform the duties of manager during any temporary unavailability or inability to act. During such unavailability or inability, the town commission may revoke such designation at any time and appoint another officer of the town to serve until the manager shall return or the unavailability or inability shall cease.

Sec. 4. Powers and duties of the town manager.

The town manager shall be the chief administrative officer of the town and shall be responsible to the town commission for the administration of all town affairs. He shall establish such departments and divisions of responsibility as shall be necessary and proper for administration of the affairs of the town and performance of its municipal functions. He shall be responsible for the preservation of peace and the protection of persons and property within the town and shall be the director of all public safety forces. Subject to such personnel regulations as may be adopted by ordinance or resolution of the town commission, he shall, pursuant to this Charter, appoint, remove and fix compensation for the chiefs and all subordinate officers of the police, fire and other safety forces of the town, department heads and all other town employees except those specified elsewhere in this Charter. In addition, he shall have the following additional powers and duties:

(a) Direct and supervise the administration of all departments, offices and agencies of the town, except as otherwise provided by this Charter or by law.

(b) Determine whether officers, clerks or employees of the town shall be bonded and the amount of the bond. The 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, and on file with the town clerk.

(c) Attend all town commission meetings, unless otherwise excused by the town commission, and shall have the right to take part in discussion but may not vote.

(d) See that all laws, provisions of this Charter and acts of the town commission, subject to enforcement by the manager of by officers subject to the manager's direction and supervision, are faithfully executed.

(e) Prepare and submit the annual budget and capital program to the town commission.

(f) Submit to the town commission and make available to the public a complete report of

the finances and administrative activities of the town as of the end of each fiscal year.

(g) Make such other reports as the town commission may require concerning the operations of town departments, offices and agencies subject to the manager's direction and supervision.

(h) Keep the town commission fully advised as to the financial condition and future needs of the town and make such recommendations to the town commission concerning the affairs of the town as deemed desirable.

(i) Serve as purchasing agent for the town, through whom all purchases of supplies shall be made. He shall approve all vouchers for the payment of same and conduct all sales of personal property which the commission may authorize to be sold or 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.

(j) Perform such other duties as are specified in this Charter or may be required by the town commission.

Article IV. Town Clerk

Sec. 1. Appointment and qualifications.

The town manager, with the approval of the town commission, shall appoint a town clerk solely on the basis of professional qualifications.

Sec. 2. Powers and duties.

The town clerk shall be head of the department of records and custodian of all official records of the town, and shall be responsible to the town commission for the proper administration of all affairs concerning the records of the town placed under the town clerk's authority under this Charter, and shall:

(a) Serve as clerk to the town commission and recorder of all its official actions.

(b) Serve as the election official for the town.

(c) Authenticate documents of the town where required and be custodian of the town seal.

(d) Attest all bonds, contracts and other instruments on behalf of the town.

(e) Administer oaths required or authorized under any laws, this Charter or ordinance of the town.

(f) Keep as a permanent record all written contracts and bonds where the town is a party in interest.

(g) Perform such other duties as prescribed by law or by this Charter or by any ordinances of the town or by direction of the town commission or town manager.

Article V. Town Finances

Sec. 1. Finance director.

The town manager shall appoint a finance director who shall:

(a) Collect and invest all funds of the town, provided the town commission shall direct the policy of investment of such 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 in the best interest of the town; provided, each investment is secured in accordance with Florida State Statutes.

(b) Pay out on behalf of the town by checks or other orders for payments all payments due from the town, provided the town commission shall provide by ordinance or resolution the manner in which all checks or other orders for payment are to be signed, which shall require at least one countersignature.

(c) Supervise all accounting procedures.

(d) Audit the accounts of any officers of the town upon such officer's death, resignation, removal or expiration of term, and to notify the town manager and town commission if any of such officers are found to be indebted to the town.

(e) Certify as to available funds prior to any allocation by the town commission.

(f) Furnish to the town manager such fiscal services as required.

(g) Except as may be required by law, prescribe and require the use of a plain and uniform system of keeping records 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 in a manner required by law.

(h) Except as may be required by law, 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; and 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 in a manner required by law.

Sec. 2. Fiscal Year.

The fiscal year of the town shall begin on the first day of October and end on the last day of September, or otherwise as may be provided by law.

Sec. 3. Submission of budget and budget message.

On or before the first day of June of each year, the town manager shall submit to the town commission a preliminary budget for the ensuing fiscal year and a final budget and an

accompanying message on or before the first day of August of each year.

Sec. 4. Budget message.

The town manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes, summarize the town's debt position and include such other material as the town manager deems desirable.

Sec. 5. Budget.

The budget shall contain an organizational chart showing the functions of all departments and divisions of the town, shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the town manager deems desirable or the town commission may require. It shall begin with a clear general summary of its contents, shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year, and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall include separate sections for operation, capital expenditures, and utility operations.

Sec. 6. Capital program.

(a) Submission to town commission. The town manager shall prepare and submit to the town commission a capital program on or before the first day of June of each year.

(b) Contents. The capital program shall include:

(1) A clear general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Sec. 7. Town commission action on budget.

(a) Notice and hearing. The town commission shall publish a general summary of the budget and notice of budget hearings in accordance with Florida Statute requirements:

(1) The times and places where copies of the message and budget are available for inspection by the public; and

(2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the budget.

(b) Amendment before adoption. After the public hearing, the town commission may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.

(c) Adoption. On or before the last town commission meeting of each fiscal year, the town commission shall, by ordinance which may be made effective immediately, adopt the town budget for the ensuing fiscal year. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all the items in it prorated accordingly, until such time as the town commission adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated, shall establish the salaries of the town manager and town attorney, and shall constitute a levy of the property tax specified therein.

Sec. 8. Public records.

Copies of the budget and the capital program, if adopted, shall be public records and shall be made available to the public in the town hall.

Sec. 9. Amendments after adoption.

(a) Supplemental appropriations. If during the fiscal year the town manager certifies there are available for appropriation revenues in excess of those estimated in the budget, the town commission by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) Emergency appropriations. To meet a public emergency affecting life, health, property or the public peace, the town commission may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the town commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(c) Reduction of appropriations. If at any time during the fiscal year it appears probable to the town manager that the revenues available will be insufficient to meet the amount appropriated, the manager shall report to the town commission without delay, indicating the estimated amount of the deficit, any remedial action taken, or the manager's recommendations as to any other steps to be taken. The town commission shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) Transfer of appropriations. At any time during the fiscal year, the town manager may transfer up to $10,000.00 of funds constituting a part or all of any unencumbered appropriation balance among programs within a department, office or agency. The town manager shall thereafter give notice of any such transfer to the town commission. Upon written request by the town manager, the town commission may authorize transfers of larger amounts or unencumbered appropriations among programs within a department, office or agency and by resolution transfer part or all of any unencumbered appropriation balance from one department or agency to another.

(e) Limitations; Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Sec. 10. Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned.

Sec. 11. Certification of available funds.

(a) Prior to the execution of any contract, other obligation involving the expenditure of money, or any order of the town commission or any officer of the town for expenditure of money, the finance director shall first certify in writing that the funds required for any such obligation are, or within the fiscal year shall be in the treasury of the town. The town commission may, however, provide for contracts or other obligations involving the expenditure of money in any immediately ensuing fiscal year, so long as the finance director shall first certify in writing as to reasonable anticipation during the next fiscal year. No such certification shall be required in connection with the issuance of bonds by the town under the provisions of this article or pursuant to general or special laws of the State of Florida. Nothing contained herein shall preclude: (i) the town commission from entering into multi-year contracts or agreements; or (ii) the town manager entering into multi-year leases, so long as said contracts, agreements, or leases are otherwise in accordance with law.

(b) Money to be derived from bonds which have been sold and are in the process of delivery, and money which has been pledged to the town by federal, state or county agencies shall be deemed to be in the treasury to the credit of the appropriate fund.

(c) The finance director's certificate shall be filed as directed by the town manager, and thereafter such funds shall be considered encumbered and unavailable for other expenditures until the town is discharged from the particular obligations.

(d) Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and such officer shall also be liable to the town for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Sec. 12. Audit of accounts.

At the end of each fiscal year, and more often if so required by the town manager, the finance director shall audit the accounts of the several departments, officers and employees, and shall audit all other accounts in which the municipality is interested. The finance director shall at all times have access to and may inspect and make 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, shall cause the books of accounts of the town to be audited by an independent certified public accountant selected by the town commission. Upon completion of the audit, it shall be delivered to each member of the town commission, the finance director and the town manager, and a copy shall remain on file in the office of the finance director 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 newspaper of general circulation in the Town of Longboat Key within a period of not more than thirty (30) days after the completion of any such audit.

Sec. 13. 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 finance director, who shall keep a record of all accounts and doings and a record of all contracts to which the town is a party, and such records shall be opened to the inspection of all parties interested.

Sec. 14. Investment advisory committee.

The town commission shall appoint an investment advisory committee consisting of three

(3) or more members of the town commission, which committee shall be authorized to consult with persons experienced in finance. Annually and at such other times as requested by the town commission, the committee shall render written reports as to the character and extent of the town's investments, together with recommendations for any revisions in the town's investment program.

Sec. 15. Bonds.

The town commission may borrow money, contract loans, and issue bonds as defined by and as authorized by state law from time to time to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution as provided by state law and this Charter.

Article VI. Town Attorney

Sec. 1. Appointment and qualifications.

The town commission shall appoint a town attorney who shall serve at the pleasure of the town commission. The town attorney shall be a member of the Florida Bar and have a minimum of three (3) years' experience in the practice of law prior to the time of appointment.

Sec. 2. Assistant town attorneys.

The town attorney may appoint members of the Florida Bar as his assistants, provided the terms of such appointments and compensation of such appointees shall be made with the advice and consent of the town commission.

Sec. 3. Duties.

The town attorney shall:

(a) Serve as legal adviser to the town, the town commission and all of the governmental and proprietary functions of the town and its departments, divisions, officers, boards and committees;

(b) Prepare or review all proposed ordinances and resolutions of the town;

(c) Approve as to form and legal correctness all written contracts entered into by the town; and unless otherwise provided by ordinance, no such contracts shall take effect until his approval is endorsed thereon;

(d) Prosecute and defend all legal actions wherein the town is a party in interest;

(e) Perform such other legal services as requested by the town commission or town manager.

Article VII. Charter Amendments

Sec. 1. Proposal of amendments.

Amendments to this Charter may be framed and proposed:

(a) By ordinance adopted by the town commission setting forth the full text of the proposed amendment; or

(b) By written petition or petitions to the town commission initiated by the electors setting forth the full text of the proposed amendment and signed in person by qualified electors of the town equal to at least ten percent (10%) of the total number of qualified electors registered to vote at the preceding general town election. All required signatures to petitions initiated by the electors must bear the dates on which each signature is affixed and all required signatures must be affixed within a period of ninety (90) days prior to the date such petition is submitted to the town commission.

(c) Electors initiating a written petition or petitions to the town commission to amend the charter may, at their discretion, obtain review of the proposed text by the town attorney for legal correctness.

Sec. 2. Method of referendum.

Upon adoption of an ordinance by the town commission as provided in Section 1(a) of this Article or upon delivery to the town commission of a written petition as provided in Section 1(b) of this Article, the town commission shall, within six (6) months, cause a referendum to be held on the question of adoption of such proposed amendment in the manner provided by law and this Charter.

Sec. 3. Referendum on charter amendments.

(a) Any proposed amendment to the Charter shall be submitted to a referendum of the electors of the town and may be presented by title, which may differ from its legal title but which shall contain a clear and concise statement describing the substance of the proposed amendment. Below the ballot title shall appear:

For _____

Against _____

(b) Before any proposed amendment to this Charter shall be submitted to the electors, the entire text of the same shall first be published not less than seven (7) nor more than sixty (60) days prior to the date of the referendum in a newspaper of general circulation in the town.

Sec. 4. Adoption of amendment.

Any proposed amendment to the Charter adopted by a majority of the qualified electors of

the town voting in such referendum shall become effective at the time fixed in such amendment, or if no time is therein fixed, thirty (30) days after its adoption by the electors.

Sec. 5. Supplemental method of amendment.

The foregoing method of proposing amendments and mechanics of holding referendums thereon shall be supplemental to the provisions of all other laws relating to amendment of municipal charters.

Article VIII. Transitional and Separability

Sec. 1. Existing ordinances not inconsistent with amended Charter.

All existing ordinances of the town, not in conflict with the provisions of this Charter, shall continue in effect and unimpaired until repealed, amended or modified by the town commission.

Sec. 2. Title to all properties reserved.

The title rights, ownership of property and all claims of the Town of Longboat Key, including all suits, actions and choses in actions owned by the town, shall continue under this Charter, and no pending causes shall be abated as a result of adoption of this Charter.

Sec. 3. Obligation of contracts preserved.

No debt or contract of the municipality, including bonds heretofore issued, shall be impaired or voided by the adoption of this Charter.

Sec. 4. Officers held over until successors qualify.

All officers of the town heretofore elected or appointed and holding office in the town shall continue to hold their respective offices and to discharge their duties thereof until their successors are elected or appointed under the provisions of this Charter. This Charter shall not affect or impair any vested rights or privileges of any persons who are town officers or employees at the time of its adoption.

Sec. 5. Separability clause.

If any article or any part hereof, or any section or part thereof of this Charter as it now exists or as it may be amended is held by any court of competent jurisdiction to be invalid or unconstitutional, such holding shall not invalidate or impair the validity, force or effect of any other article or part thereof, or any other section or part thereof, unless it clearly appears that such other article or part thereof, or section or part thereof, is wholly or necessarily dependent for its operation upon the article or part thereof, or section or part thereof, held to be invalid

or unconstitutional.

Sec. 6. Effective Date.

This amended Charter shall become effective upon ratification by a majority of the qualified electors of the Town of Longboat Key voting on the question of the approval or disapproval at a referendum to be called and held in a manner prescribed by law.





TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

Chapter 10: GENERAL PROVISIONS

Section

10.01	Short title
10.02	Definitions
10.03	Rules of construction
10.04	Captions
10.05	Unlawful altering of code
10.06	Effect of repeal or amendment
10.07	Amendments to code
10.08	Severability
10.09	Ordinances concerning land use and control
10.10	Effect of Sarasota County ordinances
10.10.1	Effect of Manatee County ordinances
10.11	Computation of time
10.12	Errors and omissions
10.13	Ordinances repealed
10.14	Ordinances unaffected
10.15	Ordinances saved
10.16	Boundaries
10.99	General penalty

§ 10.01 SHORT TITLE.

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Code of Ordinances of the Town of Longboat Key, Florida", and may be so cited. ('71 Code, § 1-1)

Cross reference:

Town authorized to codify its ordinances, see Charter Art. II, § 19

§ 10.02 DEFINITIONS.

For the purpose of this code the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"AND." May be read "or," and "or" may be read "and" if the sense requires it.

"COMMISSION" or "TOWN COMMISSION." The Town Commission of the Town of Longboat Key.

"COUNTY." The County of Sarasota or County of Manatee or both if the sense requires.

"F.S." Florida Statutes.

"KEEPER" or "PROPRIETOR." Includes persons, firms, associations, corporations, clubs, and copartnerships, whether acting by themselves or through a servant, agent, or employee.

"MAY." The act referred to is permissive.

"MONTH." A calendar month.

"OATH." Includes affirmation, and "SWEAR" includes affirm.

"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 the building or land.

"PERSON." Includes individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

"PERSONAL PROPERTY." Includes every species of property except real property.

"PROPERTY." Includes real and personal property.

"PUBLIC PLACE." Any park, cemetery, school yard, or open space adjacent thereto and any lake or stream.

"REAL PROPERTY." Includes lands, tenements, and hereditaments.

"REGISTERED MAIL." Includes certified mail with return receipt requested.

"SHALL." The act referred to is mandatory.

"SIDEWALK." Any portion of a street between the curbline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

"SIGNATURE" or "SUBSCRIPTION." Includes a mark when the person cannot write.

"STATE." The State of Florida.

"STREET." Streets, avenues, boulevards, roads, alley, lanes, viaducts, and all other public or private highways in the town.

"SUBCHAPTER." A division of a chapter, designated in this code by an underlined heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

"TENANT" or "OCCUPANT." Applied to a building or land, shall include any person holding a written or oral lease of, or who occupies, the whole or a part of the building or land, either alone or with others.

"TOWN." The Town of Longboat Key, Florida.

"WRITTEN" or "IN WRITING." Any representation of words, letters, or figures, whether by printing or otherwise.

"YEAR." A fiscal year beginning October 1 of each year and ending September 30 of the following year, or a calendar year January 1 through December 31 whenever the meaning so requires. (Am. Ord. 92-04, passed 3-2-92)
('71 Code, § 1-2) (Ord. 73-24, passed 9-26-73)

Statutory reference:
For state law definitions, see F.S. § 1.01

§ 10.03 RULES OF CONSTRUCTION.

(A) Construction of Words and Phrases. All Words and Phrases. All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to the peculiar and appropriate meaning.

(B) 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.

(C) Joint Authority. All words giving a joint authority to three or more persons or officers shall be construed as giving authority to a majority of those persons or officers.

(D) 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.

(E) Preceding, Following. Next before and next after, respectively.

(F) Tense. Words used in the past or present tense include the future as well as the past or present.
('71 Code, § 1-2)

§ 10.04 CAPTIONS.

The captions of the several sections of this code printed at the head of each section are intended as mere catchwords to indicate the contents of the section, and shall not be deemed or taken to be titles of the sections, nor as any part of the section; nor, unless expressly so provided, shall they be so deemed when any of the sections, including the captions, are amended or reenacted.
('71 Code, § 1-3)

§ 10.05 UNLAWFUL ALTERING OF CODE.

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, or to alter or tamper with this code in any manner whatsoever which will cause the law of the town to be misinterpreted thereby.
('71 Code, § 1-4) Penalty, see § 10.99

§ 10.06 EFFECT OF REPEAL OR AMENDMENT.

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.
('71 Code, § 1-4)

§ 10.07 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 the subsequent ordinances until 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 the 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.
('71 Code, § 1-6)

§ 10.08 SEVERABILITY.

The sections, paragraphs, sentences, clauses, and phrases of this code are severable; and if any phrase, clause, sentence, paragraph, or section of this code is declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, the unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this code.
('71 Code, § 1-7)

§ 10.09 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.
('71 Code, § 1-11) (Ord. 224, passed 6-15-72)

Cross reference:
Buildings, Ch. 150; flood control, Ch. 154; zoning code, Ch. 158

§ 10.10 EFFECT OF SARASOTA COUNTY ORDINANCES.

No ordinance enacted by the County of Sarasota relating to any subject, activity, or offense which the town is authorized by law to regulate or control shall be effective or enforceable within the territorial limits of the town unless and until the same shall be concurred in by ordinance of the town.
('71 Code, § 1-12) (Ord. of 74-35, passed 12-4-74)

§ 10.10.1 EFFECT OF MANATEE COUNTY ORDINANCES.

No ordinance enacted by the County of Manatee relating to any subject, activity or offense which the Town of Longboat Key is authorized by law to regulate or control shall be effective or enforceable within the territorial limits of the town unless and until the same shall be concurred in by ordinance of the town.
(Ord. 89-14, passed 9-12-89)

§ 10.11 COMPUTATION OF TIME.

(A) In computing the period of time prescribed herein, unless a specific definition is afforded, the computation of time shall be in accordance with the Florida Rules of Civil Procedure, Rule 1.090(a), by order of court or by any applicable statute. The day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(B) 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.
('71 Code, § 1-2) (Ord. 92-04, passed 3-2-92)

Statutory reference:
Official time, see F.S. § 1.02

§ 10.12 ERRORS AND OMISSIONS.

If a manifest error is discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words were clearly intended to express such intent, the spelling shall be corrected, and the word or words supplied, omitted, or substituted as will conform with the manifest intention; and the provision shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date [September 15, 1982], shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code of ordinances.

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not enumerated and embraced in this code of ordinances, shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.15 ORDINANCES SAVED.

Whenever an ordinance by its nature either authorizes or enables the legislative body, or a certain municipal officer or employee, to make additional ordinances or regulations for the purpose of carrying out the intent of the ordinance, all ordinances and regulations of a similar nature serving such purpose effected prior to the codification and not inconsistent thereto, shall remain in effect and are saved from repeal, including but not limited to any right of franchise granted by any ordinance or any ordinance enacted for the purpose of setting the annual budget and millage rates, or for revising the budget, or transferring funds.
(Ord. 92-04, passed 3-2-92)

§ 10.16 BOUNDARIES.

The corporate limits of the Town of Longboat Key, Florida, in Sarasota and Manatee Counties, Florida, 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).

(A) Thence run north 10°30′ east a distance of 7,560 feet for a point of beginning.

(B) Thence south 49°30′ east 12,300 feet.

(C) Thence south 35° east 39,660 feet to the westerly line of the city limits of the City of Sarasota, Florida.

(D) Thence south along the city limits of the City of Sarasota, Florida, 1,860 feet.

(E) Thence south 41° 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.

(F) Thence north 35° west 40,380 feet.

(G) Thence north 49°30′ west 15,330 feet to a point in the mouth of Longboat Pass.

(H) Thence north 69°44′ east 5,300 feet.

(I) Thence north 40°30′ 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 (A) to (E) must be made by equal linear adjustments to Calls (C) to (F).
(Ord. 99-13, passed 4-5-99)

§ 10.99 GENERAL PENALTY.

(A) 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 the 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 such a provision of this code or any ordinance shall be punished by a fine not exceeding $500 or imprisonment of a term not exceeding 60 days. Each day any violation of any provision of this code or of any ordinance shall continue shall constitute a separate offense.

(B) In addition to the penalties herein 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 abated by the town as provided by law.

(C) The violation of any building, general offense, business regulation, dredge and fill, subdivision, zoning ordinance, or other land development regulation of the town, shall, in addition to the penalties described in this section, be subject to abatement by any injunction order of a court of competent jurisdiction.
('71 Code, § 1-8) (Amd. Ord. 85-26, passed 2-3-86; Amd. Ord. 86-30, passed 10-6-86; Amd. Ord. 97-11, passed 6-2-97)

Cross reference:
Penalty limits, see Charter Art. I, § 6(b)

TITLE III: ADMINISTRATION

Chapter

30. TOWN COMMISSION

31. OFFICIALS

32. DEPARTMENTS AND AGENCIES

33. BOARDS AND COMMISSIONS

34. EMPLOYMENT POLICIES

35. GENERAL POLICY

36. ELECTIONS

37. FINANCE AND TAXATION

38. PURCHASING DEPARTMENT

39. CODE OF ETHICS

Chapter 30: TOWN COMMISSION

Section

Rules and Regulations

30.01 Meetings
30.01.1 Rules of procedure for conducting meetings
30.02 Agenda
30.03 Presiding Officer
30.04 Decorum
30.05 Order of business
30.06 Addressing the Commission
30.07 Voting
30.08 Preparation of ordinances, resolutions
30.09 Authority for litigation

Commission Districts

30.15 District One boundaries
30.16 District Two boundaries
30.17 District Three boundaries
30.18 District Four boundaries
30.19 District Five boundaries

Cross reference:
Town Commission as Equalizing Board, see § 152.19
Town Commission as Retirement Committee, see § 34.35

RULES AND REGULATIONS

§ 30.01 MEETINGS.

(A) Location. All meetings of the Town Commission for the purpose of transacting town business, whether action is taken or not, shall be held in the Town Commission chambers of the Town Hall, unless the Commission indicates another location, and shall be open to the public. ('71 Code, § 2-15)

(B) Regular Meetings. The Town Commission shall hold a regular monthly meeting on the first Monday of each month in the town chambers at 7:00 p.m. or at the time of day the Commission may decide; however, when the day fixed for regular meetings falls on a day designated by law as a legal holiday, the meeting shall be held on another day as designated by the Town Commission.

(C) Special Meetings.

(1) The Mayor or any two members of the Commission may call special meetings of the Commission on at least two hours' written notice to each member, served personally, or left at the member's place of business or the usual place of residence.

(2) The aforesaid requirement of written notice of special meetings may be waived at the special meetings by the unanimous vote of the entire Town Commission recorded in the minutes of the meeting.

(3) In any event, there shall be no requirement of written notice of a special meeting where notice is given at a meeting or workshop immediately preceding the special meeting, the entire Town Commission is present at the preceding meeting or workshop and the notice is recorded in the minutes of the preceding meeting or workshop.

(4) The written notice of a special meeting shall be signed by the Town Manager or a Commissioner and shall state the date and hour of the meeting, and the purpose for which the meeting is called. No business shall be transacted thereat, except that as is stated in the notice, except in accordance with § 30.02(A) (2). A copy of the notice shall be posted in the Town Hall bulletin board.

(5) If time reasonably permits, the Town Manager shall publish a notice of a special meeting in a newspaper of general circulation within the town.

(D) Workshop Meetings. The Town Commission may meet in workshop for study and discussion of the affairs of the town in the Commission chambers of the Town Hall, but no formal or binding action may be taken at these meetings. Unless the Town Commission shall determine otherwise, regular workshop meetings shall be held on the third Thursday of each month at 1:00 p.m. Special workshops may be scheduled as deemed necessary by the Town Commission.

(E) Public Hearings.

(1) The Town Commission shall hold a public hearing on all matters where required by the Code of Ordinances of the Town of Longboat Key, Florida, or the laws of the State of Florida.

(2) The adoption of ordinances and resolutions shall be in compliance with the provisions of § 166.041, Florida Statutes, as may be amended. If the ordinance or resolution is not initiated by the Town, it shall be at the petitioner's or applicant's expense unless otherwise provided by this Code. Development agreements, adoption or amendments of outline development plans shall be in the form of an ordinance.

(3) Adoption or amendment of a Comprehensive Plan shall meet the minimum criteria of §§ 166.041(3) (a), F.S., as may be amended.

(4) Plat or replat approvals, variances, road vacations, site plan approvals, and vested rights determinations shall, if not initiated by the town, be at the petitioner's or applicant's expense, except as provided in Chapter 157. Notice of such public hearings shall, at least seven days prior to hearing, be:

(a) Prominently posted by the applicant by a sign provided by the town on the property which is the subject of the application or petition. The posted notice shall be:

(1) Placed in a location in conformance with Chapter 156;

(2) Placed in a location unobstructed to the view of passersby;

(3) Maintained by the applicant until required to be removed and if damaged, destroyed or removed, shall be replaced as soon as possible by the applicant with another sign provided by the town;

(4) Modified by the applicant to reflect any errors or changes in scheduling of the applicable public hearings so as to ensure accurate information;

(5) Removed by the applicant within 48 hours after conclusion of the public hearing; and

(6) Inspected by the Planning, Zoning and Building Department to insure compliance with these posting requirements.

(b) Posted by the town at Town Hall; and

(c) Published in a newspaper of general circulation within the town.

(5) A copy of the notice shall be sent by certified mail 14 days prior to the hearing to all owners of property involved in the petition or application, and to all owners of property immediately adjacent to and within 300 feet of the perimeter of the subject property. The guide for the mailing requirement to owners shall be the most current town or county assessment roll.

(6) At any public hearing, any party may appear in person, by agent or by attorney. With respect to condominiums or cooperatives, notice required by this section will be deemed notice to its property owners when notice is sent or delivered to the secretary and the president of the condominium or cooperative association, unless the offices are not filled, in which event notice to the agent designated for the service of process will be sufficient compliance with the notice requirements of this section. However, at the discretion of the Town Commission, notice may be required to be given to each condominium owner or cooperative unit owner.
('71 Code, § 2-14) (Ord. 79-1, passed 1-17-79; Amd. Ord. 83-11, passed 8-3-83; Amd. Ord. 84-26, passed 2-4-85; Amd. Ord. 86-11, passed 5-5-86; Amd. Ord. 89-29, passed 2-5-90; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 95-08, passed 4-3-95; Amd. Ord. 95-17, passed 10-2-95)

§ 30.01.1 RULES OF PROCEDURE FOR CONDUCTING MEETINGS.

(A) To the extent that they are not in conflict with any provision of the Town Charter, the Town Commission adopts and the Town Commission, to the extent not in conflict with this code and other ordinances of this town, shall be governed in rules of procedure by "Know What To Do and How To Do It," Third Edition, 1984, by Toni Bagley. Each Commissioner shall, during his or her tenure of office on the Town Commission, be furnished with one copy of this publi-

cation. In addition to furnishing each Commissioner with one copy of the aforesaid publication, three copies shall be filed in the office of the Town Clerk.

(B) When the Town Commission conducts a workshop meeting wherein a special meeting immediately follows, the floor shall be opened for the public to be heard at the conclusion of the workshop meeting.

(C) Request-to-be-heard cards will be made available to the public, and the cards are to be submitted prior to the convening of any Town Commission meeting from persons desiring to address the Town Commission on any matter on the agenda. Failure to submit the card will not prohibit a person from being allowed to address the Commission, but persons submitting cards will have a priority over those that do not submit cards.

(D) The Town Manager or his designee shall develop and produce the "request to be heard" cards.
(Ord. 84-15, passed 10-1-84)

§ 30.02 AGENDA.

(A) The Town Manager shall prepare an agenda for all regular, special and workshop meetings.

(1) The agenda for regular meetings shall include only those matters the Town Commission or members thereof may have directed from the previous workshop meeting, together with any other and subsequent matters recommended for consideration by the Town Manager. The agendas for regular and special meetings will be prepared and made available to the public, the press, and to each Commissioner at least three days in advance of the dates established for all regular meetings. Except with the majority consent of the Town Commission at any regular meeting, no item not on the agenda shall be discussed at the meetings.

(2) The agenda for special meetings shall be the notice of special meeting together with any other matters recommended for consideration by the Town Manager. The agendas for special meetings will be prepared and made available to the public, the press, and to each Commissioner as far in advance of the special meeting as is practicable. Except with the majority consent of the Town Commission at any special meeting where the entire Town Commission is present, no item not on the agenda shall be discussed at the meetings.

(3) The Town Manager shall prepare the agenda for all workshop meetings. Items for the agenda for regular workshop meetings, including all backup materials, shall be presented to the Town Manager no later than 5:00 p.m. of the seventh working day preceding the workshop meeting for which the item is to be scheduled. The Town Manager shall prepare the agenda and distribute the agenda to each Commissioner at least three working days in advance of the regular workshop meeting.

(B) The agenda for workshop meetings, including backup materials prepared by the Town Manager, shall be distributed to the members of the Town Commission and the press in sufficient time to allow the members of the Commission to contact the Manager regarding any item on the agenda and to enable the members of the Commission to acquaint themselves with the background material presented by the Manager. When an item on the agenda for workshop meetings requires the passage of a resolution or an ordinance, a copy of the resolution or ordinance will be forwarded to each Commissioner together with the agenda.

(1) The Town Attorney shall be notified by the Commission at the workshop held prior to the distribution of the agenda for the next regular meeting, of all agenda items requiring the passage of ordinances or resolutions. The purpose of this section is to allow

the Town Attorney sufficient time to prepare or amend ordinances or resolutions and provide copies to the Commission to allow the members of the Commission sufficient time to acquaint themselves with the ordinances or resolutions, or amendments thereto, prior to the meeting in which the ordinances or resolutions are scheduled for adoption.

(2) Each member of the Town Commission and the Town Attorney shall be provided with a copy of the agenda as far in advance of the meeting as time will permit. Copies shall concurrently be made available to the news media and a copy thereof shall be posted on the town hall bulletin board. A reasonable number of extra copies of the agenda will be available for the public.
('71 Code, § 2-16) (Ord. 79-1, passed 1-17-79; Am. Ord. 83-11, passed 8-3-83; Am. Ord. 84-26, passed 2-4-85; Am. Ord. 89-29, passed 2-5-90)

§ 30.03 PRESIDING OFFICER.

The Mayor shall preside at all meetings, if present; in his absence, the Vice-Mayor, and in his absence, the Mayor Pro Tem of the Commission shall preside.
('71 Code, § 2-17) (Ord. 79-1, passed 1-17-79)

§ 30.04 DECORUM.

The Presiding Officer shall preserve strict order and decorum at all meetings.

(A) During Commission meetings, Town Commission members shall maintain order and decorum. Every Commissioner desiring to speak shall address the chair and, upon recognition by the chair, shall confine himself to the question under debate. Each Commissioner desiring to be recognized shall be recognized once before a Commissioner shall be recognized a second time. Every Commissioner desiring to question the administrative staff shall address his question to the Town Manager who shall be entitled either to answer the inquiries himself or designate some member of the staff for that purpose. A Commissioner once recognized shall not be interrupted while speaking unless called to order by the Presiding Officer, unless a point of order is raised by another member, or unless the speaker chooses to yield to questions of another member. All members of the Commission shall accord the utmost courtesy to each other, to town employees, and to public members appearing before the Commission and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities. Commissioners shall confine their remarks to the issues before the Commission.

(B) Members of the administrative staff and employees of the town shall observe the same rules of procedure and decorum applicable to members of the Commission. Public members attending Commission meetings also shall observe the same rules of propriety, decorum, and

good conduct applicable to members of the Commission. The chair may cause to be ejected any person making personal, impertinent, or slanderous remarks or who becomes boisterous while addressing the Commission.
('71 Code, § 2-18) (Ord. 79-1, passed 1-17-89)

§ 30.05 ORDER OF BUSINESS.

All regular meetings of the Town Commission shall be open to the public promptly at the hour set on the day of each meeting. The members of the Commission, Town Manager, Acting Town Manager, Town Clerk, and Town Attorney shall take the regular stations in the Commission chambers and the business of the Commission shall be taken up for consideration and disposition in substantially the following order:

(A) Meeting called to order;

(B) Pledge of Allegiance;

(C) Proclamations and special presentations;

(D) Public to be heard;

(E) Communications and committee reports;

(F) First and second readings of ordinances and public hearings;

(G) Resolutions;

(H) Other public hearings;

(I) Unfinished business;

(J) New business;

(K) Other business, if allowed by the Town Commission;

(L) Questions from the press.
('71 Code, § 2-19) (Ord. 79-1, passed 1-17-91; Amd. Ord. 97-16, passed 7-7-97)

§ 30.06 ADDRESSING THE COMMISSION.

Any person desiring to address the Town Commission regarding an item on the agenda shall first secure the person of the chair.

(A) Taxpayers or residents of the town and other interested parties, or their authorized representatives may address the Commission by written communications in regard to matters then under discussion.

(B) Taxpayers or residents of the town and other interested parties, or their authorized representatives may address the Commission by oral communications on any matter concerning the town's business or any matter over which the Commission has jurisdiction or control.

Preference shall be given to those persons who have notified the Town Manager in advance of their desire to speak in order that it may appear on the agenda of the Commission; otherwise they may request permission at that point in the meeting providing for the public to be heard.

(C) Taxpayers or residents of the town and other interested parties, or other authorized representatives may address the Commission by reading of protests, petitions, or communications relating to any matter over which the Commission has jurisdiction or control by notifying the Town Manager in advance of the meeting in sufficient time to be placed on the agenda.

(D) Unsigned communications shall not be introduced to the Commission.

(E) Each person recognized for the purpose of addressing the Commission shall step forward to the podium, with microphone thereon, and shall give his name and address in an audible tone for the record, and unless further time is granted by the Commission, shall limit his address to three minutes or such additional time as may be granted by the Chairman or by action of a majority of the Commission. All remarks shall be addressed to the Commission as a body and not to any member thereof. No person, other than a Commissioner and the person having the floor, shall be permitted to enter into any debate or discussion without the permission of the chair.
('71 Code, § 2-20) (Ord. 79-1, passed 1-17-79)

§ 30.07 VOTING.

(A) The "ayes" and "nays" may be called for any question. Whenever the "ayes" and "nays" are not unanimous, the Town Clerk shall poll the Town Commission and record the vote of each member.

(B) No member who is present at any meeting of the Town Commission at which an official decision, ruling, or other official act is to be taken or adopted may abstain from voting in regard to any such decision, ruling or act; and a vote shall be recorded or counted for each such member present, in accordance with F.S. § 286.012, except when, with respect to any such member, there is, or appears to be, a possible conflict of interest under the provisions of the Town Code, Chapter 39, Code of Ethics, § 39.07, Voting Conflicts, and F.S. § 112.311, § 112.313, and § 112.3143.
('71 Code, § 2.21) (Ord. 79-1, passed 1-17-79; Am. Ord. 92-05, passed 3-2-92)

§ 30.08 PREPARATION OF ORDINANCES, RESOLUTIONS.

(A) No ordinance shall be prepared for presentation to the Town Commission unless ordered by a majority vote of the Commission, requested by the Town Manager, or prepared by the Town Attorney on his own initiative.

(B) All ordinances, resolutions, and contract documents shall, before presentation to the Commission, have been approved as to content, form, and legal correctness by the Town Attorney or his authorized representative, and shall have been examined and approved for administration by the Town Manager or his authorized representative, where there are substantive matters of administration involved. All those instruments shall first be referred to the

head of the department under whose jurisdiction the administration of the subject matter of the ordinance, resolution, or contract document would be involved and shall be approved by that department head. If approval is not given, then the instrument shall be returned to the Town Manager with a written memorandum of the reasons why approval is withheld. In the event the questioned instrument is not redrafted to meet a department head objection, or the objection is not withdrawn and approval in writing given, then the Town Manager shall so advise the Commission and give the reasons advanced by the department head for withholding approval.
('71 Code, § 2-21.5) (Ord. 79-1, passed 1-17-79)

§ 30.09 AUTHORITY FOR LITIGATION.

Except for actions to enforce code enforcement liens, no complaint shall be filed in any court on behalf of the town unless authorized by the Town Commission at a lawful meeting.
(Ord. 93-24, passed 12-6-93; Amd. Ord. 94-02, passed 3-7-94)

COMMISSION DISTRICTS

§ 30.15 DISTRICT ONE BOUNDARIES.

Commission District Number One and its boundaries are as follows:

Commencing at the point of intersection of the mean high-water line of the Gulf of Mexico and the northerly property line of Beachplace, 1145 Gulf of Mexico Drive; thence extending easterly along said northerly property line of Beachplace to the easterly right-of-way line of Gulf of Mexico Drive; thence northerly along said easterly right-of-way line of Gulf of Mexico Drive to Bogey Lane (in Country Club Shores, Unit 5); thence extending easterly along the northerly property lines of the properties bearing addresses 1170 and 1171 Bogey Lane; thence extending easterly along said property lines to the canal; thence extending along the center line of said canal to the waters of Sarasota Bay; includes all lands within the corporate limits of the Town of Longboat Key lying south of the above-described line.
('71 Code, § 9-5) (Ord. 156, passed 9-16-69; Amd. Ord. 76-32, passed 11-17-76; Amd. Ord. 78-20, passed 12-6-78; Amd. Ord. 82-21, passed 11-17-82; Amd. Ord. 82-22, passed 11-17-82; Amd. Ord. 90-17, passed 7-2-90; Amd. Ord. 96-14, passed 7-18-96; Amd. Ord. 99-33, passed 11-1-99)

Cross reference:
Commission districts, see Charter Art. II, § 1.

§ 30.16 DISTRICT TWO BOUNDARIES.

Commission District Number Two and its boundaries are as follows (most northerly boundary lines):

Commencing at the point of intersection of the mean high-water line of the Gulf of Mexico and the northerly property line of Seagate Condominiums, 2425 Gulf of Mexico Drive, thence extending easterly along said northerly property line of Seagate Condominiums to the easterly right-of-way line of Gulf of Mexico Drive; thence extending on a straight line easterly along the northerly property line of Harbour Oaks II Subdivision; thence continuing easterly to the easterly right-of-way of Harbourside Drive and along the northerly property line of Marina Bay Condominiums, 2400 Harbourside Drive, to include all addresses through 2550 Harbourside Drive; thence extending along said dividing line to the waters of Sarasota Bay.

('71 Code, § 9-6) (Ord. 156, passed 9-16-69; Amd. Ord. 76-32, passed 11-17-76; Amd. Ord. 78-20, passed 12-6-78; Amd. Ord. 82-21, passed 11-17-82; Amd. Ord. 82-22, passed 11-17-82; Amd. Ord. 90-17, passed 7-2-90; Amd. Ord. 96-14, passed 7-18-96; Amd. Ord. 99-33, passed 11-1-99)

§ 30.17 DISTRICT THREE BOUNDARIES.

Commission District Number Three and its boundaries are as follows (most northerly boundary lines):

Commencing at the point of intersection of the mean high-water line of the Gulf of Mexico and extending easterly through the tract marked as private beach owned by the Twin Shores Resort, and designated as 3745 Gulf of Mexico Drive; thence extending easterly to the easterly right-of-way of Gulf of Mexico Drive; thence extending easterly along the northerly property line of Twin Shores Resort, 3740 Gulf of Mexico Drive; thence extending easterly along said property line to the waters of Sarasota Bay.

('71 Code, § 9-7) (Ord. 156, passed 9-16-69; Amd. Ord. 76-32, passed 11-17-76; Amd. Ord. 78-20, passed 12-6-78; Amd. Ord. 82-21, passed 11-17-82; Amd. Ord. 82-22, passed 11-17-82; Amd. Ord. 90-17, passed 7-2-90; Amd. Ord. 96-14, passed 7-18-96; Amd. Ord. 99-33, passed 11-1-99)

§ 30.18 DISTRICT FOUR BOUNDARIES.

Commission District Number Four and its boundaries are as follows (most northerly boundary lines):

Commencing at the point of intersection of the mean high-water line of the Gulf of Mexico and the northerly property line of Longboat Sandpiper Condominiums, 5635 Gulf of Mexico Drive; thence extending easterly along said northerly property line of Longboat Sandpiper Condominiums to the easterly right-of-way line of Gulf of Mexico Drive; thence extending northerly along said right-of-way line of Gulf of Mexico Drive to the northerly property line of the commercial property located at 5650 Gulf of Mexico Drive; thence extending easterly along said property line and the northerly property lines of the properties bearing addresses 569 through 651 Jungle Queen Way, to the canal; thence extending easterly along the center line of the canal to the waters of Sarasota Bay.

('71 Code, § 9-8) (Ord. 156, passed 9-16-69; Amd. Ord. 76-32, passed 11-17-76; Amd. Ord. 78-20, passed 12-6-78; Amd. Ord. 82-21, passed 11-17-82; Amd. Ord. 82-22, passed 11-17-82; Amd. Ord. 90-17, passed 7-2-90; Amd. Ord. 96-14, passed 7-18-96; Amd.Ord. 99-33, passed 11-1-99)

§ 30.19 DISTRICT FIVE BOUNDARIES.

Commission District Number Five and its boundaries are as follows:

Commencing at the point of intersection of the mean high-water line of the Gulf of Mexico and the northerly property line of Longboat Sandpiper Condominiums, 5635 Gulf of Mexico Drive; thence extending easterly along said northerly property line of Longboat Sandpiper Condominiums to the easterly right-of-way line of Gulf of Mexico Drive; thence extending northerly along said right-of-way of Gulf of Mexico Drive to the northerly property line of the commercial property located at 5650 Gulf of Mexico Drive; thence extending easterly along said property line and the northerly property lines of the properties bearing addresses 569 through 651 Jungle Queen Way, to the canal; thence extending easterly along the center line of the canal to the waters of Sarasota Bay; includes all lands within the corporate limits of the Town of Longboat Key lying north of the above-described line.
('71 Code, § 9-9) (Ord. 156, passed 9-16-69; Amd. Ord. 76-32, passed 11-17-76; Amd. Ord. 78-20, passed 12-6-78; Amd. Ord. 82-21, passed 11-17-82; Amd. Ord. 82-22, passed 11-17-82; Amd. Ord. 90-17, passed 7-2-90; Amd. Ord. 96-14, passed 7-18-96; Amd. Ord. 99-33, passed 11-1-99)

3000 B-17

CHAPTER 31: OFFICIALS

Section

31.01 Building Inspector
31.02 Director of Public Works
31.03 Finance Director
31.04 Fire Chief
31.05 Health Officer
31.06 Mayor
31.07 Planning and Zoning Official
31.08 Police Chief
31.09 Town Attorney
31.10 Town Clerk
31.11 Town Manager
31.12 Vice-Mayor

§ 31.01 BUILDING INSPECTOR.

For provisions concerning the Building Inspector, see § 150.15

§ 31.02 DIRECTOR OF PUBLIC WORKS.

For provisions concerning the Director of Public Works, see §§ 32.06, 95.01 through 95.08, and 150.50 through 150.55

§ 31.03 FINANCE DIRECTOR.

For provisions concerning the Finance Director, see Charter Article V, section 1; and code §§ 34.11 and 37.01 through 37.04.

§ 31.04 FIRE CHIEF.

For provisions concerning the Fire Chief, see Chapter 94, and Charter Article III, section 4 (b).

§ 31.05 HEALTH OFFICER.

For provisions concerning the Health Officer, see § 91.13.

§ 31.06 MAYOR.

For provisions concerning the Mayor, see Charter Article II, section 11.

§ 31.07 PLANNING AND ZONING OFFICIAL.

For provisions concerning the Planning and Zoning Official, see §§ 158.098, and 158.110.

§ 31.08 POLICE CHIEF.

For provisions concerning the Police Chief, see § 32.15, and Charter Article III, section 4 (a).

§ 31.09 TOWN ATTORNEY.

For provisions concerning the Town Attorney, see Charter Article VI.

§ 31.10 TOWN CLERK.

For provisions concerning the Town Clerk, see Charter Article IV.

§ 31.11 TOWN MANAGER.

For provisions concerning the Town Manager, see Charter Article III.

§ 31.12 VICE-MAYOR.

For provisions concerning the Vice-Mayor, see Charter Article II, section 11.

CHAPTER 32: DEPARTMENTS AND AGENCIES

Section

Local Planning Agency

32.01 Establishment
32.02 Powers and duties
32.03 Organization
32.04 Public meetings and records
32.05 Funding
32.06 County technical advisory committees

Police Department

32.15 Police Chief
32.16 Powers and duties
32.17 Special police
32.18 Number and rank of police officers

Other Departments and Agencies

32.25 Building department
32.26 Fire Department; number and rank of fire officers
32.27 Public Works Department
32.28 Water Department

Cross-reference:
Retirement plan for firefighters and police officers, see §§ 34.45 through 34.53

LOCAL PLANNING AGENCY

§ 32.01 ESTABLISHMENT.

(A) This subchapter is enacted pursuant to and in accordance with F.S.A. § 163.3161 et seq. ('71 Code, § 15B-27)

(B) Pursuant to, and in accordance with F.S.A. § 163.3174, the Planning and Zoning Board is hereby designated and established as the local planning agency for the incorporated territory of the town.
('71 Code, § 15B-28) (Ord. 76-17, passed 6-16-76)

Cross-reference:
Planning and Zoning Board, see §§ 33.20 through 33.25

§ 32.02 POWERS AND DUTIES.

The Local Planning Agency, in accordance with F.S.A. § 163.3161 et seq., shall do the following.

(A) Conduct the comprehensive planning program and prepare the comprehensive plan or elements or portions thereof for the town.

(B) Coordinate the comprehensive plan or elements or portions thereof with the comprehensive plans of other appropriate local governments and the state.

(C) Recommend the comprehensive plan or elements or portions thereof to the town for adoption.

(D) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the Town Commission any changes in the comprehensive plan as may be required from time to time.
('71 Code, § 15B-29) (Ord. 76-17, passed 6-16-76)

Cross-reference:
Comprehensive plan for town, see Charter Art. II, § 24

§ 32.03 ORGANIZATION.

Members of the Local Planning Agency shall continue to be appointed and follow the rules of procedure, methods of choosing officers, setting of public meetings, providing of financial support, and accomplishing its duties as provided in the town code.
('71 Code, § 15B-30) (Ord. 76-17, passed 6-16-76)

§ 32.04 PUBLIC MEETINGS AND RECORDS.

All meetings of the Local Planning Agency shall be public meeting and all agency records shall be public records. The Local Planning Agency shall encourage public participation.
('71 Code, § 15B-31) (Ord. 76-17, passed 6-16-76)

§ 32.05 FUNDING.

The Town Commission shall appropriate funds at its discretion to the Local Planning Agency for expenses necessary in the conduct of its work. The Local Planning Agency may, in order to accomplish the purposes and activities required by F.S.A. § 163.3161 et seq., expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; however, acceptance of loans or grants must be approved by the Town Commission.
('71 Code, § 15B-32) (Ord. 76-17, passed 6-16-76)

§ 32.06 COUNTY TECHNICAL ADVISORY COMMITTEES.

Pursuant to and in accordance with F.S.A. § 163.3161 et seq., the Town Commission designates the Director of Public Works as a member of the technical advisory committee within Manatee County and as a member of the technical advisory committee within Sarasota County.
('71 Code, § 15B-33) (Ord. 76-17, passed 6-16-76)

POLICE DEPARTMENT

§ 32.15 POLICE CHIEF.

The Town Manager shall appoint a Chief of Police who will be responsible to the Town Manager for the management, control, administration, and discipline of the police forces. ('71 Code, § 17-1)

Cross-reference:
Authority of Town Manager to appoint Chief of Police, see Charter Art. III, § 4(a)

§ 32.16 POWERS AND DUTIES.

The officers 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, all of the laws of the state, and all of the laws of the United States now or hereafter made, within the town. 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.
('71 Code, §§ 17-2, 17-3)

Cross-reference:
Impersonating a law enforcement officer, see § 130.06

§ 32.17 SPECIAL POLICE.

(A) The police officers of the city of Bradenton Beach, the city of Anna Maria, and the city of Holmes Beach are hereby designated as subordinate officers of the Police Department of the town subject to exclusive control of the Chief of Police of the town, and in his absence, the Town Manager or any on-duty police officer of the town. ('71 Code, § 17-16)

(B) The special police officers are authorized to fully and completely exercise and enforce the police powers of the town, and to make arrests in the name of the town within the municipal boundaries of the town. The special police officers shall have authority granted herein only when requested to act by the Chief of Police of the town, and in the absence of the Chief of Police, the Town Manager or any on-duty police officer of the town. ('71 Code, § 17-17)

(C) Regular members of the Police Department of the town are hereby authorized to act as special police officers for the city of Bradenton Beach, the city of Anna Maria, and the city of Holmes Beach, pursuant to appointment by the mayors or governing bodies of those municipalities, but only in the circumstances and subject to the conditions and provisions of this subchapter, and subject to assignment by the Chief of Police of the town of Longboat Key, and in his absence the Town Manager of the town of Longboat Key or any on duty police officer of the town of Longboat Key.
('71 Code, § 17-18) (Ord. 74-6, passed 3-6-74)

Cross-reference:
Impersonating a law enforcement officer, see § 130.06

§ 32.18 NUMBER AND RANK OF POLICE OFFICERS.

The number and rank of uniformed police officers shall be as follows:

Police Chief	1
Police Major	1
Detective Lieutenant	1
Police Lieutenant	3
Police Sergeant	8
Police Officer	10
Police Officer - part time	1

(Ord. 94-09, passed 4-4-94)

OTHER DEPARTMENTS AND AGENCIES

§ 32.25 BUILDING DEPARTMENT.

For provisions concerning the Building Department, see § 150.06(B).

§ 32.26 FIRE DEPARTMENT; NUMBER AND RANK OF FIRE OFFICERS.

The number and rank of fire officers in the Fire Department shall be as follows:

Fire Chief	1
Deputy Fire Chief - shift	3
Fire Marshal/Deputy Chief	1
Fire Captain	3
Fire Lieutenant	3
Firefighter/Paramedic	13
Firefighter/EMT	8

For other provisions concerning the Fire Department, see Chapter 94.

(Ord. 94-09, passed 4-4-94)

§ 32-27 PUBLIC WORKS DEPARTMENT.

For provisions concerning the Public Works Department, see § 95.01.

§ 32.28 WATER DEPARTMENT.

For provisions concerning the Water Department, see § 53.01.

CHAPTER 33: BOARDS AND COMMISSIONS

Section

Code Enforcement Board

33.01 Intent
33.02 Definitions
33.03 Establishment; members
33.04 Organization; quorum and compensation
33.07 Enforcement procedure
33.08 Hearings
33.09 Powers
33.10 Administrative fines and lien
33.11 Appeals
33.12 Notice
33.13 Code Enforcement Board to be supplemental

Supplemental Code Enforcement

33.14 Authority and purpose
33.15 Definitions
33.16 Authority to issue citations
33.17 Ordinances enforced and penalties assessed.
33.18 Violations; procedure

Planning and Zoning Board

33.20 Creation; members
33.21 Officers
33.22 Duties
33.23 Meetings
33.24 Minutes
33.25 Public hearings

Zoning Board of Adjustment

33.30 Establishment

CODE ENFORCEMENT BOARD

Prior history:
Ord. 81-14; Amd. Ords. 82-15, 83-4, 83-17 and 85-26.

§ 33.01 INTENT.

It is the intent of this subchapter to promote, protect and improve the health, safety and welfare of the citizens of the Town of Longboat Key by creating a Code Enforcement Board with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing any codes and ordinances of the town, where a pending or repeated violation continues to exist.
(Ord. 86-30, passed 10-6-86; Amd. Ord. 89-21, passed 11-6-89)

§ 33.02 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"CODE INSPECTOR." Any authorized agent or employee of the town whose duty it is to insure code compliance.

"REPEAT VIOLATION." A violation of a provision of a code or ordinance by a person whom the Code Enforcement Board has previously found to have violated the same provision within five (5) years prior to the violation.

"TOWN ATTORNEY." The legal counselor for the town.
(Ord. 86-30, passed 10-6-86; Ord. 89-21, passed 11-6-89)

§ 33.03 ESTABLISHMENT; MEMBERS.

(A) There is created a Code Enforcement Board which shall consist of seven members to be appointed by the Town Commission. All members must be registered voters and residents of the Town of Longboat Key. The Board shall elect a Chairman annually from among its members. No member shall be an elected official or employee of the town. A person appointed to this Board may not serve concurrently on any of the following Town Boards: Ethics Commission, Planning and Zoning Board or Zoning Board of Adjustment. The Code Enforcement Board shall, whenever possible, consist of persons experienced in their respective fields as follows:

(1) Architect.

(2) Businessman.

(3) Engineer.

(4) General contractor.

(5) Subcontractor.

(6) Realtor.

(B) The initial appointments to the Code Enforcement Board shall be as follows:

(1) Two members appointed for a term of one year.

(2) Three members appointed for a term of two years.

(3) Two members appointed for a term of three years.

(4) [Repealed by Am. Ord. 93-09, passed 7-6-93.]

(C) All terms of appointment shall be for a period of three years and shall expire on the second Wednesday in May of the year in which the term is set to expire. Appointments to fill any vacancy on the Code Enforcement Board shall be for the remainder of the unexpired term

and the Town Commission shall promptly fill the vacancy. The members shall serve in accordance with the Charter and may be removed as provided in § 33.06.
(Ord. 86-30, passed 10-6-86; Am. Ord. 88-1, passed 5-2-88; Am. Ord. 89-21, passed 11-6-89; Am. Ord. 91-25, passed 11-4-91)

§ 33.04 ORGANIZATION; QUORUM AND COMPENSATION.

(A) The members of the Code Enforcement Board shall elect a Chairman and Vice-Chairman from among its members. The Vice-Chairman shall serve as Chairman in the absence or disability of the Chairman. The presence of four or more members shall constitute a quorum of the Board. Members shall serve without compensation, but may reimbursed for any travel, mileage, and per diem expenses authorized by the Town Commission or as otherwise provided by law.

(B) The Town Attorney shall be counsel to the Code Enforcement Board. In no case shall the Town Attorney serve by representing the town in presenting cases before the Board.

(C) The alternate member shall receive all information provided to the members of the Code Enforcement Board and shall serve as a member of the Board when a member is absent from a meeting, has resigned from the Board, or is otherwise incapacitated or precluded from taking part in the deliberations pursuant to Chapter 39 of the Code. An alternate member who sits as a member for a public hearing and that public hearing is opened and continued to a future meeting shall. if present, sit as a member of the Board for the continued portion of that hearing. If another member is absent for the continued portion of that hearing for which the alternate member is acting as a member and the member whose place is being filled by the alternate member is now present and not otherwise incapacitated or precluded from taking part, that member shall sit as a member. The intent of this subsection is to maintain, to the largest extent possible, a full Board for all matters which come before the Board.

(D) The alternate member may not serve as an officer of the Code Enforcement Board but shall have all other duties of a member as provided in this section. When a vacancy occurs on the Code Enforcement Board, the Town Commission shall consider the alternate member for appointment to fill that vacancy.
(Ord. 86-30, passed 10-6-86; Am. Ord. 89-21, passed 11-6-89; Am Ord. 91-25, passed 11-4-91)

§ 33.06 REMOVAL, VACANCY OF MEMBERS.

Members of the Code Enforcement Board may be removed from office by the Town Commission for cause on written charges and after public hearing.
(Ord. 86-30, passed 10-6-86; Am. 88-16, passed 5-2-88; Am. ord. 89-21, passed 11-6-89)

§ 33.07 ENFORCEMENT PROCEDURE.

(A) It shall be the duty of the Code Inspector to initiate enforcement proceedings of the various codes; however, no member of the Code Enforcement Board shall have the power to initiate these enforcement proceedings.

(B) Except as provided in divisions (C) and (D) below, if a violation of the codes is found, the Code Inspector shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the Code Inspector shall notify the Code Enforcement Board and request a hearing. The Code Enforcement Board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed as provided in § 33.12 to the violator. At the option of the Code Enforcement Board, notice may additionally be served by publication or posting as provided in § 33.12. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for correction by the Code Inspector, the case may be presented to the Code Enforcement Board even if the violation has been corrected prior to the Board hearing and the notice shall so state.

(C) If the Code Inspector has reason to believe a violation presents a serious threat to the public health, safety, and welfare, or if the violation is irreparable or irreversible in nature, the Code Inspector shall make a reasonable effort to notify the violator and may immediately notify the Code Enforcement Board and request a hearing.

(D) If a repeat violation is found, the Code Inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The Code Inspector, upon notifying the violator of a repeat violation, shall notify the Enforcement Board and request a hearing. The Code Enforcement Board, through its clerical staff, shall schedule a hearing and shall provide notice pursuant to § 33.12. The case may be presented to the Enforcement Board even if the repeat violation has been corrected prior to the Board hearing, and the notice shall so state.
(Ord. 86-30, passed 10-6-86; Am. Ord. 88-16, passed 5-2-88; Am. Ord. 89-21, passed 11-6-89)

§ 33.06 HEARINGS.

(A) Upon request of the Code Inspector, or at such other times as may be necessary the Chairman of the Code Enforcement Board may call hearings of the Board and hearings may also be called by written notice signed by at least three members of the Board. Minutes shall be kept of all hearings by the Board and all hearings and proceedings shall be open to the public. The Town Commission shall provide clerical and administrative personnel as may be reasonably required by the Board for proper performance of its duties. Each case before the Board shall be presented by a member of the administrative staff of the town.

(B) The Board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The Board shall take testimony from the Code Inspector and from the alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings. At the conclusion of the hearing, the Board shall issue findings of fact based on evidence of record, and conclusions of law and shall issue an order affording the proper relief consistent with powers granted herein. The finding shall be by motion approved by a majority of those present and voting; however, at least four members of the Board must vote for the action to be official. The order may include a notice that it must be complied with by a specified date, and that a fine may be

of office. Any member who fails to attend three consecutive scheduled and call regular meetings shall automatically forfeit his appointment, and the Town Commission shall promptly fill the vacancy.
(Ord. 86-30, passed 10-6-86; Amd. Ord. 88-1, passed 5-2-88; Amd. Ord. 89-21, passed 11-6-89; Amd. Ord. 91-25, passed 11-4-91; Amd. Ord. 93-09, passed 7-6-93; Amd. Ord. 94-30, passed 1-9-95)

§ 33.04 ORGANIZATION; QUORUM AND COMPENSATION.

(A) The members of the Code Enforcement Board shall elect a Chairman and Vice-Chairman from among its members. The Vice-Chairman shall serve as Chairman in the absence or disability of the Chairman. The presence of four or more members shall constitute a quorum of the Board. Members shall serve without compensation, but may be reimbursed for any travel, mileage, and per diem expenses authorized by the Town Commission or as otherwise provided by law.

(B) The Town Attorney shall be counsel to the Code Enforcement Board. In no case shall the Town Attorney serve by representing the town in presenting cases before the Board.
(Ord. 86-30, passed 10-6-86; Amd. Ord. 89-21, passed 11-6-89; Amd. Ord. 91-25, passed 11-4-91; Amd. Ord. 93-09, passed 7-6-93)

§ 33.07 ENFORCEMENT PROCEDURE.

(A) It shall be the duty of the Code Inspector to initiate code enforcement proceedings, conduct inspections, surveillance and monitoring to determine compliance with the various codes. No member of the Code Enforcement Board shall have the power to initiate code enforcement proceedings. (Ord. 93-12, passed 6-24-93)

(B) Except as provided in divisions (C) and (D) below, if a violation of the codes is found, the Code Inspector shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the Code Inspector shall notify the Code Enforcement Board and request a hearing. The Code Enforcement Board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed as provided in § 33.12 to the violator. At the option of the Code Enforcement Board, notice may additionally be served by publication or posting as provided in § 33.12. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for correction by the Code Inspector, the case may be presented to the Code Enforcement Board even if the violation has been corrected prior to the Board hearing and the notice shall so state.

(C) If the Code Inspector has reason to believe a violation or the condition causing the violation, presents a serious threat to the public health, safety, and welfare, or if the violation is irreparable or irreversible in nature, the Code Inspector shall make a reasonable effort to notify the violator and may immediately notify the Code Enforcement Board and request a hearing.

(D) If a repeat violation is found, the Code Inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The Code Inspector, upon notifying the violator of a repeat violation, shall notify the Enforcement Board and request a hearing. The Code Enforcement Board, through its clerical staff, shall schedule a hearing and shall provide notice pursuant to § 33.12. The case may be presented to the Enforcement Board even if the repeat violation has been corrected prior to the Board hearing, and the notice shall so state.
(Ord. 86-30, passed 10-6-86; Amd. Ord. 88-16, passed 5-2-88; Amd. Ord. 89-21, passed 11-6-89; Amd. Ord. 94-21, passed 10-3-94)

§ 33.08 HEARINGS.

(A) Upon request of the Code Inspector, or at such other times as may be necessary, the Chairman of the Code Enforcement Board may call hearings of the Board and hearings may also be called by written notice signed by at least three members of the Board. Minutes shall be kept of all hearings by the Board and all hearings and proceedings shall be open to the public. The Town Commission shall provide clerical and administrative personnel as may be reasonably required by the Board for proper performance of its duties. Each case before the Board shall be presented by a member of the administrative staff of the town. If the local governing body prevails in prosecuting a case before the Code Enforcement Board, it shall be entitled to recover all costs incurred in prosecuting the case before the Board.

(B) The Board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The Board shall take testimony from the Code Inspector and from the alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings. At the conclusion of the hearing, the Board shall issue findings of fact based on evidence of record, and conclusions of law and shall issue an order affording the proper relief consistent with powers granted herein. The finding shall be by motion approved by a majority of those present and voting; however, at least four members of the Board must vote for the action to be official. The order may include a notice that it must be complied with by a specified date, and that a fine may be imposed if the order is not complied with by said date, and under the conditions specified in § 33.07(c), the cost of repairs may be included along with the fine. A certified copy of such order is not complied with by said date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest or assigns if the violation concerns real property, and the finding therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the Enforcement Board shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.
(Ord. 86-30, passed 10-6-86; Am. Ord. 89-21, passed 11-6-89; Amd. Ord. 94-21, passed 10-3-94)

§ 33.09 POWERS.

(A) The Code Enforcement Board shall have the power to:

(1) Adopt rules for the conduct of its hearings;

(2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the Police Department of the town or sheriff of Manatee or Sarasota County;

(3) Subpoena evidence to its hearings;

(4) Take testimony under oath;

(5) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance.

(B) The Code Enforcement Board shall have the purpose of conducting hearings relating to the enforcement of the Town Code. The Code Enforcement Board shall have the authority and jurisdiction to conduct hearings to consider and enter enforcement orders or civil fines relating to any provision of the Town Code, including any future amendments, but specifically excluding from Code Enforcement Board jurisdiction the provisions in Chapters 70, 71, 72, 73, 74, 75 and 130 of the Town Code.

(C) The Code Enforcement Board is authorized to order replacement of trees when it deems such action to be proper for violation of the Tree Ordinance, Chapter 98.
(Ord. 86-30, passed 10-6-86; Amd. Ord. 89-21, passed 11-6-89)

§ 33.10 ADMINISTRATIVE FINES AND LIEN.

(A) The Code Enforcement Board, upon notification by the Code Inspector that an order of the Enforcement Board has not been complied with by the set time or, upon finding that a repeat violation has been committed, may order the violator to pay a fine in an account specified in this section for each day the violation continues past the date set by the Enforcement Board for compliance or, in the case of a repeat violation, for each day the repeat violation continues beginning with the date the repeat violation is found to have occurred by the Code Inspector. In addition, if the violation is a violation described in § 33.07(C), the Code Enforcement Board shall notify the local governing body, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with a reasonable cost of the repairs along with the fine imposed pursuant to this section. If a finding of a violation or a repeat violation has been made as provided in this subchapter, a hearing shall not be necessary for issuance of the order imposing the fine.

(B) (1) A fine imposed pursuant to this section shall not exceed $250 per day for a first violation and shall not exceed $500 per day for a repeat violation and, in addition, may include all costs of repairs pursuant to subsection (A) above.

(2) In determining the amount of the fine, if any, the Code Enforcement Board shall consider the following factors:

(a) The gravity of the violation;

(b) Any actions taken by the violator to correct the violations; and

(c) Any previous violations committed by the violator.

(C) The Enforcement Board may reduce a fine imposed pursuant to this section.

(D) A certified copy of an order imposing the fine provided for herein may be recorded in the public records of the county, and thereafter such order shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the Circuit Court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against personal property, but such order shall not be deemed otherwise to be a judgment of a court except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first.

(E) After three months from the filing of any such lien which remains unpaid, the Code Enforcement Board may authorize the Town Attorney to foreclose on the lien. The town shall be entitled to recover a reasonable attorney's fee in any such foreclosure.

(F) No lien created pursuant to this chapter may be foreclosed on real property which is a homestead under Article X, Section 4, of the State Constitution.

(G) No lien provided by this section shall continue for a longer period than twenty years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the foreclosure. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded. A lien arising from a fine imposed pursuant to this section runs in favor of the local governing body and the local governing body may execute a satisfaction or release of lien pursuant to this section.
(Ord. 86-30, passed 10-6-86; Amd. Ord. 88-16, passed 5-2-88; Amd. Ord. 89-21, passed 11-6-89; Amd. Ord. 94-21, passed 10-3-94)

§ 33.11 APPEALS.

An aggrieved party, including the town, may appeal a final administrative order of the Code Enforcement Board to the Circuit Court. An appeal shall be filed within 30 days of the execution of the order to be appealed. The scope of review shall be limited to the record made before the Board and shall not be a trial de novo. The Board shall by rule establish reasonable charges for the preparation of the record to be paid by the petitioner.
(Ord. 86-30, passed 10-6-86; Amd. Ord. 89-21, passed 11-6-89)

Board shall by rule establish reasonable charges for the preparation of the record to be paid by the petitioner.
(Ord. 86-30, passed 10-6-86; Am. Ord. 89-21, passed 11-6-89)

§ 33.12 NOTICE.

(A) All notices required by this subchapter shall be provided to the alleged violator by certified mail, return receipt requested, or by hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body, or by leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice.

(B) In addition to providing notice as set forth in subsection (A), at the option of the Code Enforcement Board, notice may also be served by publication or posting as follows:

(1) Such notice shall be published once during each week for four (4) consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the violation is located. The newspaper shall meet such requirements as are prescribed under Chapter 50, Florida Statutes, for legal and official advertisements.

(2) Proof of publication shall be made as provided in §§ 50.041 and 50.051, Florida Statutes.

(C) (1) If there is no newspaper of general circulation in the county where the violation is located, three copies of such notice shall be posted for at least 28 days in three different conspicuous places in such county, one of which shall be at the front door of the courthouse in said county.

(2) Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(D) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (A).

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (A), together with proof of publication or posting as provided in subsection (B) or (C), shall be sufficient to show that the notice requirements of this section have been met, without regard to whether or not the alleged violator actually received such notice.
(Ord. 86-30, passed 10-6-86; Am. Ord. 88-16, passed 5-2-88; Am. Ord. 89-21, passed 11-6-89)

§ 33.13 CODE ENFORCEMENT BOARD TO BE SUPPLEMENTAL.

Nothing contained in §§ 33.01 through 33.12 shall prohibit the town from enforcing its code by any other means. The Code Enforcement Board shall provide an additional or supplemental means of obtaining compliance with the Town Code.
(Ord. 86-30, passed 10-6-86; Am. Ord. 89-21, passed 11-6-89)

SUPPLEMENTAL CODE ENFORCEMENT

§ 33.14 AUTHORITY AND PURPOSE.

(A) This subchapter is adopted pursuant to the authority granted in Chapter 162 and Chapter 166, Florida Statutes, to supplement methods of enforcing codes and ordinances in the Town of Longboat Key, Florida, and is enacted to protect the public health, safety and welfare of the citizens of Longboat Key, Florida.

(B) The provisions of this subchapter are an additional and supplemental means of enforcing town codes and ordinances and may be used for the enforcement of any town code or ordinance. Nothing contained in this subchapter shall prohibit the town from enforcing its codes and ordinances by any other means.
(Ord. 90-11, passed 7-19-90)

§ 33.15 DEFINITIONS.

For purposes of this subchapter, the following definitions shall apply:

"CODE ENFORCEMENT OFFICER" means any designated employee or agent of the Town whose duty it is to enforce codes and ordinances enacted by the town. Provided, however, nothing herein shall be construed to authorize any person designated as a Code Enforcement Officer to perform any function or duties of a law enforcement officer other than as specified. A Code Enforcement Officer shall not make physical arrests or take any person into custody and, except for Fire Inspectors, shall be exempt from requirements relating to the Special Risk Class of the Florida Retirement System, bonding, and the Criminal Justice Standards and Training Commission, as defined and required by general law.

"TOWN" shall mean the incorporated area of the Town of Longboat Key.

"LAW ENFORCEMENT OFFICER" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

"REPEAT VIOLATION" means a violation of a provision of a code or ordinance by a person whom the Code Enforcement Board has previously found to have violated the same provision within five years prior to the violation.
(Ord. No. 90-11, § 1, 7-19-90)

§ 33.16 AUTHORITY TO ISSUE CITATIONS.

Any law enforcement officer and/or code enforcement officer is hereby empowered to issue citations to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted town code or ordinance.
(Ord. No. 90-11, § 1, 7-19-90)

§ 33.12 NOTICE.

(A) All notices required by this subchapter shall be provided to the alleged violator by certified mail, return receipt requested, or by hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body, or by leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice.

(B) In addition to providing notice as set forth in subsection (A), at the option of the Code Enforcement Board, notice may also be served by publication or posting as follows:

(1) Such notice shall be published once during each week for four (4) consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the violation is located. The newspaper shall meet such requirements as are prescribed under Chapter 50, Florida Statutes, for legal and official advertisements.

(2) Proof of publication shall be made as provided in §§ 50.041 and 50.051, Florida Statutes.

(C) (1) In lieu of publications prescribed in paragraph (B) above, such notice may be posted for at least 10 days in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at the government office for the Town of Longboat Key located at 501 Bay Isles Road where public notices are commonly posted.

(2) Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(D) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (A).

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (A), together with proof of publication or posting as provided in subsection (B) or (C), shall be sufficient to show that the notice requirements of this section have been met, without regard to whether or not the alleged violator actually received such notice.
(Ord. 86-30, passed 10-6-86; Amd. Ord. 88-16, passed 5-2-88; Amd. Ord. 89-21, passed 11-6-89; Amd. Ord. 94-21, passed 10-3-94)

§ 33.13 CODE ENFORCEMENT BOARD TO BE SUPPLEMENTAL.

Nothing contained in §§ 33.01 through 33.12 shall prohibit the town from enforcing its code by any other means. The Code Enforcement Board shall provide an additional or supplemental means of obtaining compliance with the Town Code.
(Ord. 86-30, passed 10-6-86; Amd. Ord. 89-21, passed 11-6-89)

SUPPLEMENTAL CODE ENFORCEMENT

§ 33.14 AUTHORITY AND PURPOSE.

(A) This subchapter is adopted pursuant to the authority granted in Chapter 162 and Chapter 166, Florida Statutes, to supplement methods of enforcing codes and ordinances in the Town of Longboat Key, Florida, and is enacted to protect the public health, safety and welfare of the citizens of Longboat Key, Florida.

(B) The provisions of this subchapter are an additional and supplemental means of enforcing town codes and ordinances and may be used for the enforcement of any town code or ordinance. Nothing contained in this subchapter shall prohibit the town from enforcing its codes and ordinances by any other means.
(Ord. 90-11, passed 7-19-90)

§ 33.15 DEFINITIONS.

For purposes of this subchapter, the following definitions shall apply:

"CODE ENFORCEMENT OFFICER" means any designated employee or agent of the Town whose duty it is to enforce codes and ordinances enacted by the town. Provided, however, nothing herein shall be construed to authorize any person designated as a Code Enforcement Officer to perform any function or duties of a law enforcement officer other than as specified. A Code Enforcement Officer shall not make physical arrests or take any person into custody and, except for Fire Inspectors, shall be exempt from requirements relating to the Special Risk Class of the Florida Retirement System, bonding, and the Criminal Justice Standards and Training Commission, as defined and required by general law.

"TOWN" shall mean the incorporated area of the Town of Longboat Key.

"LAW ENFORCEMENT OFFICER" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

"REPEAT VIOLATION" means a violation of a provision of a code or ordinance by a person whom the Code Enforcement Board has previously found to have violated the same provision within five years prior to the violation.
(Ord. No. 90-11, § 1, 7-19-90)

§ 33.16 AUTHORITY TO ISSUE CITATIONS.

Any law enforcement officer and/or code enforcement officer is hereby empowered to issue citations to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted town code or ordinance.
(Ord. No. 90-11, § 1, 7-19-90)

§ 33.17 ORDINANCES ENFORCED AND PENALTIES ASSESSED.

All town codes and/or ordinances may be enforced by this subchapter, by citation to the appropriate County Court of Sarasota or Manatee County, except where prohibited by law or statute. If the violation is not contested, initial violations of codes and ordinances shall carry a civil penalty in an amount shown on the Schedule of Violations and Fines attached hereto [following § 33.18] and made a part hereof. Each repeat uncontested violation shall carry a fine equal to 150% of the scheduled fine, not to exceed $400. The Schedule of Violations and Fines shall be applicable only if the violation is not contested by the violator. If the citation is contested, the maximum civil penalty shall be $500 and shall be determined by the Court. (Ord. No. 90-11, § 1, 7-19-90)

§ 33.18 VIOLATIONS, PROCEDURE.

(A) A Code Enforcement Officer or Law Enforcement Officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted town code or ordinance. However, prior to issuing a citation, a Code Enforcement Officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a Code Enforcement Officer finds that the person has not corrected the violation within the time period, a Code Enforcement Officer may issue a citation to the person who has committed the violation. A Code Enforcement Officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the Code Enforcement Officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

(B) A Code Enforcement Officer or Law Enforcement Officer shall issue a Notice of Violation in a form prescribed by the town, and it shall contain:

(1) The date and time of issuance.

(2) The name and address of the person to whom the citation is issued.

(3) The date and time the civil infraction was committed.

(4) The facts constituting reasonable cause.

(5) The number or section of the code or ordinance violated.

(6) The name and authority of the Code Enforcement Officer, or Law Enforcement Officer.

(7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.

(8) The applicable civil penalty if the person elects to contest the citation.

(9) The applicable civil penalty if the person elects not to contest the citation.

(10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citations, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(C) After issuing a citation to an alleged violator, a Code Enforcement Officer shall deposit the original citation and one copy of the citation with the appropriate Clerk of the County Court within 10 days of issuance.

(D) The maximum civil penalty shall not exceed $500.

(E) A civil penalty of less than $500 is provided for in the Schedule of Violations and Fines attached hereto [following this section] and shall be imposed if the person who has committed the civil infraction does not contest the citation. If the citation is contested, the maximum civil penalty for any violation is $500.

(F) Any person who willfully refuses to sign and accept a citation issued by a Code Enforcement Officer shall be guilty of a misdemeanor of the second degree, punishable as provided in § 775.082 or § 775.083, Florida Statutes.

(Ord. No. 90-11, § 1, 7-19-90; Amd. Ord. 94-21, passed 10-3-94)

TOWN OF LONGBOAT KEY

SCHEDULE OF VIOLATIONS AND FINES (ORDINANCE 90-11)

CATEGORY		FINE
CATEGORY	I	$ 40.00
CATEGORY	II	70.00
CATEGORY	III	90.00
CATEGORY	IV	120.00
CATEGORY	V	400.00

All Fines include the basic Fine with Local and County Administrative Fees added.
(Local - $2.00; County - $3.00 per F.S. 943.25.)

PUBLIC WORKS

Building Sewers and Connections:

(I)	52.05	Unlawful Disposal
(II)	52.06	Sanitary Requirements for Disposal
(V)	52.16	Prohibited Connections

Use Regulations:

(V)	52.30	Unlawful Discharges
(V)	52.32	Storm Water; Unpolluted Drainage
(V)	52.33	Interceptors
(V)	52.34	Preliminary Treatment of Flow-Equalizing Facilities
(V)	52.35	Manholes

Water and Water Shortage Orders:

(I)	53.10	Emergency Water Use
(II)	54.03	Declaration of Shortage; Emergency

TRAFFIC

Bicycles:

(I)	73.04	Bicycle Regulations
(I)	73.05	Use of Bicycle Paths

GENERAL REGULATIONS

Aircraft:

(V)	90.03	Landing Within Town Limits

Animals:

(I)	91.02	Animals Within Town Limits
(II)	91.03	Confinement in Unattended Motor Vehicles
(II)	91.04	Injuring or Destroying Peafowl
(I)	91.10	License and Tags
(II)	91.13	Confinement When Rabies Suspected
(I)	91.14	Leash or Lead Requirements
(I)	91.18	Barking, Howling, or Biting

(V)	91.19	Cruel and Inhumane Treatment
(I)	91.20	Prohibited on Beaches
(I)	91.22	Dog Excreta

Vicious Dogs:

(II)	91.31	Confinement
(II)	91.32	Leash and Muzzle
(I)	91.33	Signs
(V)	91.34	Dog Fighting

Beaches and Parks:

(I)	92.10	Time Restrictions
(I)	92.11	Possession of Alcoholic Beverages
(I)	92.12	Prohibited Activities
(I)	92.22	Dead Fish, Duty of Beach Owner To Remove

Boats and Waterways:

(II)	93.01	Speed Limits
(III)	93.02	Reckless Operation
(II)	93.03	Disturbing Peace From Watercraft
(III)	93.04	Mooring of Boats
(II)	93.041	Placing of Nets or Other Obstructions
(I)	93.05	Boat Equipments; ID Numbers
(V)	93.06	Abandonment of Boats
(V)	93.07	Sanitary, Health Regulations for Boats
(II)	93.08	Skiing, Skin Diving, or Swimming
(II)	93.09	Designated Areas for Water Activities

Fire Prevention Code:

(V)	94.27	Carelessness With Fire
(I)	94.28	Smoking
(III)	94.29	Unauthorized Burning
(IV)	94.30	False Alarms
(I)	94.31	Posting Fire Safety Regulations
(V)	94.32	Inoperative Fire Safety Equipment
(III)	94.33	Required Access for Fire Apparatus
(V)	94.35	Fire Doors
(V)	94.36	Interference With Fire Protection Equipment
(II)	94.38	Fumigation
(IV)	94.39	Storage on Roofs, Fire Escapes
(IV)	94.40	Duty To Prevent Overcrowding
(IV)	94.41	Obstruction of Aisles and Passageways
(III)	94.42	Failure To Vacate
(II)	94.43	Combustible Decorations
(I)	94.44	Marking of Occupancies for Emergency Use
(V)	94.45	Automatic Detection and Fire Alarm Systems

(V)	94.46	Automatic Extinguishing Systems
(V)	94.48	Alarm Annunciator

Garbage, Rubbish, and Junk:

(I)	95.02	Garbage and Trash Receptacles
(I)	95.03	Duty To Provide Refuse Containers
(I)	95.04	Location, Inspection of Refuse Containers
(I)	95.06	Preparation of Refuse for Collection

Garbage, Ashes, and Filth:

(I)	95.16	Unlawful Deposits
(I)	95.17	Throwing, Spilling Refuse From Vehicles
(I)	95.18	Burning or Burying Rubbish

Junk and Discarded Material:

(I)	95.25	Accumulations Prohibited

Health and Sanitation:

Maintenance of Premises -

(II)	96.02	Failure to Maintain Deemed Public Nuisance
(II)	96.04	Mosquito Breeding Sites

Overgrowth of Vegetation -

(I)	96.11	Accumulation of Brush Prohibited
(I)	96.12	Duty To Keep Premises Cleared

Food and Drink Establishments -

(IV)	96.31	Permit Required; Inspection and Fee
(II)	96.33	Construction or Alteration of Premises
(II)	96.34	Training Requirements for Management
(II)	96.35	Work Card for All Employees

Pollution Control -

(II)	96.46	Prohibited Acts

Trees:

(III)	98.02	Permit Required
(V)	98.03	Requirements for Removal
(V)	98.06	Relocation or Replacement
(V)	98.07	Protection of Trees
(I)	98.08	Prohibited Plantings
(I)	98.09	Tree Trimming

Sea Turtles:

(II)	100	Any Violations of This Chapter

BUSINESS REGULATIONS

Alcoholic Beverages:

(IV)	110	Any Violations of This Chapter

Occupational Licenses: (In addition to penalties set by F.S. § 205)

(IV)	111	Any Violations of This Chapter

Peddlers:

2000 TOWN CODE

(II) 112 Any Violations of This Chapter

GENERAL OFFENSES

(I) 130.02 Loud and Unnecessary Noise
(I) 130.03 Annoying Spotlights or Floodlights
(III) 130.04 Firearms and Weapons
(IV) 130.05 Nudity in Establishments Selling Alcoholic Beverages
(IV) 130.06 Impersonating Law Enforcement Officers

LAND DEVELOPMENT CODE

Signs:

(II) 156.02 Sign Permit Required
(II) 156.03 Permit Fees
(II) 156.05 Prohibited Signs
(II) 156.06 Types of Signs; Regulations
(II) 156.07 Area; Number of Signs Permitted
(II) 156.08 Construction and Safety Standards
(II) 156.09 Nonconforming Signs; Removal
(V) 156.11 Unsafe or Unlawful Signs

Subdivision Regulations:

(V) 157 Any Violations of This Chapter

Zoning:

(V) 158 Any Violations of This Chapter

VIOLATIONS OF ANY OTHER TOWN CODES

(I) Violations of any other town codes not specifically set forth herein.

Per § 33.17, the Schedule of Violations and Fines shall be applicable only if the violation is not contested by the violator. If the citation is contested, the maximum civil penalty shall be $500.00 and shall be determined by the court, plus court costs.

PLANNING AND ZONING BOARD

§ 33.20 CREATION; MEMBERS.

(A) There is hereby created a Planning and Zoning Board for the town, which shall consist of nine members appointed by the Town Commission. The Board shall elect a Chairman annually from among its members. All members must be registered voters and residents of the Town of Longboat Key. No member shall be an elected official or employee of the town. A person appointed to this Board may not serve concurrently on any of the following Town Boards: Code Enforcement Board, Ethics Commission or Zoning Board of Adjustment.

(B) Members shall be appointed for a period of three years. The terms of appointment shall expire on the second Wednesday of May of the year in which the term is set to expire. Any member who fails to attend three consecutive scheduled and called regular meetings shall automatically forfeit his appointment, and the Town Commission shall promptly fill the vacancy. Vacancies shall be filled by appointment for unexpired terms only.
('71 Code, § 15B-17) (Ord. 169, passed 4-1-70; Amd. Ord. 78-13, passed 10-25-78; Amd. Ord. 91-24, passed 11-4-91; Amd. Ord. 93-10, passed 7-6-93; Amd. Ord. 94-30, passed 1-9-95)

§ 33.21 OFFICERS.

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.

(A) The Chairman shall preside at all meetings of the Planning and Zoning Board, and shall have all other duties as may be prescribed by law.

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

(C) The Secretary of the Planning and Zoning Board shall post or mail notices as may be required herein; take minutes of all of the meetings of the Board; handle all correspondence to and from the Board; and file all minutes in the office of the Board.
('71 Code, § 15B-18) (Ord. 169, passed 4-1-70)

§ 33.22 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 the Commission within a reasonable time or within any other time as may be specified. The Board shall consider and report its recommendations on all petitions to change the zoning district boundaries within the town.

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

(C) The Board shall consider and make recommendations on all proposed subdivision plats within the town.

(D) The 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 all things as may secure the recognized advantages of building and zoning regulations.
('71 Code § 15B-19) (Ord. 169, passed 4-1-70)

Cross-reference:
Review of proposed zoning amendments, see § 158.115
Planning and Zoning Board as the Local Planning Agency, see §§ 32.01 through 32.06

§ 33.23 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. At least six hours' notice of each meeting shall be given to each member of the Board. The notice shall specify the matters to be acted on at the meeting.

(B) A quorum for any meeting of the Board shall be five of the members. When less than a quorum is present at any meeting which has been duly called, those present may adjourn or recess the meeting to a future date to be specified in the motion of adjournment or recess.

(C) The order of business at regular public meetings shall be as follows.

(1) Roll call.

(2) Approval of the minutes of the previous meeting.

(3) Adoption of reports.

(4) Fixing dates for future hearings.

(5) Hearings.

(6) New business.

(7) Old business.

(D) Matters not on the calendar shall be considered only by unanimous consent of the members present. The Chairman shall direct a roll call on every proposition to be acted on and all votes shall be taken by the ayes and nays. At a public hearing, those in favor of a proposition shall be heard first, and then those opposed, unless otherwise ordered by the Chairman. Any official action by the Board shall require an affirmative vote of a majority of the members present. Final action shall be taken on applications no later than the next regular monthly meeting of the board after the public hearing thereon.

(E) 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.
('71 Code, § 15B-20) (Ord. 169, passed 4-1-70; Amd. Ord. 78-13, passed 10-25-78)

§ 33.24 MINUTES.

The minutes of the Planning and Zoning Board shall contain an accurate report of all matters taken up by the Board, the summary of all testimony heard in public hearings, and a record of all recommendations made by the 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 on, and shall indicate the absence of any member, or any member not voting. The minutes of the Board shall be filed in the office of the Town Clerk and shall be a public record.
('71 Code, § 15B-21) (Ord. 169, passed 4-1-70)

§ 33.25 PUBLIC HEARINGS.

(A) The Planning and Zoning Board shall hold a public hearing on any matter if requested by the Town Commission. The Board may hold one or more public hearings on any matter, if in the opinion of the Board the best interests of the town will be served, except on matters initiated by the Board. On matters initiated by the Board, public hearings will be held only with the approval of the Town Commission.

(B) Any changes in land use and zoning initiated by the town, and changes in land use and zoning not initiated by the town, including, without limitation, development agreements and adoption or amendments to outline development plans, if not initiated by the town, shall be at the petitioner's or applicant's expense. Notice of such public hearing shall:

(1) Be published at least seven days prior to the hearing in a newspaper of general circulation within the town, and

(2) Be published at least four days (including weekends and holidays) prior to the public hearing, in a publication generally circulated weekly within the town in a format similar to § 166.041(3) (c) (2)b., Florida Statutes, as may be amended.

(C) A copy of the notice shall be sent by certified mail 14 days prior to the hearing to all owners of property involved in the petition or application, to all owners of property immediately adjacent to and within 500 feet of the perimeter of the subject property, and to each homeowners', property owners' or condominium association which annually registers with the Planning, Zoning and Building Department to receive such notice by first class mail. The guide for the mailing requirement to owners shall be the most recent town or county assessment roll.

(D) All other public hearings, not otherwise governed by § 33.25 of this Code or Florida Statutes, whether or not town-initiated, including without limitation, plat or replat approvals, site plan approvals, and special exceptions, shall, if not initiated by the town, be at petitioner's or applicant's expense, except as provided in Chapter 157. Notice of such public hearing shall, at least seven days prior to the hearing, be:

(1) Prominently posted by the applicant by a sign provided by the town on the property which is the subject of the application or petition. The posted notice shall be:

(a) Placed in a location in conformance with Chapter 156;

(b) Placed in a location unobstructed to the view of passersby;

(c) Maintained by the applicant until required to be removed and if damaged, destroyed or removed, shall be replaced as soon as possible by the applicant with another sign provided by the town;

(d) Modified by the applicant to reflect any errors or changes in scheduling of the applicable public hearings so as to ensure accurate information;

(e) Removed by the applicant within 48 hours after conclusion of the final public hearing; and

(f) Inspected by the Planning, Zoning and Building Department to ensure compliance with these posting requirements.

(2) Posted by the town at Town Hall.

(3) Published in a newspaper of general circulation within the town; and

(E) A copy of the notice shall be sent by certified mail 14 days prior to the hearing to all owners of property involved in the petition or application, and to all owners of property immediately adjacent to and within 300 feet of the perimeter of the subject property. The guide for the mailing requirement to owners shall be the most current town or county assessment roll.

(F) At any public hearing, any party may appear in person, by agent or by attorney. With respect to condominiums or cooperatives, notice required by this section will be deemed notice to its property owners when notice is sent or delivered to the secretary and the president of the condominium or cooperative association, unless the offices are not filled, in which event notice to the agent designated for the service of process will be sufficient compliance with the notice requirements of this section. However, at the discretion of the Town Commission, notice may be required to be given tc each condominium owner or cooperative unit owner.

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 _____ of _____,
A.D., 19 ____. All interested are invited to attend.

_____
Secretary
Longboat Key Planning and Zoning Board

('71 Code, § 15B-22) (Ord. 169, passed 4-1-70; Amd. Ord. 82-8, passed 7-7-82; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 95-17, passed 10-2-95; Amd. Ord. 97-24, passed 11-3-97)

ZONING BOARD OF ADJUSTMENT

§ 33.30 ESTABLISHMENT.

For provisions concerning the Zoning Board of Adjustment, see ~~§§ 158.111 through 158.114.~~ SHOULD BE 158.026

CHAPTER 34: EMPLOYMENT POLICIES

Section

General Provisions

34.01 Payments on account of sickness

Social Security

34.05 Adoption, application of Social Security Act
34.06 Exclusions
34.07 Agreements with state agency
34.08 Withholding authorized
34.09 Appropriation for contributions
34.10 Records; state and federal regulations
34.11 Finance Director

Police Officers' Retirement System

34.13 Definitions
34.14 Membership
34.15 Board of Trustees
34.16 Finances and fund management
34.17 Contributions
34.18 Benefit amounts and eligibility
34.19 Pre-retirement death
34.20 Disability
34.21 Vesting
34.22 Optional forms of benefits
34.23 Beneficiaries
34.24 Claims procedures
34.25 Reports to Division of Retirement
34.26 Roster of retirees
34.27 Maximum pension
34.28 Distribution of benefits
34.29 Miscellaneous provisions
34.30 Repeal or termination of system
34.31 Exemption from execution, non-assignability
34.32 Pension validity
34.33 Forfeiture of pension
34.34 Conviction and forfeiture; false, misleading or fraudulent statements
34.35 Indemnification
34.36 Direct transfers of eligible rollover distributions
34.37 Family and Medical Leave Act

Firefighters' Retirement System

34.43 Definitions
34.44 Membership
34.45 Board of Trustees
34.46 Finances and fund management
34.47 Contributions
34.48 Benefit amounts and eligibility
34.49 Pre-retirement death
34.50 Disability
34.51 Vesting
34.52 Optional forms of benefits
34.53 Beneficiaries
34.54 Claims procedures
34.55 Reports to Division of Retirement
34.56 Roster of retirees
34.57 Maximum pension
34.58 Distribution of benefits
34.59 Miscellaneous provisions
34.60 Repeal or termination of system
34.61 Exemption from execution, non-assignability
34.62 Pension validity
34.63 Forfeiture of pension
34.64 Conviction and forfeiture; false, misleading or fraudulent statements
34.65 Indemnification
34.66 Direct transfers of eligible rollover distributions
34.67 Family and Medical Leave Act

General Employees' Retirement System

34.73 Definitions
34.74 Membership
34.75 Board of Trustees
34.76 Finances and fund management
34.77 Contributions
34.78 Benefit amounts and eligibility
34.79 Pre-retirement death
34.80 Vesting
34.81 Optional forms of benefits
34.82 Beneficiaries
34.83 Claims procedures
34.84 Roster of retirees
34.85 Maximum pension
34.86 Distribution of benefits
34.87 Miscellaneous provisions
34.88 Repeal or termination of system
34.89 Exemption from execution, non-assignability

34.90 Pension validity
34.91 Forfeiture of pension
34.92 Indemnification
34.93 Direct transfers of eligible rollover distributions
34.94 Family and Medical Leave Act
34.95 Separation from employment for military service

Salary Savings Plan

34.99 Salary Savings Plan

GENERAL PROVISIONS

§ 34.01 PAYMENTS ON ACCOUNT OF SICKNESS.

The Town Manager is hereby authorized to provide for the expenditure of public funds for payment to employees on account of personal sickness or disability, pursuant to the State of Florida Rules of the Department of Administration, Division of Retirement, Chapter 22C-2.02(1), Payments on Account of Sickness.
(Ord. 81-15, passed 4-15-81)

SOCIAL SECURITY

§ 34.05 ADOPTION, APPLICATION OF SOCIAL SECURITY ACT.

(A) It is the policy and purpose of the town to extend, effective January 1, 1960, to the employees and officials thereof not excluded by law nor excepted in this subchapter, the benefits of the system of old-age and survivors insurance authorized by the Federal Social Security Act and amendments thereto, and by F.S. Ch. 650, as amended, and to cover by this plan all services which constitute employment as defined in F.S. § 650.02, performed in the employ of the town by employees and officials thereof, except the Town Attorney and the Town Commission. ('71 Code, § 2-6)

(B) The town adopts 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 on all officers and employees of its departments and agencies to be covered under the agreement authorized by this subchapter.
('71 Code, § 2-12)

§ 34.06 EXCLUSIONS.

There is excluded from this subchapter any authority to include in any agreement entered into under § 34.07 any service, position, employee, or official now covered by or eligible to be covered by an existing retirement system.
('71 Code, § 2-7)

§ 34.07 AGREEMENTS WITH STATE AGENCY.

The Mayor or other chief executive officer is 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 the system of old-age and survivors insurance to the employees and officials of this town, as provided in §§ 34.05(A) and 34.06, which shall provide for those 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 the agreement performed on and after January 1, 1960.
('71 Code, § 2-8)

§ 34.08 WITHHOLDING AUTHORIZED.

Withholdings from salaries, wages, or other compensation of employees and officials for the purpose provided in this subchapter are authorized to be made, and shall be made, in the amounts and at those times required by applicable state or federal laws or regulations, and shall be paid over to the state agency designated by those laws or regulations to receive the amounts.
('71 Code, § 2-9)

§ 34.09 APPROPRIATION FOR CONTRIBUTIONS.

There shall be appropriated from available funds derived from general funds and cigarette funds, those amounts, at those 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 regulations.
('71 Code, § 2-10)

§ 34.10 RECORDS; STATE AND FEDERAL REGULATIONS.

The town shall keep all records and make all reports required by applicable state or federal laws or regulations, and shall adhere to the regulations of the state agency.
('71 Code, § 2-11)

§ 34.11 FINANCE DIRECTOR.

The Finance Director is 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 Finance Director is hereby made the withholding and reporting agent and charged with the duty of maintaining personnel records for the purpose of this subchapter.
('71 Code, § 2-13)

POLICE OFFICERS' RETIREMENT SYSTEM

Prior history:

Formerly, §§ 34.20—34.55. '71 Code, §§ 15A-1, 15A-3—15A-5, 15A-7—15A-20, 15A-25, 15A-31—15A-39; Ords. 226, 75-5, 75-18, 75-19, 77-19, 85-1, 87-17, 88-10, 88-11, and 91-19.

Formerly §§ 34.20—34.44. Ords. 91-23, 94-08, 94-27, 94-30, 96-02, 96-23, 98-01, 98-16, 98-33, 99-04, and 99-07.

§ 34.13 DEFINITIONS.

(A) As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meaning indicated:

"ACCUMULATED CONTRIBUTIONS" means a Member's own contributions without interest. For those Members who purchase credited service with interest or at no cost to the System, only that portion of any payment representing the amount attributable to Member contributions based on the applicable Member contribution rate, shall be included in accumulated contributions.

"ACTUARIAL EQUIVALENT" means a benefit or amount of equal value, based upon the 1983 Group Annuity Mortality Table and an interest rate of 8% per annum.

"AVERAGE FINAL COMPENSATION" means one-twelfth of the average Salary of the five best years of the last 10 years of credited service prior to retirement, termination, or death, or the career average as a full-time Police Officer, whichever is greater. A year shall be 12 consecutive months.

"BENEFICIARY" means the person or persons entitled to receive benefits hereunder at the death of a Member who has or have been designated in writing by the Member and filed with the Board. If no such designation is in effect, or if no person so designated is living, at the time of death of the Member, the beneficiary shall be the estate of the Member.

"BOARD" means the Board of Trustees, which shall administer and manage the System herein provided and serve as trustees of the Fund.

"CODE" means the Internal Revenue Code of 1986, as amended from time to time.

"CREDITED SERVICE" means the total number of years and fractional parts of years of service as a Police Officer with Member contributions, when required, omitting intervening years or fractional parts of years when such Member was not employed by the town as a Police Officer. A Member may voluntarily leave his accumulated contributions in the Fund for a period of five years after leaving the employ of the Police Department pending the possibility of being reemployed as a Police Officer, without losing credit for the time that he was a Member of the System. If a vested Member leaves the employ of the Police Department, his accumulated contributions will be returned only upon his written request. If a Member who is not vested is not reemployed as a Police Officer with the Police Department within five years, his accumulated contributions shall be returned. Upon return of a Member's accumulated contribu-

tions, all of his rights and benefits under the System are forfeited and terminated. Upon any reemployment, a Police Officer shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his accumulated contributions from the Fund, unless the Police Officer repays into the Fund the contributions he has withdrawn, with interest, as determined by the Board, within 90 days after his reemployment.

The years or fractional parts of a year that a Member serves in the military service of the Armed Forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily, after separation from employment as a Police Officer with the town to perform training or service, shall be added to his years of credited service for all purposes, including vesting, provided that:

(1) The Member must return to his employment as a Police Officer within one year from the earlier of the date of his military discharge or his release from active service.

(2) The Member is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), (P.L. 103-353).

(3) The maximum credit for military service pursuant to this paragraph shall be five years.

"EFFECTIVE DATE" means the date on which the ordinance codified in §§ 34.13 through 34.37 becomes effective.

"FUND" means the trust fund established herein as part of the System.

"MEMBER" means an actively employed Police Officer who fulfills the prescribed membership requirements. Benefit improvements which, in the past, have been provided for by amendments to the System adopted by town ordinance, and any benefit improvements which might be made in the future shall apply prospectively and shall not apply to Members who terminate employment or who retire prior to the effective date of any ordinance adopting such benefit improvements, unless such ordinance specifically provides to the contrary.

"PLAN YEAR" means the 12-month period beginning October 1 and ending September 30 of the following year.

"POLICE OFFICER" means an actively employed full-time person, employed by the town, including his initial probationary employment period, who is certified as a Police Officer as a condition of employment in accordance with the provisions of § 943.1395, Florida Statutes, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, traffic, or highway laws of the State of Florida.

"RETIREE" means a Member who has entered retirement status.

"RETIREMENT" means a Member's separation from town employment with eligibility for immediate receipt of benefits under the System.

"SALARY" means the total compensation for services rendered to the town as a Police Officer reportable on the Member's W-2 form plus all tax deferred, tax sheltered, or tax exempt items of income derived from elective employee payroll deductions or salary reductions. Compensation

in excess of the limitations set forth in § 401(a)(17) of the Code shall be disregarded. The limitation on compensation for an "eligible employee" shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. "Eligible employee" is an individual who was a Member before the first plan year beginning after December 31, 1995.

"SPOUSE" means the lawful wife or husband of a Member or retiree at the time benefits become payable.

"SYSTEM" means the Town of Longboat Key Police Officers' Retirement System as contained herein and all amendments thereto.

"TOWN" means Town of Longboat Key, Florida.

(B) MASCULINE GENDER. The masculine gender, where used herein, unless the context specifically requires otherwise, shall include both the feminine and masculine genders.
(Ord. 99-24, passed 7-6-99)

§ 34.14 MEMBERSHIP.

(A) Conditions of Eligibility. All Police Officers as of the effective date, and all future new Police Officers, shall become Members of this System as a condition of employment.

(B) Designation of Beneficiary. Each Police Officer shall complete a form prescribed by the Board designating a beneficiary or beneficiaries.
(Ord. 99-24, passed 7-6-99)

§ 34.15 BOARD OF TRUSTEES.

(A) The sole and exclusive administration of and responsibility for the proper operation of the System and for making effective the provisions of §§ 34.13 through 34.37 are hereby vested in a Board of Trustees. The Board is hereby designated as the plan administrator. The Board shall consist of five Trustees, two of whom, unless otherwise prohibited by law, shall be legal residents of the town, who shall be appointed by the Longboat Key Town Commission, and two of whom shall be Members of the System, who shall be elected by a majority of the Police Officers who are Members of the System. The fifth Trustee shall be chosen by a majority of the previous four Trustees as provided for herein, and such person's name shall be submitted to the Longboat Key Town Commission. Upon receipt of the fifth person's name, the Longboat Key Town Commission shall, as a ministerial duty, appoint such person to the Board of Trustees as its fifth Trustee. The fifth Trustee shall have the same rights as each of the other four Trustees appointed or elected as herein provided and shall serve a two-year term unless he sooner vacates the office. Each resident Trustee shall serve as Trustee for a period of two years, unless he sooner vacates the office or is sooner replaced by the Longboat Key Town Commission at whose pleasure he shall serve. Each Member Trustee shall serve as Trustee for a period of two years, unless he sooner leaves the employment of the town as a Police Officer or otherwise vacates his office as Trustee, whereupon a successor shall be chosen in the same manner as

the departing Trustee. Each Trustee may succeed himself in office. The Board shall establish and administer the nominating and election procedures for each election. The Board shall meet at least quarterly each year. The Board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

(B) The Trustees shall, by a majority vote, elect a Chairman, Vice-Chairman and a Secretary. The Secretary of the Board shall keep a complete minute book of the actions, proceedings, or hearings of the Board. The Trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

(C) Each Trustee shall be entitled to one vote on the Board. Three affirmative votes shall be necessary for any decision by the Trustees at any meeting of the Board. A Trustee shall have the right to abstain from voting as the result of a conflict of interest provided that Trustee complies with the provisions of § 112.3143, Florida Statutes.

(D) The Board shall engage such actuarial, accounting, legal, and other services as shall be required to transact the business of the System. The compensation of all persons engaged by the Board and all other expenses of the Board necessary for the operation of the System shall be paid from the Fund at such rates and in such amounts as the Board shall agree. In the event the Board chooses to use the Town's legal counsel, actuary or other professional, technical or other advisors, it shall do so only under terms and conditions acceptable to the Board.

(E) The duties and responsibilities of the Board shall include, but not necessarily be limited to, the following:

(1) To construe the provisions of the System and determine all questions arising thereunder.

(2) To determine all questions relating to eligibility and membership.

(3) To determine and certify the amount of all retirement allowances or other benefits hereunder.

(4) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the System.

(5) To distribute to Members, at regular intervals, information concerning the System.

(6) To receive and process all applications for benefits.

(7) To authorize all payments whatsoever from the Fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the System and Fund.

(8) To have performed actuarial studies and valuations, at least as often as required by law, and make recommendations regarding any and all changes in the provisions of the System.

(9) To perform such other duties as are required to prudently administer the System. (Ord. 99-24, passed 7-6-99)

§ 34.16 FINANCES AND FUND MANAGEMENT.

(A) Establishment and Operation of Fund.

(1) As part of the System, there is hereby established the Fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the System, including the assets attributable to the Police Officers from the assets of the prior Town of Longboat Key Municipal Pension Trust Fund.

(2) The actual custody and supervision of the Fund (and assets thereof) shall be vested in the Board. Payment of benefits and disbursements from the Fund shall be made by the disbursing agent but only upon written authorization from the Board.

(3) All funds of the Police Officers' Retirement System may be deposited by the Board with the Finance Director of the Town, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the Town. However, any funds so deposited with the Finance Director of the Town shall be kept in a separate fund by the Finance Director or clearly identified as such funds of the Police Officers' Retirement System. In lieu thereof, the Board shall deposit the funds of the Police Officers' Retirement System in a qualified public depository as defined in § 280.02, Florida Statutes, which depository with regard to such funds shall conform to and be bound by all of the provisions of Chapter 280, Florida Statutes. In order to fulfill its investment responsibilities as set forth herein, the Board may retain the services of a custodian bank, an investment advisor registered under the Investment Advisors Act of 1940 or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment manager shall have discretion, subject to any guidelines as prescribed by the Board, in the investment of all Fund assets.

(4) All funds and securities of the System may be commingled in the Fund, provided that accurate records are maintained at all times reflecting the financial composition of the Fund, including accurate current accounts and entries as regards the following:

(a) Current amounts of accumulated contributions of Members on both an individual and aggregate account basis; and

(b) Receipts and disbursements; and

(c) Benefit payments; and

(d) Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the town; and

(e) All interest, dividends and gains (or losses) whatsoever; and

(f) Such other entries as may be properly required so as to reflect a clear and complete financial report of the Fund.

(5) An audit shall be performed annually by a certified public accountant for the most recent fiscal year of the Plan showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with

the assets at the beginning and end of the year. Such report shall reflect a complete evaluation of assets on both a cost and market basis, as well as other items normally included in a certified audit.

(6) The Board shall have the following investment powers and authority:

(a) The Board shall be vested with full legal title to said Fund, subject, however, and in any event to the authority and power of the Longboat Key Town Commission to amend or terminate this Fund, provided that no amendment or Fund termination shall ever result in the use of any assets of this Fund except for the payment of regular expenses and benefits under this System, except as otherwise provided herein. All contributions from time to time paid into the Fund, and the income thereof, without distinction between principal and income, shall be held and administered by the Board or its agent in the Fund and the Board shall not be required to segregate or invest separately any portion of the Fund.

(b) All monies paid into or held in the Fund shall be invested and reinvested by the Board and the investment of all or any part of such funds shall be limited to:

(i) Annuity and life insurance contracts with life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the Members in the Fund shall be entitled under the provisions of this System and pay the initial and subsequent premium thereon.

(ii) Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund or a savings/building and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

(iii) Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States or by an agency of the government of the United States.

(iv) Bonds issued by the State of Israel.

(v) Stocks, commingled funds administered by national or state banks, mutual funds and bonds or other evidences of indebtedness, provided that:

a. Except as provided in subparagraph b. all individually held securities and all securities in a commingled or mutual fund must be issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, and in the case of bonds only, shall hold a rating in one of the three highest classifications by a major rating service.

b. Up to 10% of the assets of the Fund may be invested in foreign securities.

c. The Board shall not invest more than 5% of its assets in the common stock, capital stock, or convertible securities of any one issuing company, nor shall the

aggregate investment in any one issuing company exceed 5% of the outstanding capital stock of that company; nor shall the aggregate of its investments in common stock, capital stock and convertible securities at cost exceed 65% of the assets of the Fund.

(vi) Real estate, provided the Board shall not invest more than 10% at cost in real property or real estate.

(c) At least once every three years, and more often as determined by the Board, the Board shall retain a professionally qualified independent consultant, as defined in § 185.06, Florida Statutes, to evaluate the performance of all current investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the Board at its next regularly scheduled meeting.

(d) The Board may retain in cash and keep unproductive of income such amount of the Fund as it may deem advisable, having regard for the cash requirements of the System.

(e) Neither the Board nor any Trustee shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the Fund, except that due to his or its own negligence, willful misconduct or lack of good faith.

(f) The Board may cause any investment in securities held by it to be registered in or transferred into its name as Trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the Fund.

(g) The Board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the Trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the Fund which it may deem to be to the best interest of the Fund to exercise.

(h) The Board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained herein.

(i) Where any action which the Board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as Trustee under §§ 34.13 through 34.34, can reasonably be taken or performed only after receipt by it from a Member, the Town, or any other entity, of specific information, certification, direction or instructions, the Board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.

(j) Any overpayments or underpayments from the Fund to a Member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the Board in such a manner that the actuarial equivalent of the benefit to which the Member, retiree or beneficiary was correctly entitled, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Underpayments shall be made up from the Fund in a prudent manner.

(k) The Board shall sustain no liability whatsoever for the sufficiency of the Fund to meet the payments and benefits provided for herein.

(l) In any application to or proceeding or action in the courts, only the Board shall be a necessary party, and no Member or other person having an interest in the Fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.

(m) Any of the foregoing powers and functions reposed in the Board may be performed or carried out by the Board through duly authorized agents, provided that the Board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to said Fund shall always remain in the Board.
(Ord. 99-24, passed 7-6-99)

§ 34.17 CONTRIBUTIONS.

(A) Member Contributions.

(1) Amount. Each Member of the System shall be required to make regular contributions to the Fund in the amount of 6% of his salary. Member contributions withheld by the town on behalf of the Member shall be deposited with the Board immediately after each pay period. The contributions made by each Member to the Fund shall be designated as employer contributions pursuant to § 414(h) of the Code. Such designation is contingent upon the contributions being excluded from the Members' gross income for federal income tax purposes. For all other purposes of the System, such contributions shall be considered to be Member contributions.

(2) Method. Such contributions shall be made by payroll deduction.

(B) State Contributions. Any monies received or receivable by reason of laws of the State of Florida, for the express purpose of funding and paying for retirement benefits for Police Officers of the town shall be deposited in the Fund comprising part of this System immediately and under no circumstances more than five days after receipt by the town.

(C) Town Contributions. So long as this System is in effect, the town shall make quarterly contributions to the Fund in an amount equal to the difference in each year, between the total aggregate Member contributions for the year, plus state contributions for such year, and the total cost for the year, as shown by the most recent actuarial valuation of the System. The total cost for any year shall be defined as the total normal cost plus the additional amount sufficient to amortize the unfunded past service liability as provided in Part VII of Chapter 112, Florida Statutes.

(D) Other. Private donations, gifts and contributions may be deposited to the Fund, but such deposits must be accounted for separately and kept on a segregated bookkeeping basis. Funds arising from these sources may be used only for additional benefits for Members, as determined by the Board, and may not be used to reduce what would have otherwise been required town contributions.
(Ord. 99-24, passed 7-6-99)

§ 34.18 BENEFIT AMOUNTS AND ELIGIBILITY.

(A) Normal Retirement Date. A Member's normal retirement date shall be the first day of the month coincident with, or next following the earlier of the attainment of age 55 and the completion of 15 years of credited service or the attainment of age 52 and the completion of 25 years of credited service or the attainment of age 60, regardless of years of credited service. A Member may retire on his normal retirement date or on the first day of any month thereafter, and each Member shall become 100% vested in his accrued benefit on the Member's normal retirement date. Normal retirement under the System is retirement from employment with the town on or after the normal retirement date.

(B) Normal Retirement Benefit. A Member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his retirement and be continued thereafter during Member's lifetime, ceasing upon death, but with 120 monthly payments guaranteed in any event. The monthly retirement benefit shall equal 2 1/2% of average final compensation, for each year of credited service.

(C) Early Retirement Date. A Member may retire on his early retirement date which shall be the first day of any month coincident with or next following the attainment of age 45 and the completion of 15 years of credited service. Early retirement under the System is retirement from employment with the town on or after the early retirement date and prior to the normal retirement date.

(D) Early Retirement Benefit. A Member retiring hereunder on his early retirement date may receive either a deferred or an immediate monthly retirement benefit payable in the same form as for normal retirement as follows:

(1) A deferred monthly retirement benefit which shall commence on what would have been his normal retirement date had he continued employment as a Police Officer and shall be continued on the first day of each month thereafter. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement on his normal retirement date, except that credited service and average final compensation shall be determined as of his early retirement date; or

(2) An immediate monthly retirement benefit which shall commence on his early retirement date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in subparagraph (1) above, reduced by one-fifteenth for each of the first five years, one-thirtieth for each of the next five years and an actuarial reduction

for all years in excess of 10 years by which the commencement of benefits precedes the date which would have been the Member's normal retirement date had he continued employment as a Police Officer.

(E) Retirement Incentive Program.

(1) Members who have or will have attained age 50 and completed 15 or more years of credited service or who have or will have attained age 45 and completed 20 or more years of credited service on or before April 30, 1999, shall be deemed "Eligible Members" and may elect to receive the benefits set forth in this subsection (E), on the condition that they made an irrevocable written election, delivered to the Town Manager not later than 45 days from the adoption of Ordinance 98-33, and who agree to retire on May 31, 1999. The retirement date may be earlier, with the approval of the Town Manager, or later at the request of the Town Manager and approval by the employee.

(2) Eligible Members, as determined by (1) above, shall be eligible to retire and receive a normal retirement benefit as set forth in subsection (B) of this § 34.18, but for purposes of determining the pension benefit, the benefit accrual rate shall be 3% of average final compensation for all years of credited service. Members electing the Retirement Incentive Program provided for in this subsection shall not be eligible for the lump sum optional form of benefit provided for in § 34.22, subsection (A)(4).
(Ord. 99-24, passed 7-6-99)

§ 34.19 PRE-RETIREMENT DEATH.

(A) Prior to Eligibility for Early or Normal Retirement. The beneficiary of a deceased Member who was not eligible for early or normal retirement shall receive a refund of 100% of the Member's accumulated contributions.

(B) Deceased Members Eligible for Early or Normal Retirement. The beneficiary of any Member who dies and who, at the date of his death was eligible for early or normal retirement, shall be entitled to a benefit as follows:

(1) The beneficiary shall receive a benefit payable for 10 years, beginning on the first day of the month following the Member's death or at the deceased Member's otherwise early or normal retirement date, at the option of the beneficiary. The benefit shall be calculated as for normal retirement based on the deceased Member's credited service and average final compensation as of the date of his death and reduced as for early retirement, if applicable.

(2) A beneficiary of a Member whose death occurs after the Member's eligibility for normal retirement and which Member has not chosen an optional form of benefit may choose a life annuity in lieu of the 10 year certain and life benefit. Otherwise, a beneficiary may not choose an optional form of benefit.

(3) The Board may elect to make a lump sum payment pursuant to § 34.22, subsection (G).

(4) A beneficiary may, in lieu of the benefit provided for in (1) above, elect to receive a refund of the deceased Member's accumulated contributions.
(Ord. 99-24, passed 7-6-99)

§ 34.20 DISABILITY.

(A) Disability Benefits In-Line of Duty. Any Member who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Police Officer, which disability was directly caused by the performance of his duty as a Police Officer, shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to 2 1/2% of his average final compensation for Members with less than 15 years of credited service and 3% of his average final compensation for Members with 15 or more years of credited service multiplied by the total years of credited service, but in any event the minimum amount paid to the Member shall be 42% of the average final compensation of the Member. Terminated persons, either vested or non-vested, are not eligible for disability benefits, except that those terminated by the town for medical reasons may apply for a disability within 30 days after termination.

(B) In-Line of Duty Presumptions.

(1) Presumption. Any condition or impairment of health of a Member caused by hypertension or heart disease shall be presumed to have been suffered in line of duty unless the contrary is shown by competent evidence, provided that such Member shall have successfully passed a physical examination upon entering into such service, including cardiogram, which examination failed to reveal any evidence of such condition; and provided further, that such presumption shall not apply to benefits payable or granted in a policy of life insurance or disability insurance.

(2) Additional Presumption. The presumption provided for in this subparagraph (2) shall apply only to those conditions described in this subparagraph (2) that are diagnosed on or after January 1, 1996.

(a) Definitions. As used in this subsection (B)(2), the following definitions apply:

(i) "BODY FLUIDS" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of meningococcal meningitis or tuberculosis, the term "body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, and saliva, mucous, and other fluids through which infectious airborne organisms can be transmitted between persons.

(ii) "EMERGENCY RESCUE OR PUBLIC SAFETY MEMBER" means any Member employed full time by the town as a Firefighter, Paramedic, Emergency Medical Technician, Law Enforcement Officer, or Correctional Officer who, in the course of employment, runs a high risk of occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis

and who is not employed elsewhere in a similar capacity. However, the term "emergency rescue or public safety Member" does not include any person employed by a public hospital licensed under Chapter 395, Florida Statutes, or any person employed by a subsidiary thereof.

(iii) "HEPATITIS" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

(iv) "HIGH RISK OF OCCUPATIONAL EXPOSURE" means that risk that is incurred because a person subject to the provisions of this subsection, in performing the basic duties associated with his employment:

a. Provides emergency medical treatment in a non-health-care setting where there is a potential for transfer of body fluids between persons;

b. At the site of an accident, fire, or other rescue or public safety operation, or in an emergency rescue or public safety vehicle, handles body fluids in or out of containers or works with or otherwise handles needles or other sharp instruments exposed to body fluids;

c. Engages in the pursuit, apprehension, and arrest of law violators or suspected law violators and, in performing such duties, may be exposed to body fluids; or

d. Is responsible for the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, while on work detail outside the facility, or while being transported and, in performing such duties, may be exposed to body fluids.

(v) "OCCUPATIONAL EXPOSURE," in the case of hepatitis, meningococcal meningitis, or tuberculosis, means an exposure that occurs during the performance of job duties that may place a worker at risk of infection.

(b) Presumption. Any emergency rescue or public safety Member who suffers a condition or impairment of health that is caused by hepatitis, meningococcal meningitis, or tuberculosis, that requires medical treatment, and that results in total or partial disability or death shall be presumed to have a disability suffered in the line of duty, unless the contrary is shown by competent evidence; however, in order to be entitled to the presumption, the Member must, by written affidavit as provided in § 92.50, Florida Statutes, verify by written declaration that, to the best of his knowledge and belief:

(i) In the case of a medical condition caused by or derived from hepatitis, he has not:

a. Been exposed, through transfer of bodily fluids, to any person known to have sickness or medical conditions derived from hepatitis, outside the scope of his employment;

b. Had a transfusion of blood or blood components, other than a transfusion arising out of an accident or injury happening in connection with his present employment, or received any blood products for the treatment of a coagulation disorder since last undergoing medical tests for hepatitis, which tests failed to indicate the presence of hepatitis;

c. Engaged in unsafe sexual practices or other high-risk behavior, as identified by the Centers for Disease Control or the Surgeon General of the United States or had sexual relations with a person known to him to have engaged in such unsafe sexual practices or other high-risk behavior; or

d. Used intravenous drugs not prescribed by a physician.

(ii) In the case of meningococcal meningitis, in the 10 days immediately preceding diagnosis he was not exposed, outside the scope of his employment, to any person known to have meningococcal meningitis or known to be an asymptomatic carrier of the disease.

(iii) In the case of tuberculosis, in the period of time since the Member's last negative tuberculosis skin test, he has not been exposed, outside the scope of his employment, to any person known by him to have tuberculosis.

(c) Immunization. Whenever any standard, medically recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is granted under this section, if medically indicated in the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the U.S. Public Health Service, an emergency rescue or public safety Member may be required by the town to undergo the immunization or prophylaxis unless the Member's physician determines in writing that the immunization or other prophylaxis would pose a significant risk to the Member's health. Absent such written declaration, failure or refusal by an emergency rescue or public safety Member to undergo such immunization or prophylaxis disqualifies the Member from the benefits of the presumption.

(d) Record of Exposures. The town shall maintain a record of any known or reasonably suspected exposure of an emergency rescue or public safety Member in its employ to the disease described in this section and shall immediately notify the Member of such exposure. An emergency rescue or public safety Member shall file an incident or accident report with the town of each instance of known or suspected occupational exposure to hepatitis infection, meningococcal meningitis, or tuberculosis.

(e) Required medical tests; preemployment physical. In order to be entitled to the presumption provided by this section:

(i) An emergency rescue or public safety Member must, prior to diagnosis, have undergone standard, medically acceptable tests for evidence of the communicable disease for which the presumption is sought, or evidence of medical conditions derived therefrom, which tests fail to indicate the presence of infection. This paragraph does not apply in the case of meningococcal meningitis.

(ii) On or after June 15, 1995, an emergency rescue or public safety Member may be required to undergo a preemployment physical examination that tests for and fails to reveal any evidence of hepatitis or tuberculosis.

(C) Disability Benefits Not-in-Line of Duty. Any Member with 10 years or more credited service who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Police Officer, which disability is not directly caused by the performance of his duties as a Police Officer shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to 2 1/2% of his average final compensation for Members with less than 15 years of credited service and 3% of his average final compensation for Members with 15 or more years of credited service multiplied by the total years of credited service. Terminated persons, either vested or non-vested, are not eligible for disability benefits, except that those terminated by the town for medical reasons may apply for a disability within 30 days after termination.

(D) Conditions Disqualifying Disability Benefits. Each Member who is claiming disability benefits shall establish, to the satisfaction of the Board, that such disability was not occasioned primarily by:

(1) Excessive or habitual use of any drugs, intoxicants or narcotics.

(2) Injury or disease sustained while willfully and illegally participating in fights, riots or civil insurrections or while committing a crime.

(3) Injury or disease sustained while serving in any branch of the Armed Forces.

(4) Injury or disease sustained by the Member after his employment as a Police Officer with the Town of Longboat Key shall have terminated.

(5) Willful, wanton or intentional misconduct or gross negligence of the Member.

(6) Injury or disease sustained by the Member while working for anyone other than the city and arising out of such employment.

(7) A condition pre-existing the Police Officer's membership in the System. No Member shall be entitled to a disability pension, whether in line of duty or not in line of duty, because of or due to the aggravation of a specific injury, impairment or other medical condition pre-existing at the time of membership in the System, provided that such preexisting condition and its relationship to a later injury, impairment or other medical condition be established by competent substantial evidence. Nothing herein shall be construed to preclude a disability pension to a Member who, after membership in the System, suffers an injury, impairment or other medical condition different from some other injury, impairment, or other medical condition existing at or prior to said membership.

(E) Physical Examination Requirement. A Member shall not become eligible for disability benefits until and unless he undergoes a physical examination by a qualified physician or physicians and/or surgeon or surgeons, who shall be selected by the Board for that purpose. The Board shall not select the Member's treating physician or surgeon for this purpose except

in an unusual case where the Board determines that it would be reasonable and prudent to do so.

Any retiree receiving disability benefits under provisions of §§ 34.13 through 34.37 may be periodically re-examined by a qualified physician or physicians and/or surgeon or surgeons who shall be selected by the Board, to determine if such disability has ceased to exist. If the Board finds that the retiree is no longer permanently and totally disabled to the extent that he is unable to render useful and efficient service as a Police Officer, the Board shall recommend to the town that the retiree be returned to performance of duty as a Police Officer, and the retiree so returned shall enjoy the same rights that he had at the time he was placed upon pension. In the event the retiree so ordered to return shall refuse to comply with the order within 30 days from the issuance thereof, he shall forfeit the right to his pension.

The cost of the physical examination and/or re-examination of the Member claiming or the retiree receiving disability benefits shall be borne by the Fund. All other reasonable costs as determined by the Board incident to the physical examination, such as, but not limited to, transportation, meals and hotel accommodations, shall be borne by the Fund.

If the retiree recovers from disability and reenters the service of the town as a Police Officer, his service will be deemed to have been continuous, but the period beginning with the first month for which he received a disability retirement income payment and ending with the date he reentered the service of the town will not be considered as credited service for the purposes of the System.

The Board shall have the power and authority to make the final decisions regarding all disability claims.

(F) Disability Payments. The monthly benefit to which a Member is entitled in the event of the Member's disability retirement shall be payable on the first day of the first month after the Board determines such entitlement. However, the monthly retirement income shall be payable as of the date the Board determined such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be:

(1) If the retiree recovers from the disability prior to his normal retirement date, the payment due next preceding the date of such recovery, or

(2) If the retiree dies without recovering from disability or attains his normal retirement date while still disabled, the payment due next preceding his death or the 120th monthly payment, whichever is later.

Provided, however, the disability retiree may select, at any time prior to the date on which benefit payments begin, an optional form of benefit payment as described in § 34.22, subsection (A)(1) or (A)(2), which shall be the actuarial equivalent of the normal form of benefit. (Ord. 99-24, passed 7-6-99)

§ 34.21 VESTING.

If a Member terminates his employment as a Police Officer, either voluntarily or by discharge, and is not eligible for any other benefits under this System, the Member shall be entitled to the following:

(A) If the Member has less than five years credited service upon termination, the Member shall be entitled to a refund of his accumulated contributions or the Member may leave it deposited with the Fund.

(B) If the Member has five or more years of credited service upon termination, the Member shall be entitled to a monthly retirement benefit or, if elected, an optional form of benefit as provided for in § 34.22(A)(4), determined in the same manner as for normal or early retirement and based upon the Member's credited service, average final compensation and the benefit accrual rate as of the date of termination, and in accordance with the following vesting schedule:

Years of Credited Service	Percentage of Vesting
Less than 5 years	0
5 years but less than 6 years	50
6 years but less than 7 years	60
7 years but less than 8 years	70
8 years but less than 9 years	80
9 years but less than 10 years	90
10 years or more	100

The benefits shall be payable to him commencing at the Member's otherwise normal or early retirement date, determined as if he had remained employed, provided he does not elect to withdraw his accumulated contributions and provided the Member survives to his otherwise normal or early retirement date. If the Member does not withdraw his accumulated contributions and does not survive to his otherwise normal or early retirement date, his designated beneficiary shall be entitled to a benefit as provided herein for a deceased Member, vested or eligible for retirement under pre-retirement death.

(C) Any vested Member of the System whose position is terminated, for whatever reason, but who remains employed by the town in some other capacity, shall have all retirement benefits accrued up to the date of such termination under this System preserved, provided he does not elect to withdraw his accumulated contributions from this System. Such accrued retirement benefits shall be payable at his otherwise early (reduced as for early retirement) or normal retirement date hereunder, or later, in accordance with the provisions of this System. (Ord. 99-24, passed 7-6-99)

§ 34.22 OPTIONAL FORMS OF BENEFITS.

(A) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified herein, a Member, upon written request to the Board, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

(1) A retirement income of a monthly amount payable to the retiree for his lifetime only.

(2) A retirement income of a modified monthly amount, payable to the retiree during the lifetime of the retiree and following the death of the retiree, 100%, 75%, 66 2/3% or 50% of such monthly amount payable to a joint pensioner for his lifetime. Except where the retiree's joint pensioner is his spouse, the present value of payments to the retiree shall not be less than 50% of the total present value of payments to the retiree and his joint pensioner.

(3) If a Member retires prior to the time at which social security benefits are payable, he may elect to receive an increased retirement benefit until such time as social security benefits shall be assumed to commence and a reduced benefit thereafter in order to provide, to as great an extent as possible, a more level retirement allowance during the entire period of retirement. The amounts payable shall be as recommended by the actuaries for the System, based upon the social security law in effect at the time of the Member's retirement.

(4) A lump sum amount, however, the Board shall not approve a request for a lump sum distribution to any Member, joint pensioner or beneficiary of a Member who was hired after April 1, 1992 in an amount in excess of $5,000.

(B) The Member, upon electing any option of this section, will designate the joint pensioner (subsection (A)(2) above) or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the System in the event of Member's death, and will have the power to change such designation from time to time Such designation will name a joint pensioner or one or more primary beneficiaries where applicable. If a Member has elected an option with a joint pensioner or beneficiary and Member's retirement income benefits have commenced, Member may thereafter change his designated beneficiary at any time, but may only change his joint pensioner if the designated joint pensioner and the Member were married at the time of Member's retirement and are divorced subsequent thereto and the joint pensioner is alive at the time of the change.

(C) The consent of a Member's or retiree's joint pensioner or beneficiary to any such change shall not be required. The rights of all previously-designated Beneficiaries to receive benefits under the System shall thereupon cease.

(D) Upon change of a retiree's joint pensioner in accordance with this section, the amount of the retirement income payable to the retiree shall be actuarially determined to take into account the age and sex of the former joint pensioner, the new joint pensioner and the retiree. Any such retiree shall pay the actuarial recalculation expenses. Each request for a change will be made in writing on a form prepared by the Board and on completion will be filed with the Board. In the event that no designated beneficiary survives the retiree, such benefits as are

payable in the event of the death of the retiree subsequent to his retirement shall be paid as provided in § 34.23.

(E) Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(1) If a Member dies prior to his normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under § 34.19.

(2) If the designated beneficiary (or beneficiaries) or joint pensioner dies before the Member's retirement under the System, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the Member upon his retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the Member prior to his retirement.

(3) If both the retiree and the beneficiary (or beneficiaries) designated by Member or retiree die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of subsection (A), the Board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with § 34.23.

(4) If a Member continues beyond his normal retirement date pursuant to the provisions of § 34.18, subsection (A), and dies prior to his actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income amounts will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the Member in the amount or amounts computed as if the Member had retired under the option on the date on which his death occurred.

(F) A retiree may not change his retirement option after the date of cashing or depositing his first retirement check.

(G) Notwithstanding anything herein to the contrary, the Board in its discretion, may elect to make a lump sum payment to a Member or a Member's beneficiary in the event that the monthly benefit amount is less than $100 or the total commuted value of the remaining monthly income payments to be paid do not exceed $5,000. Any such payment made to any person pursuant to the power and discretion conferred upon the Board by the preceding sentence shall operate as a complete discharge of all obligations under the System with regard to such Member and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons.
(Ord. 99-24, passed 7-6-99)

§ 34.23 BENEFICIARIES.

(A) Each Member or retiree may, on a form provided for that purpose, signed and filed with the Board, designate a beneficiary (or beneficiaries) to receive the benefit, if any, which may

be payable in the event of his death. Each designation may be revoked or changed by such Member or retiree by signing and filing with the Board a new designation-of-beneficiary form. Upon such change, the rights of all previously designated beneficiaries to receive any benefits under the System shall cease.

(B) If a deceased Member or retiree failed to name a beneficiary in the manner prescribed in subsection (A), or if the beneficiary (or beneficiaries) named by a deceased Member or retiree predeceases the Member or retiree, the death benefit, if any, which may be payable under the System with respect to such deceased Member or retiree, shall be paid to the estate of the Member or retiree and the Board, in its discretion, may direct that the commuted value of the remaining monthly income benefits be paid in a lump sum.

(C) Any payment made to any person pursuant to this section shall operate as a complete discharge of all obligations under the System with regard to the deceased Member and any other persons with rights under the System and shall not be subject to review by anyone but shall be final, binding and conclusive on all persons ever interested hereunder.
(Ord. 99-24, passed 7-6-99)

§ 34.24 CLAIMS PROCEDURES.

(A) The Board shall establish administrative claims procedures to be utilized in processing written requests ("claims"), on matters which affect the substantial rights of any person ("claimant"), including Members, retirees, beneficiaries, or any person affected by a decision of the Board.

(B) The Board shall have the power to subpoena and require the attendance of witnesses and the production of documents for discovery prior to and at any proceedings provided for in the Board's claims procedures. The claimant may request in writing the issuance of subpoenas by the Board. A reasonable fee may be charged for the issuance of any subpoenas not to exceed the fees set forth in Florida Statutes.
(Ord. 99-24, passed 7-6-99)

§ 34.25 REPORTS TO DIVISION OF RETIREMENT.

Each year and no later than March 15, the Board shall file an annual report with the Division of Retirement containing the documents and information required by § 185.221, Florida Statutes.
(Ord. 99-24, passed 7-6-99)

§ 34.26 ROSTER OF RETIREES.

The Secretary of the Board shall keep a record of all persons enjoying a pension under the provisions of §§ 34.13 through 34.37 in which it shall be noted the time when the pension is allowed and when the same shall cease to be paid. Additionally, the Secretary shall keep a

record of all Members in such a manner as to show the name, address, date of employment and date of termination of employment.
(Ord. 99-24, passed 7-6-99)

§ 34.27 MAXIMUM PENSION.

(A) Basic Limitation. Subject to the adjustments hereinafter set forth, the maximum amount of annual retirement income payable with respect to a Member under this System shall not exceed $90,000.

For purposes of applying the above limitation, benefits payable in any form other than a straight life annuity with no ancillary benefits shall be adjusted, as provided by Treasury Regulations, so that such benefits are the actuarial equivalent of a straight life annuity. For purposes of this section, the following benefits shall not be taken into account:

(1) Any ancillary benefit which is not directly related to retirement income benefits;

(2) Any other benefit not required under § 415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of § 415(b)(1) of the Code.

(B) Participation in Other Defined Benefit Plans. The limitation of this section with respect to any Member who at any time has been a member in any other defined benefit plan (as defined in § 414(j) of the Code) maintained by the town shall apply as if the total benefits payable under all defined benefit plans in which the Member has been a member were payable from one plan.

(C) Adjustments in Limitations.

(1) In the event the Member's retirement benefits become payable before age 62, the $90,000 limitation prescribed by this section shall be reduced in accordance with Regulations issued by the Secretary of the Treasury pursuant to the provisions of § 415(b) of the Code, but not less than $75,000, if the benefit begins at or after age 55. In the event the Member's retirement benefit becomes payable before age 55, the $75,000 limitation shall be reduced from age 55 in accordance with Regulations issued by the Secretary of the Treasury pursuant to the provisions of § 415(b) of the Code.

(2) In the event the Member's benefit is based on at least 15 years of credited service, the adjustments provided for in (1) above shall not apply.

(3) The reductions provided for in (1) above shall not be applicable to disability benefits paid pursuant to § 34.20, or pre-retirement death benefits paid pursuant to § 34.19.

(4) In the event the Member's retirement benefit becomes payable after age 65, for purposes of determining whether this benefit meets the limitation set forth in subsection (A) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age 65. This adjustment shall be made using an assumed interest rate of 5% and shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

(D) Less than 10 Years of Service. The maximum retirement benefits payable under this section to any Member who has completed less than 10 years of credited service with the town shall be the amount determined under subsection (A) of this section multiplied by a fraction, the numerator of which is the number of the Member's years of credited service and the denominator of which is 10. The reduction provided for in this subsection shall not be applicable to disability benefits paid pursuant to § 34.20, or pre-retirement death benefits paid pursuant to § 34.19.

(E) $10,000 Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a Member shall be deemed not to exceed the limitations set forth in this section if the benefits payable, with respect to such Member under this System and under all other qualified defined benefit pension plans to which the town contributes, do not exceed $10,000 for the applicable plan year and for any prior plan year and the town has not at any time maintained a qualified defined contribution plan in which the Member participated.

(F) Member in Defined Contribution Plan. In any case where a Member under this System is also a member in a "Defined Contribution Plan" as defined in § 414(i) of the Code, maintained by the Town, the sum of the "Defined Benefit Plan Fraction" and the "Defined Contribution Plan Fraction" (both as defined in § 415(e) of the Code) shall not, subject to the restrictions and exceptions contained in § 2004 of the Act, exceed 1.0. This limitation is repealed effective January 1, 2000.

(G) Reduction of Benefits. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the Member's benefit under any defined benefit plans in which Member participated, such reduction to be made first with respect to the plan in which Member most recently accrued benefits and thereafter in such priority as shall be determined by the Board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the Member participated, such reduction to be made first with respect to the plan in which Member most recently accrued benefits and thereafter in such priority as shall be established by the Board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the Board and the plan administrator of all other plans covering such Member.

(H) Cost-of-Living Adjustments. The limitations as stated in subsections (A), (B), (C) and (F) herein shall be adjusted to the time payment of a benefit begins in accordance with any cost-of-living adjustments prescribed by the Secretary of the Treasury pursuant to § 415(d) of the Code.

(I) Additional Limitation on Pension Benefits. Notwithstanding anything herein to the contrary:

(1) The normal retirement benefit or pension payable to a retiree who becomes a Member of the System and who has not previously participated in such System, on or after January 1, 1980, shall not exceed 100% of his average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.

(2) No Member of the System shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the Member is already receiving, or will receive in the future, a retirement benefit or pension from another retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.
(Ord. 99-24, passed 7-6-99)

§ 34.28 DISTRIBUTION OF BENEFITS.

Notwithstanding any other provision of this System to the contrary, a form of retirement income payable from this System after the effective date of the ordinance codified in §§ 34.13 through 34.37, shall satisfy the following conditions:

(A) If the retirement income is payable before the Member's death,

(1) It shall either be distributed or commence to the Member not later than April 1 of the calendar year following the later of the calendar year in which the Member attains age 70-1/2, or the calendar year in which Member retires,

(2) The distribution shall commence not later than the calendar year defined above; and a), shall be paid over the life of the Member or over the lifetimes of the Member and spouse, issue or dependent, or b), shall be paid over the period extending not beyond the life expectancy of the Member and spouse, issue or dependent.

Where a form of retirement income payment has commenced in accordance with the preceding paragraphs and the Member dies before his entire interest in the System has been distributed, the remaining portion of such interest in the System shall be distributed no less rapidly than under the form of distribution in effect at the time of the Member's death.

(B) If the Member's death occurs before the distribution of his interest in the System has commenced, the Member's entire interest in the System shall be distributed within five years of the Member's death, unless it is to be distributed in accordance with the following rules:

(1) The Member's remaining interest in the System is payable to his spouse, issue or dependent;

(2) The remaining interest is to be distributed over the life of the spouse, issue or dependent or over a period not extending beyond the life expectancy of the spouse, issue or dependent; and

(3) Such distribution begins within one year of the Member's death unless the Member's spouse shall receive the remaining interest in which case the distribution need not begin before the date on which the Member would have attained age 70-1/2 and if the spouse dies before the distribution to the spouse begins, this section shall be applied as if the spouse were the Member.
(Ord. 99-24, passed 7-6-99)

§ 34.29 MISCELLANEOUS PROVISIONS.

(A) Interest of Members in System. At no time prior to the satisfaction of all liabilities under the System with respect to retirees and Members and their spouses or beneficiaries, shall any part of the corpus or income of the Fund be used for or diverted to any purpose other than for their exclusive benefit.

(B) No Reduction of Accrued Benefits. No amendment or ordinance shall be adopted by the Town Commission of the Town of Longboat Key which shall have the effect of reducing the then vested accrued benefits of Members or a Member's beneficiaries.

(C) Qualification of System. It is intended that the System will constitute a qualified public pension plan under the applicable provisions of the Code, as now in effect or hereafter amended. Any modification or amendment of the System may be made retroactively, if necessary or appropriate, to qualify or maintain the System as a plan meeting the requirements of the applicable provisions of the Code as now in effect or hereafter amended, or any other applicable provisions of the U.S. federal tax laws, as now in effect or hereafter amended or adopted, and the regulations issued thereunder.

(D) Use of Forfeitures. Forfeitures arising from terminations of service of Members shall serve only to reduce future town contributions.
(Ord. 99-24, passed 7-6-99)

§ 34.30 REPEAL OR TERMINATION OF SYSTEM.

(A) This ordinance, §§ 34.13 through 34.37, establishing the System and Fund, and subsequent ordinances pertaining to said System and Fund, may be modified, terminated, or amended, in whole or in part; provided that if this or any subsequent ordinance shall be amended or repealed in its application to any person benefiting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to the Member or beneficiary shall not be affected thereby, except to the extent that the assets of the Fund may be determined to be inadequate.

(B) If §§ 34.13 through 34.37 shall be repealed, or if contributions to the System are discontinued or if there is a transfer, merger or consolidation of government units, services or functions as provided in Chapter 121, Florida Statutes, the Board shall continue to administer the System in accordance with the provisions of §§ 34.13 through 34.37, for the sole benefit of the then Members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one of the options provided for in §§ 34.13 through 34.37 who are designated by any of said Members. In the event of repeal, discontinuance of contributions, or transfer merger or consolidation of government units, services or functions, there shall be full vesting (100%) of benefits accrued to date of repeal and the assets of the System shall be allocated in an equitable manner to provide benefits on a proportionate basis to the persons so entitled in accordance with the provisions thereof.

(C) The following shall be the order of priority for purposes of allocating the assets of the System as of the date of repeal of §§ 34.13 through 34.37, or if contributions to the System are discontinued with the date of such discontinuation being determined by the Board.

(1) Apportionment shall first be made in respect of each retiree receiving a retirement or disability benefit hereunder on such date, each person receiving a benefit on such date on account of a retired or disabled (but since deceased) Member, and each Member who has, by such date, become eligible for normal retirement but has not yet retired, an amount which is the actuarial equivalent of such benefit, provided that, if such asset value be less than the aggregate of such amounts, such amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such asset value.

(2) If there be any asset value remaining after the apportionment under subparagraph (1), apportionment shall next be made in respect of each Member in the service of the town on such date who is vested and who is not entitled to an apportionment under subparagraph (1), in the amount required to provide the actuarial equivalent of the vested portion of the accrued normal retirement benefit (but not less than accumulated contributions), based on the credited service and average final compensation as of such date, and each vested former Member then entitled to a deferred benefit who has not, by such date, begun receiving benefit payments, in the amount required to provide said actuarial equivalent of the vested portion of the accrued normal retirement benefit (but not less than accumulated contributions), provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(3) If there be any asset value after the apportionments under subparagraphs (1) and (2), apportionment shall be made in respect of each Member in the service of the town on such date who is not entitled to an apportionment under subparagraphs (1) and (2) in the amount equal to Member's accumulated contributions, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder such latter amount shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(4) If there be any asset value remaining after the apportionments under subparagraphs (1), (2), and (3), apportionment shall lastly be made in respect of each Member included in subparagraph (3) above to the extent of the actuarial equivalent of the non-vested accrued normal retirement benefit, less the amount apportioned in subparagraph (3), based on the credited service and average final compensation as of such date, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder, such amounts shall be reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(5) In the event that there be asset value remaining after the full apportionment specified in subparagraphs (1), (2), (3), and (4), such excess shall be returned to the town, less return of the state's contributions to the state, provided that, if the excess is less than the total

contributions made by the town and the state to the date of termination such excess shall be divided proportionately to the total contributions made by the town and the state.

The allocation of the Fund provided for in this subsection may, as decided by the Board, be carried out through the purchase of insurance company contracts to provide the benefits determined in accordance with this subsection. The Fund may be distributed in one sum to the persons entitled to said benefits or the distribution may be carried out in such other equitable manner as the Board may direct. The Fund may be continued in existence for purposes of subsequent distributions.

If, at any time during the first 10 years after the effective date of the ordinance originally establishing this System, the System shall be terminated or the full current costs of the System shall not have been met, anything in the System to the contrary notwithstanding, town contributions which may be used for the benefit of any one of the 25 highest paid Members on the effective date, whose anticipated annual retirement allowance provided by the town's contributions at Member's normal retirement date would exceed $1,500, shall not exceed the greater of either a) $20,000, or b), an amount computed by multiplying the smaller of $10,000 or 20% of such Member's average annual earnings during his last five years of service by the number of years of service since the effective date. In the event that it shall hereafter be determined by statute, court decision, ruling by the Commissioner of Internal Revenue, or otherwise, that the provisions of this paragraph are not then necessary to qualify the System under the Code, this paragraph shall be ineffective without the necessity of further amendment of §§ 34.13 through 34.37.

(D) After all the vested and accrued benefits provided hereunder have been paid and after all other liabilities have been satisfied, then and only then shall any remaining funds revert to the general fund of the town.
(Ord. 99-24, passed 7-6-99)

§ 34.31 EXEMPTION FROM EXECUTION, NON-ASSIGNABILITY.

Except as otherwise provided by law, the pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of §§ 34.13 through 34.37 and the accumulated contributions and the cash securities in the Fund created under this ordinance are hereby exempted from any state, county or municipal tax and shall not be subject to execution, attachment, garnishment or any legal process whatsoever and shall be unassignable.
(Ord. 99-24, passed 7-6-99)

§ 34.32 PENSION VALIDITY.

The Board shall have the power to examine into the facts upon which any pension shall heretofore have been granted under any prior or existing law, or shall hereafter be granted or obtained erroneously, fraudulently or illegally for any reason. The Board is empowered to purge the pension rolls or correct the pension amount of any person heretofore granted a pension under prior or existing law or any person hereafter granted a pension under §§ 34.13 through

34.37 if the same is found to be erroneous, fraudulent or illegal for any reason; and to reclassify any person who has heretofore under any prior or existing law been or who shall hereafter under §§ 34.13 through 34.37 be erroneously, improperly or illegally classified. Any overpayments or underpayments shall be corrected and paid or repaid in a reasonable manner determined by the Board.
(Ord. 99-24, passed 7-6-99)

§ 34.33 FORFEITURE OF PENSION.

(A) Any Member who is convicted of the following offenses committed prior to retirement, or whose employment is terminated by reason of his admitted commission, aid or abetment of the following specified offenses, shall forfeit all rights and benefits under this System, except for the return of his accumulated contributions as of the date of termination. Specified offenses are as follows:

(1) The committing, aiding or abetting of an embezzlement of public funds;

(2) The committing, aiding or abetting of any theft by a public officer or employee from employer;

(3) Bribery in connection with the employment of a public officer or employee;

(4) Any felony specified in Chapter 838, Florida Statutes.

(5) The committing of an impeachable offense.

(6) The committing of any felony by a public officer or employee who willfully and with intent to defraud the public or the public agency, for which he acts or in which he is employed, of the right to receive the faithful performance of his duty as a public officer or employee, realizes or obtains or attempts to obtain a profit, gain, or advantage for himself or for some other person through the use or attempted use of the power, rights, privileges, duties or position of his public office or employment position.

(B) Conviction shall be defined as an adjudication of guilt by a court of competent jurisdiction; a plea of guilty or a nolo contendere; a jury verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation; or a conviction by the Senate of an impeachable offense.

(C) Court shall be defined as any state or federal court of competent jurisdiction which is exercising its jurisdiction to consider a proceeding involving the alleged commission of a specified offense. Prior to forfeiture, the Board shall hold a hearing on which notice shall be given to the Member whose benefits are being considered for forfeiture. Said Member shall be afforded the right to have an attorney present. No formal rules of evidence shall apply, but the Member shall be afforded a full opportunity to present his case against forfeiture.

(D) Any Member who has received benefits from the System in excess of his accumulated contributions after Member's rights were forfeited shall be required to pay back to the Fund

the amount of the benefits received in excess of his accumulated contributions. The Board may implement all legal action necessary to recover such funds.
(Ord. 99-24, passed 7-6-99)

§ 34.34 CONVICTION AND FORFEITURE; FALSE, MISLEADING OR FRAUDULENT STATEMENTS.

(A) It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit from the System.

(B) A person who violates subsection 1 commits a misdemeanor of the first degree, punishable as provided in § 775.082 or § 775.083, Florida Statutes.

(C) In addition to any applicable criminal penalty, upon conviction for a violation described in subsection (A), a Member or beneficiary of the System may, in the discretion of the Board, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under the System. For purposes of this subsection, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.
(Ord. 99-24, passed 7-6-99)

§ 34.35 INDEMNIFICATION.

(A) To the extent not covered by insurance contracts in force from time to time, the town shall indemnify, defend and hold harmless members of the Board from all personal liability for damages and costs, including court costs and attorneys' fees, arising out of claims, suits, litigation, or threat of same, herein referred to as "claims," against these individuals because of acts or circumstances connected with or arising out of their official duty as members of the Board. The town reserves the right, in its sole discretion, to settle or not settle the claim at any time, and to appeal or to not appeal from any adverse judgment or ruling, and in either event will indemnify, defend and hold harmless any members of the Board from the judgment, execution, or levy thereon.

(B) This section shall not be construed so as to relieve any insurance company or other entity liable to defend the claim or liable for payment of the judgment or claim, from any liability, nor does this section waive any provision of law affording the town immunity from any suit in whole or part, or waive any other substantive or procedural rights the town may have.

(C) This section shall not apply nor shall the town be responsible in any manner to defend or pay for claims arising out of acts or omissions of members of the Board which constitute felonies or gross malfeasance or gross misfeasance in office.
(Ord. 99-24, passed 7-6-99)

§ 34.36 DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

(A) General. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the System to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(B) Definitions.

(1) "ELIGIBLE ROLLOVER DISTRIBUTION." An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under § 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income.

(2) "ELIGIBLE RETIREMENT PLAN." An eligible retirement plan is an individual retirement account described in § 408(a) of the Code, an individual retirement annuity described in § 408(b) of the Code, an annuity plan described in § 403(a) of the Code, or a qualified trust described in § 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(3) "DISTRIBUTEE." A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse.

(4) "DIRECT ROLLOVER." A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.
(Ord. 99-24, passed 7-6-99)

§ 34.37 FAMILY AND MEDICAL LEAVE ACT.

The fractional parts of the 12-month period ending each March 1 that a Member is on leave without pay from the town pursuant to the Family and Medical Leave Act (FMLA) shall be added to his credited service provided that:

(A) The Member contributes to the Fund the sum that he would have contributed, based on his salary and the Member contribution rate in effect at the time that the credited service is requested, had he been a Member of the System for the fractional parts of the 12 months ending each March 1 for which he is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the Fund plus payment of costs for all professional services rendered to the Board in connection with the purchase of periods of credited service.

(B) The request for credited service for FMLA leave time for the 12-month period prior to each March 1 and payment of professional fees shall be made on or before March 31.

(C) Payment by the Member of the required amount shall be made on or before April 30 for the preceding 12-month period ending March 1 and shall be made in one lump sum payment upon receipt of which credited service shall be issued.

(D) Credited service purchased pursuant to this section shall not count toward vesting. (Ord. 99-24, passed 7-6-99)

FIREFIGHTERS' RETIREMENT SYSTEM

§ 34.43 DEFINITIONS.

(A) As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meaning indicated:

"ACCUMULATED CONTRIBUTIONS" means a Member's own contributions without interest. For those Members who purchase credited service with interest or at no cost to the System, only that portion of any payment representing the amount attributable to Member contributions based on the applicable Member contribution rate, shall be included in accumulated contributions.

"ACTUARIAL EQUIVALENT" means a benefit or amount of equal value, based upon the 1983 Group Annuity Mortality Table and an interest rate of 8% per annum.

"AVERAGE FINAL COMPENSATION" means one-twelfth of the average salary of the five best years of the last 10 years of credited service prior to retirement, termination, or death, or the career average as a full-time Firefighter, whichever is greater. A year shall be 12 consecutive months.

"BENEFICIARY" means the person or persons entitled to receive benefits hereunder at the death of a Member who has or have been designated in writing by the Member and filed with the Board. If no such designation is in effect, or if no person so designated is living, at the time of death of the Member, the beneficiary shall be the estate of the Member.

"BOARD" means the Board of Trustees, which shall administer and manage the System herein provided and serve as trustees of the Fund.

"CODE" means the Internal Revenue Code of 1986, as amended from time to time.

"CREDITED SERVICE" means the total number of years and fractional parts of years of service as a Firefighter with Member contributions, when required, omitting intervening years or fractional parts of years when such Member was not employed by the town as a Firefighter. A Member may voluntarily leave his accumulated contributions in the Fund for a period of five years after leaving the employ of the Fire Department pending the possibility of being reemployed as a Firefighter, without losing credit for the time that he was a Member of the System. If a vested Member leaves the employ of the Fire Department, his accumulated

contributions will be returned only upon his written request. If a Member who is not vested is not reemployed as a Firefighter with the Fire Department within five years, his accumulated contributions shall be returned. Upon return of a Member's accumulated contributions, all of his rights and benefits under the System are forfeited and terminated. Upon any reemployment, a Firefighter shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his accumulated contributions from the Fund, unless the Firefighter repays into the Fund the contributions he has withdrawn, with interest, as determined by the Board, within 90 days after his reemployment.

The years or fractional parts of a year that a Member serves in the military service of the Armed Forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily, after separation from employment as a Firefighter with the town to perform training or service, shall be added to his years of credited service for all purposes, including vesting, provided that:

(1) The Member must return to his employment as a Firefighter within one year from the earlier of the date of his military discharge or his release from active service.

(2) The Member is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), (P.L.103-353).

(3) The maximum credit for military service pursuant to this paragraph shall be five years.

"EFFECTIVE DATE" means the date on which the ordinance codified in §§ 34.43 through § 34.67 becomes effective.

"FIREFIGHTER" means an actively employed full-time person employed by the town, including his initial probationary employment period, who is certified as a Firefighter as a condition of employment in accordance with the provisions of § 633.35, Florida Statutes, and whose duty it is to extinguish fires, to protect life and to protect property.

"FUND" means the trust fund established herein as part of the System.

"MEMBER" means an actively employed Firefighter who fulfills the prescribed membership requirements. Benefit improvements which, in the past, have been provided for by amendments to the System adopted by town ordinance, and any benefit improvements which might be made in the future shall apply prospectively and shall not apply to Members who terminate employment or who retire prior to the effective date of any ordinance adopting such benefit improvements, unless such ordinance specifically provides to the contrary.

"PLAN YEAR" means the 12-month period beginning October 1 and ending September 30 of the following year.

"RETIREE" means a Member who has entered retirement status.

"RETIREMENT" means a Member's separation from town employment with eligibility for immediate receipt of benefits under the System.

"SALARY" means the total compensation for services rendered to the town as a Firefighter reportable on the Member's W-2 form plus all tax deferred, tax sheltered, or tax exempt items

of income derived from elective employee payroll deductions or salary reductions. Compensation in excess of the limitations set forth in § 401(a)(17) of the Code shall be disregarded. The limitation on compensation for an "eligible employee" shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. "Eligible employee" is an individual who was a Member before the first plan year beginning after December 31, 1995.

"SPOUSE" means the lawful wife or husband of a Member or retiree at the time benefits become payable.

"SYSTEM" means the Town of Longboat Key Firefighters' Retirement System as contained herein and all amendments thereto.

"TOWN" means Town of Longboat Key, Florida.

(B) MASCULINE GENDER. The masculine gender, where used herein, unless the context specifically requires otherwise, shall include both the feminine and masculine genders.
(Ord. 99-25, passed 7-6-99)

§ 34.44 MEMBERSHIP.

(A) Conditions of Eligibility. All Firefighters as of the effective date, and all future new Firefighters, shall become Members of this System as a condition of employment.

(B) Designation of Beneficiary. Each Firefighter shall complete a form prescribed by the Board designating a beneficiary or beneficiaries.
(Ord. 99-25, passed 7-6-99)

§ 34.45 BOARD OF TRUSTEES.

(A) The sole and exclusive administration of and responsibility for the proper operation of the System and for making effective the provisions of §§ 34.43 through 34.67 are hereby vested in a Board of Trustees. The Board is hereby designated as the plan administrator. The Board shall consist of five Trustees, two of whom, unless otherwise prohibited by law, shall be legal residents of the town, who shall be appointed by the Longboat Key Town Commission, and two of whom shall be Members of the System, who shall be elected by a majority of the Firefighters who are Members of the System. The fifth Trustee shall be chosen by a majority of the previous four Trustees as provided for herein, and such person's name shall be submitted to the Longboat Key Town Commission. Upon receipt of the fifth person's name, the Longboat Key Town Commission shall, as a ministerial duty, appoint such person to the Board of Trustees as its fifth Trustee. The fifth Trustee shall have the same rights as each of the other four Trustees appointed or elected as herein provided and shall serve a two year term unless he sooner vacates the office. Each resident Trustee shall serve as Trustee for a period of two years, unless he sooner vacates the office or is sooner replaced by the Longboat Key Town Commission at whose pleasure he shall serve. Each Member Trustee shall serve as Trustee for a period of two years, unless he sooner leaves the employment of the town as a Firefighter or otherwise vacates

his office as Trustee, whereupon a successor shall be chosen in the same manner as the departing Trustee. Each Trustee may succeed himself in office. The Board shall establish and administer the nominating and election procedures for each election. The Board shall meet at least quarterly each year. The Board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

(B) The Trustees shall, by a majority vote, elect a Chairman, Vice-Chairman and a Secretary. The Secretary of the Board shall keep a complete minute book of the actions, proceedings, or hearings of the Board. The Trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

(C) Each Trustee shall be entitled to one vote on the Board. Three affirmative votes shall be necessary for any decision by the Trustees at any meeting of the Board. A Trustee shall have the right to abstain from voting as the result of a conflict of interest provided that Trustee complies with the provisions of § 112.3143, Florida Statutes.

(D) The Board shall engage such actuarial, accounting, legal, and other services as shall be required to transact the business of the System. The compensation of all persons engaged by the Board and all other expenses of the Board necessary for the operation of the System shall be paid from the Fund at such rates and in such amounts as the Board shall agree. In the event the Board chooses to use the town's legal counsel, actuary or other professional, technical or other advisors, it shall do so only under terms and conditions acceptable to the Board.

(E) The duties and responsibilities of the Board shall include, but not necessarily be limited to, the following:

(1) To construe the provisions of the System and determine all questions arising thereunder.

(2) To determine all questions relating to eligibility and membership.

(3) To determine and certify the amount of all retirement allowances or other benefits hereunder.

(4) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the System.

(5) To distribute to Members, at regular intervals, information concerning the System.

(6) To receive and process all applications for benefits.

(7) To authorize all payments whatsoever from the Fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the System and Fund.

(8) To have performed actuarial studies and valuations, at least as often as required by law, and make recommendations regarding any and all changes in the provisions of the System.

(9) To perform such other duties as are required to prudently administer the System.

(Ord. 99-25, passed 7-6-99)

§ 34.46 FINANCES AND FUND MANAGEMENT.

(A) Establishment and Operation of Fund.

(1) As part of the System, there is hereby established the Fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the System, including the assets attributable to the Firefighters from the assets of the prior Town of Longboat Key Municipal Pension Trust Fund.

(2) The actual custody and supervision of the Fund (and assets thereof) shall be vested in the Board. Payment of benefits and disbursements from the Fund shall be made by the disbursing agent but only upon written authorization from the Board.

(3) All funds of the Firefighters' Retirement System may be deposited by the Board with the Finance Director of the Town, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the Town. However, any funds so deposited with the Finance Director of the Town shall be kept in a separate fund by the Finance Director or clearly identified as such funds of the Firefighters' Retirement System. In lieu thereof, the Board shall deposit the funds of the Firefighters' Retirement System in a qualified public depository as defined in § 280.02, Florida Statutes, which depository with regard to such funds shall conform to and be bound by all of the provisions of Chapter 280, Florida Statutes. In order to fulfill its investment responsibilities as set forth herein, the Board may retain the services of a custodian bank, an investment advisor registered under the Investment Advisors Act of 1940 or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment manager shall have discretion, subject to any guidelines as prescribed by the Board, in the investment of all Fund assets.

(4) All funds and securities of the System may be commingled in the Fund, provided that accurate records are maintained at all times reflecting the financial composition of the Fund, including accurate current accounts and entries as regards the following:

(a) Current amounts of accumulated contributions of Members on both an individual and aggregate account basis; and

(b) Receipts and disbursements; and

(c) Benefit payments; and

(d) Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the town; and

(e) All interest, dividends and gains (or losses) whatsoever; and

(f) Such other entries as may be properly required so as to reflect a clear and complete financial report of the Fund.

(5) An audit shall be performed annually by a certified public accountant for the most recent fiscal year of the plan showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with

the assets at the beginning and end of the year. Such report shall reflect a complete evaluation of assets on both a cost and market basis, as well as other items normally included in a certified audit.

(6) The Board shall have the following investment powers and authority:

(a) The Board shall be vested with full legal title to said Fund, subject, however, and in any event to the authority and power of the Longboat Key Town Commission to amend or terminate this Fund, provided that no amendment or Fund termination shall ever result in the use of any assets of this Fund except for the payment of regular expenses and benefits under this System, except as otherwise provided herein. All contributions from time to time paid into the Fund, and the income thereof, without distinction between principal and income, shall be held and administered by the Board or its agent in the Fund and the Board shall not be required to segregate or invest separately any portion of the Fund.

(b) All monies paid into or held in the Fund shall be invested and reinvested by the Board and the investment of all or any part of such funds shall be limited to:

(i) Annuity and life insurance contracts with life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the Members in the Fund shall be entitled under the provisions of this System and pay the initial and subsequent premium thereon.

(ii) Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund or a savings/building and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

(iii) Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States or by an agency of the government of the United States.

(iv) Bonds issued by the State of Israel.

(v) Stocks, commingled funds administered by national or state banks, mutual funds and bonds or other evidences of indebtedness, provided that:

a. Except as provided in subparagraph b. all individually held securities and all securities in a commingled or mutual fund must be issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, and in the case of bonds only, shall hold a rating in one of the three highest classifications by a major rating service.

b. Up to 10% of the assets of the Fund may be invested in foreign securities.

c. The Board shall not invest more than 5% of its assets in the common stock, capital stock, or convertible securities of any one issuing company, nor shall the

aggregate investment in any one issuing company exceed 5% of the outstanding capital stock of that company; nor shall the aggregate of its investments in common stock, capital stock and convertible securities at cost exceed 65% of the assets of the Fund.

(vi) Real estate, provided the Board shall not invest more than 10% at cost in real property or real estate.

(c) At least once every three years, and more often as determined by the Board, the Board shall retain a professionally qualified independent consultant, as defined in § 175.071, Florida Statutes, to evaluate the performance of all current investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the Board at its next regularly scheduled meeting.

(d) The Board may retain in cash and keep unproductive of income such amount of the Fund as it may deem advisable, having regard for the cash requirements of the System.

(e) Neither the Board nor any Trustee shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the Fund, except that due to his or its own negligence, willful misconduct or lack of good faith.

(f) The Board may cause any investment in securities held by it to be registered in or transferred into its name as Trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the Fund.

(g) The Board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the Trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the Fund which it may deem to be to the best interest of the Fund to exercise.

(h) The Board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained herein.

(i) Where any action which the Board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as Trustee under §§ 34.43 through 34.67 can reasonably be taken or performed only after receipt by it from a Member, the Town, or any other entity, of specific information, certification, direction or instructions, the Board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.

(j) Any overpayments or underpayments from the Fund to a Member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the Board in such a manner that the actuarial equivalent of the benefit to which the Member, retiree or beneficiary was correctly entitled, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Underpayments shall be made up from the Fund in a prudent manner.

(k) The Board shall sustain no liability whatsoever for the sufficiency of the Fund to meet the payments and benefits provided for herein.

(l) In any application to or proceeding or action in the courts, only the Board shall be a necessary party, and no Member or other person having an interest in the Fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.

(m) Any of the foregoing powers and functions reposed in the Board may be performed or carried out by the Board through duly authorized agents, provided that the Board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to said Fund shall always remain in the Board.
(Ord. 99-25, passed 7-6-99)

§ 34.47 CONTRIBUTIONS.

(A) Member Contributions.

(1) Amount. Each Member of the System shall be required to make regular contributions to the Fund in the amount of 6% of his salary. Member contributions withheld by the town on behalf of the Member shall be deposited with the Board immediately after each pay period. The contributions made by each Member to the Fund shall be designated as employer contributions pursuant to § 414(h) of the Code. Such designation is contingent upon the contributions being excluded from the Members' gross income for federal income tax purposes. For all other purposes of the System, such contributions shall be considered to be Member contributions.

(2) Method. Such contributions shall be made by payroll deduction.

(B) State Contributions. Any monies received or receivable by reason of laws of the State of Florida, for the express purpose of funding and paying for retirement benefits for Firefighters of the town shall be deposited in the Fund comprising part of this System immediately and under no circumstances more than five days after receipt by the town.

(C) Town Contributions. So long as this System is in effect, the town shall make quarterly contributions to the Fund in an amount equal to the difference in each year, between the total aggregate Member contributions for the year, plus state contributions for such year, and the total cost for the year, as shown by the most recent actuarial valuation of the System. The total cost for any year shall be defined as the total normal cost plus the additional amount sufficient to amortize the unfunded past service liability as provided in Part VII of Chapter 112, Florida Statutes.

(D) Other. Private donations, gifts and contributions may be deposited to the Fund, but such deposits must be accounted for separately and kept on a segregated bookkeeping basis. Funds arising from these sources may be used only for additional benefits for Members, as determined by the Board, and may not be used to reduce what would have otherwise been required town contributions.
(Ord. 99-25, passed 7-6-99)

§ 34.48 BENEFIT AMOUNTS AND ELIGIBILITY.

(A) Normal Retirement Date. A Member's normal retirement date shall be the first day of the month coincident with, or next following the earlier of the attainment of age 55 and the completion of 15 years of credited service or the attainment of age 52 and the completion of 25 years of credited service or the attainment of age 60, regardless of years of credited service. A Member may retire on his normal retirement date or on the first day of any month thereafter, and each Member shall become 100% vested in his accrued benefit on the Member's normal retirement date. Normal retirement under the System is retirement from employment with the town on or after the normal retirement date.

(B) Normal Retirement Benefit. A Member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his retirement and be continued thereafter during Member's lifetime, ceasing upon death, but with 120 monthly payments guaranteed in any event. The monthly retirement benefit shall equal 2 1/2% of average final compensation, for each year of credited service.

(C) Early Retirement Date. A Member may retire on his early retirement date which shall be the first day of any month coincident with or next following the attainment of age 45 and the completion of 15 years of credited service. Early retirement under the System is retirement from employment with the town on or after the early retirement date and prior to the normal retirement date.

(D) Early Retirement Benefit. A Member retiring hereunder on his early retirement date may receive either a deferred or an immediate monthly retirement benefit payable in the same form as for normal retirement as follows:

(1) A deferred monthly retirement benefit which shall commence on what would have been his normal retirement date had he continued employment as a Firefighter and shall be continued on the first day of each month thereafter. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement on his normal retirement date, except that credited service and average final compensation shall be determined as of his early retirement date; or

(2) An immediate monthly retirement benefit which shall commence on his early retirement date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in subparagraph (1) above, reduced by one-fifteenth for each of the first five years, one-thirtieth for each of the next five years and an actuarial reduction

for all years in excess of 10 years by which the commencement of benefits precedes the date which would have been the Member's normal retirement date had he continued employment as a Firefighter.

(E) Retirement Incentive Program.

(1) Members who have or will have attained age 50 and completed 15 or more years of credited service or who have or will have attained age 45 and completed 20 or more years of credited service on or before April 30, 1999, shall be deemed "Eligible Members" and may elect to receive the benefits set forth in this subsection (E), on the condition that they made an irrevocable written election, delivered to the Town Manager not later than 45 days from the adoption of Ordinance 98-33, and who agree to retire on May 31, 1999. The retirement date may be earlier, with the approval of the Town Manager, or later at the request of the Town Manager and approval by the employee.

(2) Eligible Members, as determined by (1) above, shall be eligible to retire and receive a normal retirement benefit as set forth in subsection (B) of this § 34.48, but for purposes of determining the pension benefit, the benefit accrual rate shall be 3% of average final compensation for all years of credited service. Members electing the Retirement Incentive Program provided for in this subsection shall not be eligible for the lump sum optional form of benefit provided for in § 34.52, subsection (A)(4).
(Ord. 99-25, passed 7-6-99)

§ 34.49 PRE-RETIREMENT DEATH.

(A) Prior to Eligibility for Early or Normal Retirement. The beneficiary of a deceased Member who was not eligible for early or normal retirement shall receive a refund of 100% of the Member's accumulated contributions.

(B) Deceased Members Eligible for Early or Normal Retirement. The beneficiary of any Member who dies and who, at the date of his death was eligible for early or normal retirement, shall be entitled to a benefit as follows:

(1) The beneficiary shall receive a benefit payable for 10 years, beginning on the first day of the month following the Member's death or at the deceased Member's otherwise early or normal retirement date, at the option of the beneficiary. The benefit shall be calculated as for normal retirement based on the deceased Member's credited service and average final compensation as of the date of his death and reduced as for early retirement, if applicable.

(2) A Beneficiary of a member whose death occurs after the Member's eligibility for normal retirement and which Member has not chosen an optional form of benefit may choose a life annuity in lieu of the 10 year certain and life benefit. Otherwise, a beneficiary may not choose an optional form of benefit.

(3) The Board may elect to make a lump sum payment pursuant to §34.52, subsection (G).

(4) A beneficiary may, in lieu of the benefit provided for in (1) above, elect to receive a refund of the deceased Member's accumulated contributions.
(Ord. 99-25, passed 7-6-99)

§ 34.50 DISABILITY.

(A) Disability Benefits In-Line of Duty. Any Member who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Firefighter, which disability was directly caused by the performance of his duty as a Firefighter, shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to 2 1/2% of his average final compensation for Members with less than 15 years of credited service and 3% of his average final compensation for Members with 15 or more years of credited service multiplied by the total years of credited service, but in any event the minimum amount paid to the Member shall be 42% of the average final compensation of the Member. Terminated persons, either vested or non-vested, are not eligible for disability benefits, except that those terminated by the town for medical reasons may apply for a disability within 30 days after termination.

(B) In-Line of Duty Presumptions.

(1) Presumption. Any condition or impairment of health of a Member caused by hypertension or heart disease shall be presumed to have been suffered in line of duty unless the contrary is shown by competent evidence, provided that such Member shall have successfully passed a physical examination upon entering into such service, including cardiogram, which examination failed to reveal any evidence of such condition; and provided further, that such presumption shall not apply to benefits payable or granted in a policy of life insurance or disability insurance.

(2) Additional Presumption. The presumption provided for in this subparagraph (2) shall apply only to those conditions described in this subparagraph (2) that are diagnosed on or after January 1, 1996.

(a) Definitions. As used in this subsection (B)(2), the following definitions apply:

(i) "BODY FLUIDS" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of meningococcal meningitis or tuberculosis, the term "body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, and saliva, mucous, and other fluids through which infectious airborne organisms can be transmitted between persons.

(ii) "EMERGENCY RESCUE OR PUBLIC SAFETY MEMBER" means any Member employed full time by the town as a firefighter, paramedic, emergency medical technician, law enforcement officer, or correctional officer who, in the course of employment, runs a high risk of occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis

and who is not employed elsewhere in a similar capacity. However, the term "emergency rescue or public safety Member" does not include any person employed by a public hospital licensed under Chapter 395, Florida Statutes, or any person employed by a subsidiary thereof.

(iii) "HEPATITIS" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

(iv) "HIGH RISK OF OCCUPATIONAL EXPOSURE" means that risk that is incurred because a person subject to the provisions of this subsection, in performing the basic duties associated with his employment:

a. Provides emergency medical treatment in a non-health-care setting where there is a potential for transfer of body fluids between persons;

b. At the site of an accident, fire, or other rescue or public safety operation, or in an emergency rescue or public safety vehicle, handles body fluids in or out of containers or works with or otherwise handles needles or other sharp instruments exposed to body fluids;

c. Engages in the pursuit, apprehension, and arrest of law violators or suspected law violators and, in performing such duties, may be exposed to body fluids; or

d. Is responsible for the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, while on work detail outside the facility, or while being transported and, in performing such duties, may be exposed to body fluids.

(v) "OCCUPATIONAL EXPOSURE," in the case of hepatitis, meningococcal meningitis, or tuberculosis, means an exposure that occurs during the performance of job duties that may place a worker at risk of infection.

(b) Presumption. Any emergency rescue or public safety Member who suffers a condition or impairment of health that is caused by hepatitis, meningococcal meningitis, or tuberculosis, that requires medical treatment, and that results in total or partial disability or death shall be presumed to have a disability suffered in the line of duty, unless the contrary is shown by competent evidence; however, in order to be entitled to the presumption, the Member must, by written affidavit as provided in § 92.50, Florida Statutes, verify by written declaration that, to the best of his knowledge and belief:

(i) In the case of a medical condition caused by or derived from hepatitis, he has not:

a. Been exposed, through transfer of bodily fluids, to any person known to have sickness or medical conditions derived from hepatitis, outside the scope of his employment;

b. Had a transfusion of blood or blood components, other than a transfusion arising out of an accident or injury happening in connection with his present employment, or received any blood products for the treatment of a coagulation disorder since last undergoing medical tests for hepatitis, which tests failed to indicate the presence of hepatitis;

c. Engaged in unsafe sexual practices or other high-risk behavior, as identified by the Centers for Disease Control or the Surgeon General of the United States or had sexual relations with a person known to him to have engaged in such unsafe sexual practices or other high-risk behavior; or

d. Used intravenous drugs not prescribed by a physician.

(ii) In the case of meningococcal meningitis, in the 10 days immediately preceding diagnosis he was not exposed, outside the scope of his employment, to any person known to have meningococcal meningitis or known to be an asymptomatic carrier of the disease.

(iii) In the case of tuberculosis, in the period of time since the Member's last negative tuberculosis skin test, he has not been exposed, outside the scope of his employment, to any person known by him to have tuberculosis.

(c) Immunization. Whenever any standard, medically recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is granted under this section, if medically indicated in the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the U.S. Public Health Service, an emergency rescue or public safety Member may be required by the town to undergo the immunization or prophylaxis unless the Member's physician determines in writing that the immunization or other prophylaxis would pose a significant risk to the Member's health. Absent such written declaration, failure or refusal by an emergency rescue or public safety Member to undergo such immunization or prophylaxis disqualifies the Member from the benefits of the presumption.

(d) Record of Exposures. The town shall maintain a record of any known or reasonably suspected exposure of an emergency rescue or public safety Member in its employ to the disease described in this section and shall immediately notify the Member of such exposure. An emergency rescue or public safety Member shall file an incident or accident report with the town of each instance of known or suspected occupational exposure to hepatitis infection, meningococcal meningitis, or tuberculosis.

(e) Required medical tests; preemployment physical. In order to be entitled to the presumption provided by this section:

(i) An emergency rescue or public safety Member must, prior to diagnosis, have undergone standard, medically acceptable tests for evidence of the communicable disease for which the presumption is sought, or evidence of medical conditions derived therefrom, which tests fail to indicate the presence of infection. This paragraph does not apply in the case of meningococcal meningitis.

(ii) On or after June 15, 1995, an emergency rescue or public safety Member may be required to undergo a preemployment physical examination that tests for and fails to reveal any evidence of hepatitis or tuberculosis.

(C) Disability Benefits Not-in-Line of Duty. Any Member with 10 years or more credited service who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Firefighter, which disability is not directly caused by the performance of his duties as a Firefighter shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to 2 1/2% of his average final compensation for Members with less than 15 years of credited service and 3% of his average final compensation for Members with 15 or more years of credited service multiplied by the total years of credited service. Terminated persons, either vested or non-vested, are not eligible for disability benefits, except that those terminated by the town for medical reasons may apply for a disability within 30 days after termination.

(D) Conditions Disqualifying Disability Benefits. Each Member who is claiming disability benefits shall establish, to the satisfaction of the Board, that such disability was not occasioned primarily by:

(1) Excessive or habitual use of any drugs, intoxicants or narcotics.

(2) Injury or disease sustained while wilfully and illegally participating in fights, riots or civil insurrections or while committing a crime.

(3) Injury or disease sustained while serving in any branch of the Armed Forces.

(4) Injury or disease sustained by the Member after his employment as a Firefighter with the Town of Longboat Key shall have terminated.

(5) Willful, wanton or intentional misconduct or gross negligence of the Member.

(6) A condition pre-existing the Firefighter's membership in the System. No Member shall be entitled to a disability pension, whether in line of duty or not in line of duty, because of or due to the aggravation of a specific injury, impairment or other medical condition pre-existing at the time of membership in the System, provided that such preexisting condition and its relationship to a later injury, impairment or other medical condition be established by competent substantial evidence. Nothing herein shall be construed to preclude a disability pension to a Member who, after membership in the System, suffers an injury, impairment or other medical condition different from some other injury, impairment, or other medical condition existing at or prior to said membership.

(E) Physical Examination Requirement. A Member shall not become eligible for disability benefits until and unless he undergoes a physical examination by a qualified physician or physicians and/or surgeon or surgeons, who shall be selected by the Board for that purpose. The Board shall not select the Member's treating physician or surgeon for this purpose except in an unusual case where the Board determines that it would be reasonable and prudent to do so.

Any retiree receiving disability benefits under provisions of §§ 34.43 through 34.67 may be periodically re-examined by a qualified physician or physicians and/or surgeon or surgeons who shall be selected by the Board, to determine if such disability has ceased to exist. If the Board finds that the retiree is no longer permanently and totally disabled to the extent that he is unable to render useful and efficient service as a Firefighter, the Board shall recommend to the town that the retiree be returned to performance of duty as a Firefighter, and the retiree so returned shall enjoy the same rights that he had at the time he was placed upon pension. In the event the retiree so ordered to return shall refuse to comply with the order within 30 days from the issuance thereof, he shall forfeit the right to his pension.

The cost of the physical examination and/or re-examination of the Member claiming or the retiree receiving disability benefits shall be borne by the Fund. All other reasonable costs as determined by the Board incident to the physical examination, such as, but not limited to, transportation, meals and hotel accommodations, shall be borne by the Fund.

If the retiree recovers from disability and reenters the service of the town as a Firefighter, his service will be deemed to have been continuous, but the period beginning with the first month for which he received a disability retirement income payment and ending with the date he reentered the service of the town will not be considered as credited service for the purposes of the System.

The Board shall have the power and authority to make the final decisions regarding all disability claims.

(F) Disability Payments. The monthly benefit to which a Member is entitled in the event of the Member's disability retirement shall be payable on the first day of the first month after the Board determines such entitlement. However, the monthly retirement income shall be payable as of the date the Board determined such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be:

(1) If the retiree recovers from the disability prior to his normal retirement date, the payment due next preceding the date of such recovery, or

(2) If the retiree dies without recovering from disability or attains his normal retirement date while still disabled, the payment due next preceding his death or the 120th monthly payment, whichever is later.

Provided, however, the disability retiree may select, at any time prior to the date on which benefit payments begin, an optional form of benefit payment as described in § 34.52, subsection (A)(1) or (A)(2), which shall be the actuarial equivalent of the normal form of benefit. (Ord. 99-25, passed 7-6-99)

§ 34.51 VESTING.

If a Member terminates his employment as a Firefighter, either voluntarily or by discharge, and is not eligible for any other benefits under this System, the Member shall be entitled to the following:

(A) If the Member has less than five years credited service upon termination, the Member shall be entitled to a refund of his accumulated contributions or the Member may leave it deposited with the Fund.

(B) If the Member has five or more years of credited service upon termination, the Member shall be entitled to a monthly retirement benefit or, if elected, an optional form of benefit as provided for in § 34.52, subsection (A)(4), determined in the same manner as for normal or early retirement and based upon the Member's credited service, average final compensation and the benefit accrual rate as of the date of termination, and in accordance with the following vesting schedule:

Years of Credited Service	Percentage of Vesting
Less than 5 years	0
5 years but less than 6 years	50
6 years but less than 7 years	60
7 years but less than 8 years	70
8 years but less than 9 years	80
9 years but less than 10 years	90
10 years or more	100

The benefits shall be payable to him commencing at the Member's otherwise normal or early retirement date, determined as if he had remained employed, provided he does not elect to withdraw his accumulated contributions and provided the Member survives to his otherwise normal or early retirement date. If the Member does not withdraw his accumulated contributions and does not survive to his otherwise normal or early retirement date, his designated beneficiary shall be entitled to a benefit as provided herein for a deceased Member, vested or eligible for retirement under pre-retirement death.

(C) Any vested Member of the System whose position is terminated, for whatever reason, but who remains employed by the town in some other capacity, shall have all retirement benefits accrued up to the date of such termination under this System preserved, provided he does not elect to withdraw his accumulated contributions from this System. Such accrued retirement benefits shall be payable at his otherwise early (reduced as for early retirement) or normal retirement date hereunder, or later, in accordance with the provisions of this System. (Ord. 99-25, passed 7-6-99)

§ 34.52 OPTIONAL FORMS OF BENEFITS.

(A) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified herein, a Member, upon written request to the Board, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

(1) A retirement income of a monthly amount payable to the retiree for his lifetime only.

(2) A retirement income of a modified monthly amount, payable to the retiree during the lifetime of the retiree and following the death of the retiree, 100%, 75%, 66 2/3% or 50% of such monthly amount payable to a joint pensioner for his lifetime. Except where the retiree's joint pensioner is his spouse, the present value of payments to the retiree shall not be less than 50% of the total present value of payments to the retiree and his joint pensioner.

(3) If a Member retires prior to the time at which social security benefits are payable, he may elect to receive an increased retirement benefit until such time as social security benefits shall be assumed to commence and a reduced benefit thereafter in order to provide, to as great an extent as possible, a more level retirement allowance during the entire period of retirement. The amounts payable shall be as recommended by the actuaries for the System, based upon the social security law in effect at the time of the Member's retirement.

(4) A lump sum amount, however, the Board shall not approve a request for a lump sum distribution to any Member, joint pensioner or beneficiary of a Member who was hired after April 1, 1992 in an amount in excess of $5,000.

(B) The Member, upon electing any option of this section, will designate the joint pensioner (subsection (A)(2) above) or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the System in the event of Member's death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one or more primary beneficiaries where applicable. If a Member has elected an option with a joint pensioner or beneficiary and Member's retirement income benefits have commenced, Member may thereafter change his designated beneficiary at any time, but may only change his joint pensioner if the designated joint pensioner and the Member were married at the time of Member's retirement and are divorced subsequent thereto and the joint pensioner is alive at the time of the change.

(C) The consent of a Member's or retiree's joint pensioner or beneficiary to any such change shall not be required. The rights of all previously-designated beneficiaries to receive benefits under the System shall thereupon cease.

(D) Upon change of a retiree's joint pensioner in accordance with this section the amount of the retirement income payable to the retiree shall be actuarially determined to take into account the age and sex of the former joint pensioner, the new joint pensioner and the retiree. Any such retiree shall pay the actuarial recalculation expenses. Each request for a change will be made in writing on a form prepared by the Board and on completion will be filed with the Board. In the event that no designated beneficiary survives the retiree, such benefits as are payable in the event of the death of the retiree subsequent to his retirement shall be paid as provided in § 34.53.

(E) Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(1) If a Member dies prior to his normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under § 34.49.

(2) If the designated beneficiary (or beneficiaries) or joint pensioner dies before the Member's retirement under the System, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the Member upon his retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the Member prior to his retirement.

(3) If both the retiree and the beneficiary (or beneficiaries) designated by Member or retiree die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of subsection (A), the Board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with § 34.53.

(4) If a Member continues beyond his normal retirement date pursuant to the provisions of § 34.48, subsection (A), and dies prior to his actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the Member in the amount or amounts computed as if the Member had retired under the option on the date on which his death occurred.

(F) A retiree may not change his retirement option after the date of cashing or depositing his first retirement check.

(G) Notwithstanding anything herein to the contrary, the Board in its discretion, may elect to make a lump sum payment to a Member or a Member's beneficiary in the event that the monthly benefit amount is less than $100 or the total commuted value of the remaining monthly income payments to be paid do not exceed $5,000. Any such payment made to any person pursuant to the power and discretion conferred upon the Board by the preceding sentence shall operate as a complete discharge of all obligations under the System with regard to such Member and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons.
(Ord. 99-25, passed 7-6-99)

§ 34.53 BENEFICIARIES.

(A) Each Member or retiree may, on a form provided for that purpose, signed and filed with the Board, designate a beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of his death. Each designation may be revoked or changed by such Member or retiree by signing and filing with the Board a new designation-of-beneficiary form. Upon such change, the rights of all previously designated beneficiaries to receive any benefits under the System shall cease.

(B) If a deceased Member or retiree failed to name a beneficiary in the manner prescribed in subsection (A), or if the beneficiary (or beneficiaries) named by a deceased Member or retiree predeceases the Member or retiree, the death benefit, if any, which may be payable under the System with respect to such deceased Member or retiree, shall be paid to the estate of the

Member or retiree and the Board, in its discretion, may direct that the commuted value of the remaining monthly income benefits be paid in a lump sum.

(C) Any payment made to any person pursuant to this section shall operate as a complete discharge of all obligations under the System with regard to the deceased Member and any other persons with rights under the System and shall not be subject to review by anyone but shall be final, binding and conclusive on all persons ever interested hereunder.
(Ord. 99-25, passed 7-6-99)

§ 34.54 CLAIMS PROCEDURES.

(A) The Board shall establish administrative claims procedures to be utilized in processing written requests ("claims"), on matters which affect the substantial rights of any person ("claimant"), including Members, retirees, beneficiaries, or any person affected by a decision of the Board.

(B) The Board shall have the power to subpoena and require the attendance of witnesses and the production of documents for discovery prior to and at any proceedings provided for in the Board's claims procedures. The claimant may request in writing the issuance of subpoenas by the Board. A reasonable fee may be charged for the issuance of any subpoenas not to exceed the fees set forth in Florida Statutes.
(Ord. 99-25, passed 7-6-99)

§ 34.55 REPORTS TO DIVISION OF RETIREMENT.

Each year and no later than March 15, the Board shall file an annual report with the Division of Retirement containing the documents and information required by § 175.261, Florida Statutes.
(Ord. 99-25, passed 7-6-99)

§ 34.56 ROSTER OF RETIREES.

The Secretary of the Board shall keep a record of all persons enjoying a pension under the provisions of §§ 34.43 through 34.67 in which it shall be noted the time when the pension is allowed and when the same shall cease to be paid. Additionally, the Secretary shall keep a record of all Members in such a manner as to show the name, address, date of employment and date of termination of employment.
(Ord. 99-25, passed 7-6-99)

§ 34.57 MAXIMUM PENSION.

(A) Basic Limitation. Subject to the adjustments hereinafter set forth, the maximum amount of annual retirement income payable with respect to a Member under this System shall not exceed $90,000.

For purposes of applying the above limitation, benefits payable in any form other than a straight life annuity with no ancillary benefits shall be adjusted, as provided by Treasury Regulations, so that such benefits are the actuarial equivalent of a straight life annuity. For purposes of this section, the following benefits shall not be taken into account:

(a) Any ancillary benefit which is not directly related to retirement income benefits;

(b) Any other benefit not required under § 415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of § 415(b)(1) of the Code.

(B) Participation in Other Defined Benefit Plans. The limitation of this section with respect to any Member who at any time has been a member in any other defined benefit plan (as defined in § 414(j) of the Code) maintained by the town shall apply as if the total benefits payable under all defined benefit plans in which the Member has been a member were payable from one plan.

(C) Adjustments in Limitations.

(1) In the event the Member's retirement benefits become payable before age 62, the $90,000 limitation prescribed by this section shall be reduced in accordance with Regulations issued by the Secretary of the Treasury pursuant to the provisions of § 415(b) of the Code, but not less than $75,000, if the benefit begins at or after age 55. In the event the Member's retirement benefit becomes payable before age 55, the $75,000 limitation shall be reduced from age 55 in accordance with Regulations issued by the Secretary of the Treasury pursuant to the provisions of § 415(b) of the Code.

(2) In the event the Member's benefit is based on at least 15 years of credited service, the adjustments provided for in (1) above shall not apply.

(3) The reductions provided for in (1) above shall not be applicable to disability benefits paid pursuant to § 34.50, or pre-retirement death benefits paid pursuant to § 34.49.

(4) In the event the Member's retirement benefit becomes payable after age 65, for purposes of determining whether this benefit meets the limitation set forth in subsection (A) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age 65. This adjustment shall be made using an assumed interest rate of 5% and shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

(D) Less than 10 Years of Service. The maximum retirement benefits payable under this section to any Member who has completed less than 10 years of credited service with the town shall be the amount determined under subsection (A) of this section multiplied by a fraction, the numerator of which is the number of the Member's years of credited service and the denominator of which is 10. The reduction provided for in this subsection shall not be applicable to disability benefits paid pursuant to § 34.50, or pre-retirement death benefits paid pursuant to § 34.49.

(E) $10,000 Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a Member shall be deemed not to exceed the limitations set forth in this section if

the benefits payable, with respect to such Member under this System and under all other qualified defined benefit pension plans to which the town contributes, do not exceed $10,000 for the applicable plan year and for any prior plan year and the town has not at any time maintained a qualified defined contribution plan in which the Member participated.

(F) Member in Defined Contribution Plan. In any case where a Member under this System is also a member in a "Defined Contribution Plan" as defined in § 414(i) of the Code, maintained by the town, the sum of the "Defined Benefit Plan Fraction" and the "Defined Contribution Plan Fraction" (both as defined in § 415(e) of the Code) shall not, subject to the restrictions and exceptions contained in § 2004 of the Act, exceed 1.0. This limitation is repealed effective January 1, 2000.

(G) Reduction of Benefits. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the Member's benefit under any defined benefit plans in which Member participated, such reduction to be made first with respect to the plan in which Member most recently accrued benefits and thereafter in such priority as shall be determined by the Board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the Member participated, such reduction to be made first with respect to the plan in which Member most recently accrued benefits and thereafter in such priority as shall be established by the Board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the Board and the plan administrator of all other plans covering such Member.

(H) Cost-of-Living Adjustments. The limitations as stated in subsections (A), (B), (C) and (F) herein shall be adjusted to the time payment of a benefit begins in accordance with any cost-of-living adjustments prescribed by the Secretary of the Treasury pursuant to § 415(d) of the Code.

(I) Additional Limitation on Pension Benefits. Notwithstanding anything herein to the contrary:

(1) The normal retirement benefit or pension payable to a retiree who becomes a Member of the System and who has not previously participated in such System, on or after January 1, 1980, shall not exceed 100% of his average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.

(2) No Member of the System shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the Member is already receiving, or will receive in the future, a retirement benefit or pension from another retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.
(Ord. 99-25, passed 7-6-99)

§ 34.58 DISTRIBUTION OF BENEFITS.

Notwithstanding any other provision of this System to the contrary, a form of retirement income payable from this System after the effective date of the ordinance codified in §§ 34.43 through 34.67, shall satisfy the following conditions:

(A) If the retirement income is payable before the Member's death,

(1) It shall either be distributed or commence to the Member not later than April 1 of the calendar year following the later of the calendar year in which the Member attains age 70-1/2, or the calendar year in which Member retires,

(2) The distribution shall commence not later than the calendar year defined above; and a), shall be paid over the life of the Member or over the lifetimes of the Member and spouse, issue or dependent, or b), shall be paid over the period extending not beyond the life expectancy of the Member and spouse, issue or dependent.

Where a form of retirement income payment has commenced in accordance with the preceding paragraphs and the Member dies before his entire interest in the System has been distributed, the remaining portion of such interest in the System shall be distributed no less rapidly than under the form of distribution in effect at the time of the Member's death.

(B) If the Member's death occurs before the distribution of his interest in the System has commenced, the Member's entire interest in the System shall be distributed within five years of the Member's death, unless it is to be distributed in accordance with the following rules:

(1) The Member's remaining interest in the System is payable to his spouse, issue or dependent;

(2) The remaining interest is to be distributed over the life of the spouse, issue or dependent or over a period not extending beyond the life expectancy of the spouse, issue or dependent; and

(3) Such distribution begins within one year of the Member's death unless the Member's spouse shall receive the remaining interest in which case the distribution need not begin before the date on which the Member would have attained age 70-1/2 and if the spouse dies before the distribution to the spouse begins, this section shall be applied as if the spouse were the Member.
(Ord. 99-25, passed 7-6-99)

§ 34.59 MISCELLANEOUS PROVISIONS.

(A) Interest of Members in System. At no time prior to the satisfaction of all liabilities under the System with respect to retirees and Members and their spouses or beneficiaries, shall any part of the corpus or income of the Fund be used for or diverted to any purpose other than for their exclusive benefit.

(B) No Reduction of Accrued Benefits. No amendment or ordinance shall be adopted by the Town Commission of the Town of Longboat Key which shall have the effect of reducing the then vested accrued benefits of Members or a Member's beneficiaries.

(C) Qualification of System. It is intended that the System will constitute a qualified public pension plan under the applicable provisions of the Code, as now in effect or hereafter amended. Any modification or amendment of the System may be made retroactively, if necessary or appropriate, to qualify or maintain the System as a plan meeting the requirements of the applicable provisions of the Code as now in effect or hereafter amended, or any other applicable provisions of the U.S. federal tax laws, as now in effect or hereafter amended or adopted, and the regulations issued thereunder.

(D) Use of Forfeitures. Forfeitures arising from terminations of service of Members shall serve only to reduce future town contributions.
(Ord. 99-25, passed 7-6-99)

§ 34.60 REPEAL OR TERMINATION OF SYSTEM.

(A) This ordinance, §§ 34.43 through 34.67, establishing the System and Fund, and subsequent ordinances pertaining to said System and Fund, may be modified, terminated, or amended, in whole or in part; provided that if this or any subsequent ordinance shall be amended or repealed in its application to any person benefiting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to the Member or beneficiary shall not be affected thereby, except to the extent that the assets of the Fund may be determined to be inadequate.

(B) If §§ 34.43 through 34.67 shall be repealed, or if contributions to the System are discontinued or if there is a transfer, merger or consolidation of government units, services or functions as provided in Chapter 121, Florida Statutes, the Board shall continue to administer the System in accordance with the provisions of §§ 34.43 through 34.67, for the sole benefit of the then Members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one of the options provided for in §§ 34.43 through 34.67 who are designated by any of said Members. In the event of repeal, discontinuance of contributions, or transfer merger or consolidation of government units, services or functions, there shall be full vesting (100%) of benefits accrued to date of repeal and the assets of the System shall be allocated in an equitable manner to provide benefits on a proportionate basis to the persons so entitled in accordance with the provisions thereof.

(C) The following shall be the order of priority for purposes of allocating the assets of the System as of the date of repeal of §§ 34.43 through 34.67, or if contributions to the System are discontinued with the date of such discontinuation being determined by the Board.

(1) Apportionment shall first be made in respect of each retiree receiving a retirement or disability benefit hereunder on such date, each person receiving a benefit on such date on account of a retired or disabled (but since deceased) Member, and each Member who has, by such date, become eligible for normal retirement but has not yet retired, an amount which is

the actuarial equivalent of such benefit, provided that, if such asset value be less than the aggregate of such amounts, such amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such asset value.

(2) If there be any asset value remaining after the apportionment under subparagraph (1), apportionment shall next be made in respect of each Member in the service of the town on such date who is vested and who is not entitled to an apportionment under subparagraph (1), in the amount required to provide the actuarial equivalent of the vested portion of the accrued normal retirement benefit (but not less than accumulated contributions), based on the credited service and average final compensation as of such date, and each vested former Member then entitled to a deferred benefit who has not, by such date, begun receiving benefit payments, in the amount required to provide said actuarial equivalent of the vested portion of the accrued normal retirement benefit (but not less than accumulated contributions), provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(3) If there be any asset value after the apportionments under subparagraphs (1) and (2), apportionment shall be made in respect of each Member in the service of the town on such date who is not entitled to an apportionment under subparagraphs (1) and (2) in the amount equal to Member's accumulated contributions, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder such latter amount shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(4) If there be any asset value remaining after the apportionments under subparagraphs (1), (2), and (3), apportionment shall lastly be made in respect of each Member included in subparagraph (3) above to the extent of the actuarial equivalent of the non-vested accrued normal retirement benefit, less the amount apportioned in subparagraph (3), based on the credited service and average final compensation as of such date, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder, such amounts shall be reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(5) In the event that there be asset value remaining after the full apportionment specified in subparagraphs (1), (2), (3), and (4), such excess shall be returned to the town, less return of the state's contributions to the state, provided that, if the excess is less than the total contributions made by the town and the state to the date of termination such excess shall be divided proportionately to the total contributions made by the town and the state.

The allocation of the Fund provided for in this subsection may, as decided by the Board, be carried out through the purchase of insurance company contracts to provide the benefits determined in accordance with this subsection. The Fund may be distributed in one sum to the persons entitled to said benefits or the distribution may be carried out in such other equitable manner as the Board may direct. The Fund may be continued in existence for purposes of subsequent distributions.

If, at any time during the first 10 years after the effective date of the ordinance originally establishing this System, the System shall be terminated or the full current costs of the System shall not have been met, anything in the System to the contrary notwithstanding, town contributions which may be used for the benefit of any one of the 25 highest paid Members on the effective date, whose anticipated annual retirement allowance provided by the town's contributions at Member's normal retirement date would exceed $1,500, shall not exceed the greater of either a) $20,000, or b), an amount computed by multiplying the smaller of $10,000 or 20% of such Member's average annual earnings during his last five years of service by the number of years of service since the effective date. In the event that it shall hereafter be determined by statute, court decision, ruling by the Commissioner of Internal Revenue, or otherwise, that the provisions of this paragraph are not then necessary to qualify the System under the Code, this paragraph shall be ineffective without the necessity of further amendment of §§ 39.43 through 34.67.

(D) After all the vested and accrued benefits provided hereunder have been paid and after all other liabilities have been satisfied, then and only then shall any remaining funds revert to the general fund of the town.
(Ord. 99-25, passed 7-6-99)

§ 34.61 EXEMPTION FROM EXECUTION, NON-ASSIGNABILITY.

Except as otherwise provided by law, the pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of §§ 34.43 through 34.67 and the accumulated contributions and the cash securities in the Fund created under this ordinance are hereby exempted from any state, county or municipal tax and shall not be subject to execution, attachment, garnishment or any legal process whatsoever and shall be unassignable.
(Ord. 99-25, passed 7-6-99)

§ 34.62 PENSION VALIDITY.

The Board shall have the power to examine into the facts upon which any pension shall heretofore have been granted under any prior or existing law, or shall hereafter be granted or obtained erroneously, fraudulently or illegally for any reason. The Board is empowered to purge the pension rolls or correct the pension amount of any person heretofore granted a pension under prior or existing law or any person hereafter granted a pension under §§ 34.43 through 34.67 if the same is found to be erroneous, fraudulent or illegal for any reason; and to reclassify any person who has heretofore under any prior or existing law been or who shall hereafter under §§ 34.43 through 34.67 be erroneously, improperly or illegally classified. Any overpayments or underpayments shall be corrected and paid or repaid in a reasonable manner determined by the Board.
(Ord. 99-25, passed 7-6-99)

§ 34.63 FORFEITURE OF PENSION.

(A) Any Member who is convicted of the following offenses committed prior to retirement, or whose employment is terminated by reason of his admitted commission, aid or abetment of the following specified offenses, shall forfeit all rights and benefits under this System, except for the return of his accumulated contributions as of the date of termination. Specified offenses are as follows:

(1) The committing, aiding or abetting of an embezzlement of public funds;

(2) The committing, aiding or abetting of any theft by a public officer or employee from employer;

(3) Bribery in connection with the employment of a public officer or employee;

(4) Any felony specified in Chapter 838, Florida Statutes.

(5) The committing of an impeachable offense.

(6) The committing of any felony by a public officer or employee who willfully and with intent to defraud the public or the public agency, for which he acts or in which he is employed, of the right to receive the faithful performance of his duty as a public officer or employee, realizes or obtains or attempts to obtain a profit, gain, or advantage for himself or for some other person through the use or attempted use of the power, rights, privileges, duties or position of his public office or employment position.

(B) Conviction shall be defined as an adjudication of guilt by a court of competent jurisdiction; a plea of guilty or a nolo contendere; a jury verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation; or a conviction by the Senate of an impeachable offense.

(C) Court shall be defined as any state or federal court of competent jurisdiction which is exercising its jurisdiction to consider a proceeding involving the alleged commission of a specified offense. Prior to forfeiture, the Board shall hold a hearing on which notice shall be given to the Member whose benefits are being considered for forfeiture. Said Member shall be afforded the right to have an attorney present. No formal rules of evidence shall apply, but the Member shall be afforded a full opportunity to present his case against forfeiture.

(D) Any Member who has received benefits from the System in excess of his accumulated contributions after Member's rights were forfeited shall be required to pay back to the Fund the amount of the benefits received in excess of his accumulated contributions. The Board may implement all legal action necessary to recover such funds.
(Ord. 99-25, passed 7-6-99)

§ 34.64 CONVICTION AND FORFEITURE; FALSE, MISLEADING OR FRAUDULENT STATEMENTS.

(A) It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit from the System.

(B) A person who violates subsection 1 commits a misdemeanor of the first degree, punishable as provided in § 775.082 or § 775.083, Florida Statutes.

(C) In addition to any applicable criminal penalty, upon conviction for a violation described in subsection (A), a Member or beneficiary of the System may, in the discretion of the Board, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under the System. For purposes of this subsection, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld. (Ord. 99-25, passed 7-6-99)

§ 34.65 INDEMNIFICATION.

(A) To the extent not covered by insurance contracts in force from time to time, the town shall indemnify, defend and hold harmless members of the Board from all personal liability for damages and costs, including court costs and attorneys' fees, arising out of claims, suits, litigation, or threat of same, herein referred to as "claims," against these individuals because of acts or circumstances connected with or arising out of their official duty as members of the Board. The town reserves the right, in its sole discretion, to settle or not settle the claim at any time, and to appeal or to not appeal from any adverse judgment or ruling, and in either event will indemnify, defend and hold harmless any members of the Board from the judgment, execution, or levy thereor..

(B) This section shall not be construed so as to relieve any insurance company or other entity liable to defend the claim or liable for payment of the judgment or claim, from any liability, nor does this section waive any provision of law affording the town immunity from any suit in whole or part, or waive any other substantive or procedural rights the town may have.

(C) This section shall not apply nor shall the town be responsible in any manner to defend or pay for claims arising out of acts or omissions of members of the Board which constitute felonies or gross malfeasance or gross misfeasance in office.
(Ord. 99-25, passed 7-6-99)

§ 34.66 DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

(A) General. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the System to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner

prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(B) Definitions.

(1) "ELIGIBLE ROLLOVER DISTRIBUTION." An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under § 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income.

(2) "ELIGIBLE RETIREMENT PLAN." An eligible retirement plan is an individual retirement account described in § 408(a) of the Code, an individual retirement annuity described in § 408(b) of the Code, an annuity plan described in § 403(a) of the Code, or a qualified trust described in § 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving Spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(3) "DISTRIBUTEE." A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse.

(4) "DIRECT ROLLOVER." A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.
(Ord. 99-25, passed 7-6-99)

§ 34.67 FAMILY AND MEDICAL LEAVE ACT.

The fractional parts of the 12-month period ending each March 1 that a Member is on leave without pay from the town pursuant to the Family and Medical Leave Act (FMLA) shall be added to his credited service provided that:

(A) The Member contributes to the Fund the sum that he would have contributed, based on his salary and the Member contribution rate in effect at the time that the credited service is requested, had he been a Member of the System for the fractional parts of the 12 months ending each March 1 for which he is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the Fund plus payment of costs for all professional services rendered to the Board in connection with the purchase of periods of credited service.

(B) The request for credited service for FMLA leave time for the 12-month period prior to each March 1 and payment of professional fees shall be made on or before March 31.

(C) Payment by the Member of the required amount shall be made on or before April 30 for the preceding 12-month period ending March 1 and shall be made in one lump sum payment upon receipt of which credited service shall be issued.

(D) Credited service purchased pursuant to this section shall not count toward vesting. (Ord. 99-25, passed 7-6-99)

GENERAL EMPLOYEES' RETIREMENT SYSTEM

§ 34.73 DEFINITIONS.

(A) As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meaning indicated:

"ACCUMULATED CONTRIBUTIONS" means a Member's own contributions, without interest. For those Members who purchase credited service with interest or at no cost to the System, only that portion of any payment representing the amount attributable to Member contributions based on the applicable Member contribution rate, shall be included in accumulated contributions.

"ACTUARIAL EQUIVALENT" means a benefit or amount of equal value, based upon the 1983 Group Annuity Mortality Table and an interest rate of 8% per annum.

"AVERAGE FINAL COMPENSATION" means one-twelfth of the average salary of the five best years of the last 10 years of credited service prior to retirement, termination, or death, or the career average as a full-time General Employee, whichever is greater. A year shall be 12 consecutive months.

"BENEFICIARY" means the person or persons entitled to receive benefits hereunder at the death of a Member who has or have been designated in writing by the Member and filed with the Board. If no such designation is in effect, or if no person so designated is living, at the time of death of the Member, the beneficiary shall be the estate of the Member.

"BOARD" means the Board of Trustees, which shall administer and manage the System herein provided and serve as trustees of the Fund.

"CODE" means the Internal Revenue Code of 1986, as amended from time to time.

"CREDITED SERVICE" means the total number of years and fractional parts of years as a General Employee with Member contributions, when required, omitting intervening years or fractional parts of years when such Member was not employed by the town as a General Employee. A Member may voluntarily leave his accumulated contributions in the Fund for a period of five years after leaving the employ of the town pending the possibility of being reemployed as a General Employee, without losing credit for the time that he was a Member of the System. If a vested Member leaves the employ of the town, his accumulated contributions will be returned only upon his written request. If a Member who is not vested is not reemployed as a General Employee with the town within five years, his accumulated contributions shall

be returned. Upon return of a Member's accumulated contributions, all of his rights and benefits under the System are forfeited and terminated. Upon any reemployment, a General Employee shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his accumulated contributions from the Fund, unless the General Employee repays into the Fund the contributions he has withdrawn, with interest, as determined by the Board, within 90 days after his reemployment.

"EFFECTIVE DATE" means the date on which the ordinance codified in §§ 34.73 through 34.95 becomes effective.

"FUND" means the trust fund established herein as part of the System.

"GENERAL EMPLOYEE" means any actively employed person in the regular full-time service of the town, including those in their initial probationary employment period, but not including certified Police Officers and certified Firefighters employed by the town.

"MEMBER" means an actively employed General Employee who fulfills the prescribed membership requirements. Benefit improvements which, in the past, have been provided for by amendments to the System adopted by town ordinance, and any benefit improvements which might be made in the future shall apply prospectively and shall not apply to Members who terminate employment or who retire prior to the effective date of any ordinance adopting such benefit improvements, unless such ordinance specifically provides to the contrary.

"PLAN YEAR" means the 12-month period beginning October 1 and ending September 30 of the following year.

"RETIREE" means a Member who has entered retirement status.

"RETIREMENT" means a Member's separation from town employment with eligibility for immediate receipt of benefits under the System.

"SALARY" means the total compensation for services rendered to the town as a General Employee reportable on the Member's W-2 form plus all tax deferred, tax sheltered or tax exempt items of income derived from elective employee payroll deductions or salary reductions. Compensation in excess of the limitations set forth in § 401(a)(17) of the Code shall be disregarded. The limitation on compensation for an "eligible employee" shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. "Eligible employee" is an individual who was a Member before the first Plan Year beginning after December 31, 1995.

"SPOUSE" means the lawful wife or husband of a Member or retiree at the time benefits become payable.

"SYSTEM" means the Town of Longboat Key General Employees' Retirement System as contained herein and all amendments thereto.

"TOWN" means Town of Longboat Key, Florida.

(B) MASCULINE GENDER. The masculine gender, where used herein, unless the context specifically requires otherwise, shall include both the feminine and masculine genders.
(Ord. 99-26, passed 7-6-99)

§ 34.74 MEMBERSHIP.

(A) Conditions of Eligibility. Each General Employee on April 1, 1992 who has completed one year of service as of that date, shall become a Member of the System on April 1, 1992. Each General Employee who has not completed one year of service on April 1, 1992 shall become a Member of the System on the June 30 coinciding with or next following the date he completed one year of service.

Each General Employee shall automatically become a Member, as a condition of employment, when he meets the requirements described in the previous paragraph. Once a General Employee has become a Member, he will continue to be a Member as long as he continues to be an employee, and thereafter, as long as he retains any right to benefits under the System.

Notwithstanding the above two subsections, the current Town Manager and any future Town Manager or Assistant Town Manager may, in the event he has elected to participate in another pension program, within the first 12 months of his employment as Town Manager or Assistant Town Manager, notify the Board and the town, in writing, of his election to not be a Member of the System. In the event of any such election, he shall be barred from future membership in the System.

(B) Designation of Beneficiary. Each General Employee shall complete a form prescribed by the Board designating a beneficiary or beneficiaries.
(Ord. 99-26, passed 7-6-99)

§ 34.75 BOARD OF TRUSTEES.

(A) The sole and exclusive administration of and responsibility for the proper operation of the System and for making effective the provisions of §§ 34.73 through 34.95 are hereby vested in a Board of Trustees. The Board is hereby designated as the plan administrator. The Board shall consist of five Trustees, two of whom, unless otherwise prohibited by law, shall be legal residents of the town, who shall be appointed by the Longboat Key Town Commission, and two of whom shall be Members of the System, who shall be elected by a majority of the General Employees who are Members of the System. The fifth Trustee shall be chosen by a majority of the previous four Trustees as provided for herein, and such person's name shall be submitted to the Longboat Key Town Commission. Upon receipt of the fifth person's name, the Longboat Key Town Commission shall, as a ministerial duty, appoint such person to the Board as its fifth Trustee. The fifth Trustee shall have the same rights as each of the other four Trustees appointed or elected as herein provided and shall serve a three year term unless he sooner vacates the office. Each resident Trustee shall serve as Trustee for a period of three years, unless he sooner vacates the office or is sooner replaced by the Longboat Key Town Commission at whose pleasure he shall serve. Each Member Trustee shall serve as Trustee for a period of

three years, unless he sooner leaves the employment of the town as a General Employee or otherwise vacates his office as Trustee, whereupon a successor shall be chosen in the same manner as the departing Trustee. Each Trustee may succeed himself in office. Terms shall be staggered with one Member Trustee and one resident Trustee elected or appointed one year with terms to begin on October 1, one Member Trustee, one resident Trustee and the fifth Trustee elected or appointed the next year with terms to begin October 1 and November 1 (fifth), and no elections or appointments in the third year. The initial terms of two Trustees shall be shortened to two years to accomplish the staggering. The Board shall establish and administer the nominating and election procedures for each election. The Board shall meet at least quarterly each year. The Board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

(B) The Trustees shall, by a majority vote, elect a Chairman, Vice-Chairman and a Secretary. The Secretary of the Board shall keep a complete minute book of the actions, proceedings, or hearings of the Board. The Trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

(C) Each Trustee shall be entitled to one vote on the Board. Three affirmative votes shall be necessary for any decision by the Trustees at any meeting of the Board. A Trustee shall have the right to abstain from voting as the result of a conflict of interest provided that Trustee complies with the provisions of § 112.3143, Florida Statutes.

(D) The Board shall engage such actuarial, accounting, legal, and other services as shall be required to transact the business of the System. The compensation of all persons engaged by the Board and all other expenses of the Board necessary for the operation of the System shall be paid from the Fund at such rates and in such amounts as the Board shall agree. In the event the Board chooses to use the town's legal counsel, actuary or other professional, technical or other advisors, it shall do so only under terms and conditions acceptable to the Board.

(E) The duties and responsibilities of the Board shall include, but not necessarily be limited to, the following:

(1) To construe the provisions of the System and determine all questions arising thereunder.

(2) To determine all questions relating to eligibility and membership.

(3) To determine and certify the amount of all retirement allowances or other benefits hereunder.

(4) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the System.

(5) To distribute to Members, at regular intervals, information concerning the System.

(6) To receive and process all applications for benefits.

(7) To authorize all payments whatsoever from the Fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the System and Fund.

(8) To have performed actuarial studies and valuations, at least as often as required by law, and make recommendations regarding any and all changes in the provisions of the System.

(9) To perform such other duties as are required to prudently administer the System. (Ord. 99-26, passed 7-6-99)

§ 34.76 FINANCES AND FUND MANAGEMENT.

(A) Establishment and Operation of Fund.

(1) As part of the System, there is hereby established the Fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the System, including the assets attributable to the General Employees from the assets of the prior Town of Longboat Key Municipal Pension Trust Fund.

(2) The actual custody and supervision of the Fund (and assets thereof) shall be vested in the Board. Payment of benefits and disbursements from the Fund shall be made by the disbursing agent but only upon written authorization from the Board.

(3) All funds of the General Employees' Retirement System may be deposited by the Board with the Finance Director of the town, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the town. However, any funds so deposited with the Finance Director of the town shall be kept in a separate fund by the Finance Director or clearly identified as such funds of the General Employees' Retirement System. In lieu thereof, the Board shall deposit the funds of the General Employees' Retirement System in a qualified public depository as defined in §280.02, Florida Statutes, which depository with regard to such funds shall conform to and be bound by all of the provisions of Chapter 280, Florida Statutes. In order to fulfill its investment responsibilities as set forth herein, the Board may retain the services of a custodian bank, an investment advisor registered under the Investment Advisors Act of 1940 or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment manager shall have discretion, subject to any guidelines as prescribed by the Board, in the investment of all Fund assets.

(4) All funds and securities of the System may be commingled in the Fund, provided that accurate records are maintained at all times reflecting the financial composition of the Fund, including accurate current accounts and entries as regards the following:

(a) Current amounts of accumulated contributions of Members on both an individual and aggregate account basis; and

(b) Receipts and disbursements; and

(c) Benefit payments; and

(d) Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the town; and

(e) All interest, dividends and gains (or losses) whatsoever, and

(f) Such other entries as may be properly required so as to reflect a clear and complete financial report of the Fund.

(5) An audit shall be performed annually by a certified public accountant for the most recent fiscal year of the plan showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year. Such report shall reflect a complete evaluation of assets on both a cost and market basis, as well as other items normally included in a certified audit.

(6) The Board shall have the following investment powers and authority:

(a) The Board shall be vested with full legal title to said Fund, subject, however, and in any event to the authority and power of the Longboat Key Town Commission to amend or terminate this Fund, provided that no amendment or Fund termination shall ever result in the use of any assets of this Fund except for the payment of regular expenses and benefits under this System, except as otherwise provided herein. All contributions from time to time paid into the Fund, and the income thereof, without distinction between principal and income, shall be held and administered by the Board or its agent in the Fund and the Board shall not be required to segregate or invest separately any portion of the Fund.

(b) All monies paid into or held in the Fund shall be invested and reinvested by the Board and the investment of all or any part of such funds shall be limited to:

(i) Annuity and life insurance contracts with life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the Members in the Fund shall be entitled under the provisions of this System and pay the initial and subsequent premium thereon.

(ii) Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund or a savings/building and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

(iii) Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States or by an agency of the government of the United States.

(iv) Bonds issued by the State of Israel.

(v) Stocks, commingled funds administered by national or state banks, mutual funds and bonds or other evidences of indebtedness, provided that:

a. Except as provided in subparagraph b. all individually held securities and all securities in a commingled or mutual fund must be issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, and in the case of bonds only, shall hold a rating in one of the three highest classifications by a major rating service.

b. Up to 10% of the assets of the Fund may be invested in American Depository Receipts.

c. The Board shall not invest more than 5% of its assets in the common stock, capital stock, or convertible securities of any one issuing company, nor shall the aggregate investment in any one issuing company exceed 5% of the outstanding capital stock of that company; nor shall the aggregate of its investments in common stock, capital stock and convertible securities at cost exceed 65% of the assets of the Fund.

(vi) Real estate, provided the Board shall not invest more than 10% at cost in real property or real estate.

(c) At least once every three years, and more often as determined by the Board, the Board shall retain a professionally qualified independent consultant to evaluate the performance of all current investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the Board at its next regularly scheduled meeting.

(d) The Board may retain in cash and keep unproductive of income such amount of the Fund as it may deem advisable, having regard for the cash requirements of the System.

(e) Neither the Board nor any Trustee shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the Fund, except that due to his or its own negligence, willful misconduct or lack of good faith.

(f) The Board may cause any investment in securities held by it to be registered in or transferred into its name as Trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the Fund.

(g) The Board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the Trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the Fund which it may deem to be to the best interest of the Fund to exercise.

(h) The Board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained herein.

(i) Where any action which the Board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as Trustee under §§ 34.73 through 34.95 can reasonably be taken or performed only after receipt by it from a Member, the town, or any other entity, of specific information, certification, direction or instructions, the Board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.

(j) Any overpayments or underpayments from the Fund to a Member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the Board in such a manner that the actuarial equivalent of the benefit to which the Member, retiree or beneficiary was correctly entitled, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Underpayments shall be made up from the Fund in a prudent manner.

(k) The Board shall sustain no liability whatsoever for the sufficiency of the Fund to meet the payments and benefits provided for herein.

(l) In any application to or proceeding or action in the courts, only the Board shall be a necessary party, and no Member or other person having an interest in the Fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.

(m) Any of the foregoing powers and functions reposed in the Board may be performed or carried out by the Board through duly authorized agents, provided that the Board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to said Fund shall always remain in the Board.
(Ord. 99-26, passed 7-6-99)

§ 34.77 CONTRIBUTIONS.

(A) Member Contributions.

(1) Amount. Each Member of the System shall be required to make regular contributions to the Fund in the amount of 4% of his salary. Member contributions withheld by the town on behalf of the Member shall be deposited with the Board immediately after each pay period. The contributions made by each Member to the Fund shall be designated as employer contributions pursuant to §414(h) of the Code. Such designation is contingent upon the contributions being excluded from the Members' gross income for federal income tax purposes. For all other purposes of the System, such contributions shall be considered to be Member contributions.

(2) Method. Such contributions shall be made by payroll deduction.

(B) Town Contributions. So long as this System is in effect, the town shall make quarterly contributions to the Fund in an amount equal to the difference in each year, between the total

aggregate Member contributions for the year, and the total cost for the year, as shown by the most recent actuarial valuation of the System. The total cost for any year shall be defined as the total normal cost plus the additional amount sufficient to amortize the unfunded past service liability as provided in Part VII of Chapter 112, Florida Statutes.

(C) Other. Private donations, gifts and contributions may be deposited to the Fund, but such deposits must be accounted for separately and kept on a segregated bookkeeping basis. Funds arising from these sources may be used only for additional benefits for Members, as determined by the Board, and may not be used to reduce what would have otherwise been required town contributions.
(Ord. 99-26, passed 7-6-99)

§ 34.78 BENEFIT AMOUNTS AND ELIGIBILITY.

(A) Normal Retirement Date. A Member's normal retirement date shall be the first day of the month coincident with, or next following the earlier of the attainment of age 55 and the completion of 30 years of credited service or the attainment of age 62, regardless of years of credited service. A Member may retire on his normal retirement date or on the first day of any month thereafter, and each Member shall become 100% vested in his accrued benefit on the Member's normal retirement date. Normal retirement under the System is retirement from employment with the town on or after the normal retirement date.

(B) Normal Retirement Benefit. A Member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his retirement and be continued thereafter during Member's lifetime, ceasing upon death, but 120 payments guaranteed in any event. The monthly retirement benefit shall equal 2.25% of average final compensation, for each year of credited service.

(C) Early Retirement Date. A Member may retire on his early retirement date which shall be the first day of any month coincident with or next following the attainment of age 50 and the completion of 15 years of credited service. Early retirement under the System is retirement from employment with the town on or after the early retirement date and prior to the normal retirement date.

(D) Early Retirement Benefit. A Member retiring hereunder on his early retirement date may receive either a deferred or an immediate monthly retirement benefit payable in the same form as for normal retirement as follows:

(1) A deferred monthly retirement benefit which shall commence on what would have been his normal retirement date had he continued employment as a General Employee and shall be continued on the first day of each month thereafter. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement on his normal retirement date, except that credited service and average final compensation shall be determined as of his early retirement date; or

(2) An immediate monthly retirement benefit which shall commence on his early retirement date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in subparagraph (1) above reduced by one-fifteenth for each of the first five years, one-thirtieth for each of the next five years and an actuarial reduction for all years in excess of 10 years by which the commencement of benefits precedes the date which would have been the Member's normal retirement date had he continued employment as a General Employee.
(Ord. 99-26, passed 7-6-99)

§ 34.79 PRE-RETIREMENT DEATH.

(A) Prior to Eligibility for Early or Normal Retirement. The beneficiary of a deceased Member who was not eligible for early or normal retirement shall receive a refund of 100% of the Member's accumulated contributions.

(B) Deceased Members Eligible for Early or Normal Retirement. The beneficiary of any Member who dies and who, at the date of his death was eligible for early or normal retirement, shall be entitled to a benefit as follows:

(1) The Beneficiary shall receive a benefit payable for 10 years, beginning on the first day of the month following the Member's death or at the deceased Member's otherwise early or normal retirement date, at the option of the beneficiary. The benefit shall be calculated as for normal retirement based on the deceased Member's credited service and average final compensation as of the date of his death and reduced as for early retirement, if applicable.

(2) A beneficiary of a Member whose death occurs after the Member's eligibility for normal retirement and which Member has not chosen an optional form of benefit may choose a life annuity in lieu of the 10 year certain and life benefit. Otherwise, a beneficiary may not choose an optional form of benefit.

(3) The Board may elect to make a lump sum payment pursuant to § 34.81, subsection (G).

(4) A beneficiary may, in lieu of the benefit provided for in (1) above, elect to receive a refund of the deceased Member's accumulated contributions.
(Ord. 99-26, passed 7-6-99)

§ 34.80 VESTING.

If a Member terminates his employment as a General Employee, either voluntarily or by discharge, and is not eligible for any other benefits under this System, the Member shall be entitled to the following:

(A) If the Member has less than five years credited service upon termination, the Member shall be entitled to a refund of his accumulated contributions or the Member may leave it deposited with the Fund.

(B) If the Member has five or more years of credited service upon termination, the Member shall be entitled to a monthly retirement benefit or, if elected, an optional form of benefit as provided for in § 34.81, subsection (A)(4), determined in the same manner as for normal or early retirement and based upon the Member's credited service, average final compensation and the benefit accrual rate as of the date of termination, and in accordance with the following vesting schedule:

Years of Credited Service	Percentage of Vesting
Less than 5 years	0
5 years but less than 6 years	50
6 years but less than 7 years	60
7 years but less than 8 years	70
8 years but less than 9 years	80
9 years but less than 10 years	90
10 years or more	100

The benefits shall be payable to him commencing at the Member's otherwise normal or early retirement date, determined as if he had remained employed, provided he does not elect to withdraw his accumulated contributions and provided the Member survives to his otherwise normal or early retirement date. If the Member does not withdraw his accumulated contributions and does not survive to his otherwise normal or early retirement date, his designated beneficiary shall be eutitled to a benefit as provided herein for a deceased Member, vested or eligible for retirement under pre-retirement death.

(C) Any vested Member of the System whose position is terminated, for whatever reason, but who remains employed by the town in some other capacity, shall have all retirement benefits accrued up to the date of such termination under this System preserved, provided he does not elect to withdraw his accumulated contributions from this System. Such accrued retirement benefits shall be payable at his otherwise early (reduced as for early retirement) or normal retirement date hereunder, or later, in accordance with the provisions of this System. (Ord. 99-26, passed 7-6-99)

§ 34.81 OPTIONAL FORMS OF BENEFITS.

(A) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified herein, a Member, upon written request to the Board, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

(1) A retirement income of a monthly amount payable to the retiree for his lifetime only.

(2) A retirement income of a modified monthly amount, payable to the retiree during the lifetime of the retiree and following the death of the retiree, 100%, 75%, 66 2/3% or 50%

of such monthly amount payable to a joint pensioner for his lifetime. Except where the retiree's joint pensioner is his spouse, the present value of payments to the retiree shall not be less than 50% of the total present value of payments to the retiree and his joint pensioner.

(3) If a Member retires prior to the time at which social security benefits are payable, he may elect to receive an increased retirement benefit until such time as social security benefits shall be assumed to commence and a reduced benefit thereafter in order to provide, to as great an extent as possible, a more level retirement allowance during the entire period of retirement. The amounts payable shall be as recommended by the actuaries for the System, based upon the social security law in effect at the time of the Member's retirement.

(4) A lump sum amount, however, the Board shall not approve a request for a lump sum distribution to any Member, joint pensioner or beneficiary of a Member who was hired after April 1, 1992 in an amount in excess of $5,000.

(B) The Member, upon electing any option of this section, will designate the joint pensioner (subsection (A)(2) above) or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the System in the event of Member's death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one or more primary beneficiaries where applicable. If a Member has elected an option with a joint pensioner or beneficiary and Member's retirement income benefits have commenced, the Member may thereafter change his designated beneficiary at any time, but may only change his joint pensioner if the designated joint pensioner and the Member were married at the time of Member's retirement and are divorced subsequent thereto and the joint pensioner is alive at the time of the change.

(C) The consent of a Member's or retiree's joint pensioner or beneficiary to any such change shall not be required. The rights of all previously-designated beneficiaries to receive benefits under the System shall thereupon cease.

(D) Upon change of a retiree's joint pensioner in accordance with this section, the amount of the retirement income payable to the retiree shall be actuarially determined to take into account the age and sex of the former joint pensioner, the new joint pensioner and the retiree. Any such retiree shall pay the actuarial recalculation expenses. Each request for a change will be made in writing on a form prepared by the Board and on completion will be filed with the Board. In the event that no designated beneficiary survives the retiree, such benefits as are payable in the event of the death of the retiree subsequent to his retirement shall be paid as provided in § 34.82.

(E) Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(1) If a Member dies prior to his normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under § 34.79.

(2) If the designated beneficiary (or beneficiaries) or joint pensioner dies before the Member's retirement under the System, the option elected will be canceled automatically and

a retirement income of the normal form and amount will be payable to the Member upon his retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the Member prior to his retirement.

(3) If both the retiree and the beneficiary (or beneficiaries) designated by Member or retiree die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of subsection (A), the Board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with § 34.82.

(4) If a Member continues beyond his normal retirement date pursuant to the provisions of § 34.78, subsection (A), and dies prior to his actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the Member in the amount or amounts computed as if the Member had retired under the option on the date on which his death occurred.

(F) A retiree may not change his retirement option after the date of cashing or depositing his first retirement check.

(G) Notwithstanding anything herein to the contrary, the Board in its discretion, may elect to make a lump sum payment to a Member or a Member's beneficiary in the event that the monthly benefit amount is less than $100 or the total commuted value of the remaining monthly income payments to be paid do not exceed $5,000. Any such payment made to any person pursuant to the power and discretion conferred upon the Board by the preceding sentence shall operate as a complete discharge of all obligations under the System with regard to such Member and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons.
(Ord. 99-26, passed 7-6-99)

§ 34.82 BENEFICIARIES.

(A) Each Member or retiree may, on a form provided for that purpose, signed and filed with the Board, designate a beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of his death. Each designation may be revoked or changed by such Member or retiree by signing and filing with the Board a new designation-of-beneficiary form. Upon such change, the rights of all previously designated beneficiaries to receive any benefits under the System shall cease.

(B) If a deceased Member or retiree failed to name a beneficiary in the manner prescribed in subsection (A), or if the beneficiary (or beneficiaries) named by a deceased Member or retiree predeceases the Member or retiree, the death benefit, if any, which may be payable under the System with respect to such deceased Member or retiree, shall be paid to the estate of the Member or retiree and the Board, in its discretion, may direct that the commuted value of the remaining monthly income benefits be paid in a lump sum.

(C) Any payment made to any person pursuant to this section shall operate as a complete discharge of all obligations under the System with regard to the deceased Member and any other persons with rights under the System and shall not be subject to review by anyone but shall be final, binding and conclusive on all persons ever interested hereunder.
(Ord. 99-26, passed 7-6-99)

§ 34.83 CLAIMS PROCEDURES.

(A) The Board shall establish administrative claims procedures to be utilized in processing written requests ("claims"), on matters which affect the substantial rights of any person ("claimant"), including Members, retirees, beneficiaries, or any person affected by a decision of the Board.

(B) The Board shall have the power to subpoena and require the attendance of witnesses and the production of documents for discovery prior to and at any proceedings provided for in the Board's claims procedures. The claimant may request in writing the issuance of subpoenas by the Board. A reasonable fee may be charged for the issuance of any subpoenas not to exceed the fees set forth in Florida Statutes.
(Ord. 99-26, passed 7-6-99)

§ 34.84 ROSTER OF RETIREES.

The Secretary of the Board shall keep a record of all persons enjoying a pension under the provisions of §§ 34.73 through 34.95 in which it shall be noted the time when the pension is allowed and when the same shall cease to be paid. Additionally, the Secretary shall keep a record of all Members in such a manner as to show the name, address, date of employment and date of termination of employment.
(Ord. 99-26, passed 7-6-99)

§ 34.85 MAXIMUM PENSION.

(A) Basic Limitation. Subject to the adjustments hereinafter set forth, the maximum amount of annual retirement income payable with respect to a Member under this System shall not exceed $90,000.

For purposes of applying the above limitation, benefits payable in any form other than a straight life annuity with no ancillary benefits shall be adjusted, as provided by Treasury Regulations, so that such benefits are the actuarial equivalent of a straight life annuity. For purposes of this section, the following benefits shall not be taken into account:

(a) Any ancillary benefit which is not directly related to retirement income benefits;

(b) Any other benefit not required under § 415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of § 415(b)(1) of the Code.

(B) Participation in Other Defined Benefit Plans. The limitation of this section with respect to any Member who at any time has been a member in any other defined benefit plan (as defined in § 414(j) of the Code) maintained by the town shall apply as if the total benefits payable under all defined benefit plans in which the Member has been a member were payable from one plan.

(C) Adjustments in Limitations.

(1) In the event the Member's retirement benefits become payable before age 62, the $90,000 limitation prescribed by this section shall be reduced in accordance with Regulations issued by the Secretary of the Treasury pursuant to the provisions of § 415(b) of the Code, but not less than $75,000, if the benefit begins at or after age 55. In the event the Member's retirement benefit becomes payable before age 55, the $75,000 limitation shall be reduced from age 55 in accordance with Regulations issued by the Secretary of the Treasury pursuant to the provisions of § 415(b) of the Code. A Member with at least 15 years of credited service may not have the benefit reduced below $50,000.

(2) The reductions provided for in (1) above shall not be applicable to pre-retirement death benefits paid pursuant to § 34.79.

(3) In the event the Member's retirement benefit becomes payable after age 65, for purposes of determining whether this benefit meets the limitation set forth in subsection (A) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age 65. This adjustment shall be made using an assumed interest rate of 5% and shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

(D) Less than 10 Years of Service. The maximum retirement benefits payable under this section to any Member who has completed less than 10 years of credited service with the town shall be the amount determined under subsection (A) of this section multiplied by a fraction, the numerator of which is the number of the Member's years of credited service and the denominator of which is 10. The reduction provided for in this subsection shall not be applicable to pre-retirement death benefits paid pursuant to § 34.79.

(E) $10,000 Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a Member shall be deemed not to exceed the limitations set forth in this section if the benefits payable, with respect to such Member under this System and under all other qualified defined benefit pension plans to which the town contributes, do not exceed $10,000 for the applicable plan year and for any prior plan year and the town has not at any time maintained a qualified defined contribution plan in which the Member participated.

(F) Member in Defined Contribution Plan. In any case where a Member under this System is also a member in a "Defined Contribution Plan" as defined in § 414(i) of the Code, maintained by the town, the sum of the "Defined Benefit Plan Fraction" and the "Defined Contribution Plan Fraction" (both as defined in § 415(e) of the Code) shall not, subject to the restrictions and exceptions contained in § 2004 of the Act, exceed 1.0. This limitation is repealed effective January 1, 2000.

(G) Reduction of Benefits. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the Member's benefit under any defined benefit plans in which Member participated, such reduction to be made first with respect to the plan in which Member most recently accrued benefits and thereafter in such priority as shall be determined by the Board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the Member participated, such reduction to be made first with respect to the plan in which Member most recently accrued benefits and thereafter in such priority as shall be established by the Board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the Board and the plan administrator of all other plans covering such Member.

(H) Cost-of-Living Adjustments. The limitations as stated in subsections (A), (B), (C), and (F) herein shall be adjusted to the time payment of a benefit begins in accordance with any cost-of-living adjustments prescribed by the Secretary of the Treasury pursuant to § 415(d) of the Code.

(I) Additional Limitation on Pension Benefits. Notwithstanding anything herein to the contrary:

(1) The normal retirement benefit or pension payable to a retiree who becomes a Member of the System and who has not previously participated in such System, on or after January 1, 1980, shall not exceed 100% of his average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.

(2) No Member of the System shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the Member is already receiving, or will receive in the future, a retirement benefit or pension from another retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.
(Ord. 99-26, passed 7-6-99)

§ 34.86 DISTRIBUTION OF BENEFITS.

Notwithstanding any other provision of this System to the contrary, a form of retirement income payable from this System after the effective date of the ordinance codified in §§ 34.73 through 34.95, shall satisfy the following conditions:

(A) If the retirement income is payable before the Member's death,

(1) It shall either be distributed or commence to the Member not later than April 1 of the calendar year following the later of the calendar year in which the Member attains age 70-1/2, or the calendar year in which Member retires,

(2) The distribution shall commence not later than the calendar year defined above; and a), shall be paid over the life of the Member or over the lifetimes of the Member and spouse,

issue or dependent, or b), shall be paid over the period extending not beyond the life expectancy of the Member and spouse, issue or dependent.

Where a form of retirement income payment has commenced in accordance with the preceding paragraphs and the Member dies before his entire interest in the System has been distributed, the remaining portion of such interest in the System shall be distributed no less rapidly than under the form of distribution in effect at the time of the Member's death.

(B) If the Member's death occurs before the distribution of his interest in the System has commenced, the Member's entire interest in the System shall be distributed within five years of the Member's death, unless it is to be distributed in accordance with the following rules:

(1) The Member's remaining interest in the System is payable to his spouse, issue or dependent;

(2) The remaining interest is to be distributed over the life of the spouse, issue or dependent or over a period not extending beyond the life expectancy of the spouse, issue or dependent; and

(3) Such distribution begins within one year of the Member's death unless the Member's spouse shall receive the remaining interest in which case the distribution need not begin before the date on which the Member would have attained age 70-1/2 and if the spouse dies before the distribution to the spouse begins, this section shall be applied as if the spouse were the Member.
(Ord. 99-26, passed 7-6-99)

§ 34.87 MISCELLANEOUS PROVISIONS.

(A) Interest of Members in System. At no time prior to the satisfaction of all liabilities under the System with respect to retirees and Members and their spouses or beneficiaries, shall any part of the corpus or income of the Fund be used for or diverted to any purpose other than for their exclusive benefit.

(B) No Reduction of Accrued Benefits. No amendment or ordinance shall be adopted by the Town Commission of the Town of Longboat Key which shall have the effect of reducing the then vested accrued benefits of Members or a Member's beneficiaries.

(C) Qualification of System. It is intended that the System will constitute a qualified public pension plan under the applicable provisions of the Code, as now in effect or hereafter amended. Any modification or amendment of the System may be made retroactively, if necessary or appropriate, to qualify or maintain the System as a plan meeting the requirements of the applicable provisions of the Code as now in effect or hereafter amended, or any other applicable provisions of the U.S. federal tax laws, as now in effect or hereafter amended or adopted, and the regulations issued thereunder.

(D) Use of Forfeitures. Forfeitures arising from terminations of service of Members shall serve only to reduce future town contributions.
(Ord. 99-26, passed 7-6-99)

§ 34.88 REPEAL OR TERMINATION OF SYSTEM.

(A) This ordinance, §§ 34.73 through 34.95, establishing the System and Fund, and subsequent ordinances pertaining to said System and Fund, may be modified, terminated, or amended, in whole or in part; provided that if this or any subsequent ordinance shall be amended or repealed in its application to any person benefiting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to the Member or beneficiary shall not be affected thereby, except to the extent that the assets of the Fund may be determined to be inadequate.

(B) If §§ 34.73 through 34.95 shall be repealed, or if contributions to the System are discontinued or if there is a transfer, merger or consolidation of government units, services or functions as provided in Chapter 121, Florida Statutes, the Board shall continue to administer the System in accordance with the provisions of §§ 34.73 through 34.95, for the sole benefit of the then Members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one of the options provided for in §§ 34.73 through 34.95 who are designated by any of said Members. In the event of repeal, discontinuance of contributions, or transfer merger or consolidation of government units, services or functions, there shall be full vesting (100%) of benefits accrued to date of repeal and the assets of the System shall be allocated in an equitable manner to provide benefits on a proportionate basis to the persons so entitled in accordance with the provisions thereof.

(C) The following shall be the order of priority for purposes of allocating the assets of the System as of the date of repeal of §§ 34.73 through 34.95, or if contributions to the System are discontinued with the date of such discontinuation being determined by the Board.

(1) Apportionment shall first be made in respect of each retiree receiving a retirement hereunder on such date, each person receiving a benefit on such date on account of a retired (but since deceased) Member, and each Member who has, by such date, become eligible for normal retirement but has not yet retired, an amount which is the actuarial equivalent of such benefit, provided that, if such asset value be less than the aggregate of such amounts, such amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such asset value.

(2) If there be any asset value remaining after the apportionment under subparagraph (1), apportionment shall next be made in respect of each Member in the service of the town on such date who is vested and who is not entitled to an apportionment under subparagraph (1), in the amount required to provide the actuarial equivalent of the vested portion of the accrued normal retirement benefit (but not less than accumulated contributions), based on the credited service and average final compensation as of such date, and each vested former Member then entitled to a deferred benefit who has not, by such date, begun receiving benefit payments, in the amount required to provide said actuarial equivalent of the vested portion of the accrued normal retirement benefit (but not less than accumulated contributions), provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(3) If there be any asset value after the apportionments under subparagraphs (1) and (2), apportionment shall be made in respect of each Member in the service of the town on such date who is not entitled to an apportionment under subparagraphs (1) and (2) in the amount equal to Member's accumulated contributions, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder such latter amount shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(4) If there be any asset value remaining after the apportionments under subparagraphs (1), (2), and (3), apportionment shall lastly be made in respect of each Member included in subparagraph (3) above to the extent of the actuarial equivalent of the non-vested accrued normal retirement benefit, less the amount apportioned in subparagraph (3), based on the credited service and average final compensation as of such date, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder, such amounts shall be reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(5) In the event that there be asset value remaining after the full apportionment specified in subparagraphs (1), (2), (3), and (4), such excess shall be returned to the town.

The allocation of the Fund provided for in this subsection may, as decided by the Board, be carried out through the purchase of insurance company contracts to provide the benefits determined in accordance with this subsection. The Fund may be distributed in one sum to the persons entitled to said benefits or the distribution may be carried out in such other equitable manner as the Board may direct. The Fund may be continued in existence for purposes of subsequent distributions.

If, at any time during the first 10 years after the effective date of the ordinance originally establishing this System, the System shall be terminated or the full current costs of the System shall not have been met, anything in the System to the contrary notwithstanding, town contributions which may be used for the benefit of any one of the 25 highest paid Members on the effective date, whose anticipated annual retirement allowance provided by the town's contributions at Member's normal retirement date would exceed $1,500, shall not exceed the greater of either a) $20,000, or b), an amount computed by multiplying the smaller of $10,000 or 20% of such Member's average annual earnings during his last five years of service by the number of years of service since the effective date. In the event that it shall hereafter be determined by statute, court decision, ruling by the Commissioner of Internal Revenue, or otherwise, that the provisions of this paragraph are not then necessary to qualify the System under the Code, this paragraph shall be ineffective without the necessity of further amendment of §§ 34.73 through 34.95.

(D) After all the vested and accrued benefits provided hereunder have been paid and after all other liabilities have been satisfied, then and only then shall any remaining funds revert to the general fund of the town.
(Ord. 99-26, passed 7-6-99)

§ 34.89 EXEMPTION FROM EXECUTION, NON-ASSIGNABILITY.

Except as otherwise provided by law, the pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of §§ 34.73 through 34.95 and the accumulated contributions and the cash securities in the Fund created under §§ 34.73 through 34.95 are hereby exempted from any state, county or municipal tax and shall not be subject to execution, attachment, garnishment or any legal process whatsoever and shall be unassignable.
(Ord. 99-26, passed 7-6-99)

§ 34.90 PENSION VALIDITY.

The Board shall have the power to examine into the facts upon which any pension shall heretofore have been granted under any prior or existing law, or shall hereafter be granted or obtained erroneously, fraudulently or illegally for any reason. The Board is empowered to purge the pension rolls or correct the pension amount of any person heretofore granted a pension under prior or existing law or any person hereafter granted a pension under §§ 34.73 through 34.95 if the same is found to be erroneous, fraudulent or illegal for any reason; and to reclassify any person who has heretofore under any prior or existing law been or who shall hereafter under §§ 34.73 through 34.95 be erroneously, improperly or illegally classified. Any overpayments or underpayments shall be corrected and paid or repaid in a reasonable manner determined by the Board.
(Ord. 99-26, passed 7-6-99)

§ 34.91 FORFEITURE OF PENSION.

(A) Any Member who is convicted of the following offenses committed prior to retirement, or whose employment is terminated by reason of his admitted commission, aid or abetment of the following specified offenses, shall forfeit all rights and benefits under this System, except for the return of his accumulated contributions as of the date of termination. Specified offenses are as follows:

(1) The committing, aiding or abetting of an embezzlement of public funds;

(2) The committing, aiding or abetting of any theft by a public officer or employee from employer;

(3) Bribery in connection with the employment of a public officer or employee;

(4) Any felony specified in Chapter 838, Florida Statutes.

(5) The committing of an impeachable offense.

(6) The committing of any felony by a public officer or employee who willfully and with intent to defraud the public or the public agency, for which he acts or in which he is employed, of the right to receive the faithful performance of his duty as a public officer or employee, realizes or obtains or attempts to obtain a profit, gain, or advantage for himself or for some

other person through the use or attempted use of the power, rights, privileges, duties or position of his public office or employment position.

(B) Conviction shall be defined as an adjudication of guilt by a court of competent jurisdiction; a plea of guilty or a nolo contendere; a jury verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation; or a conviction by the Senate of an impeachable offense.

(C) Court shall be defined as any state or federal court of competent jurisdiction which is exercising its jurisdiction to consider a proceeding involving the alleged commission of a specified offense. Prior to forfeiture, the Board shall hold a hearing on which notice shall be given to the Member whose benefits are being considered for forfeiture. Said Member shall be afforded the right to have an attorney present. No formal rules of evidence shall apply, but the Member shall be afforded a full opportunity to present his case against forfeiture.

(D) Any Member who has received benefits from the System in excess of his accumulated contributions after Member's rights were forfeited shall be required to pay back to the Fund the amount of the benefits received in excess of his accumulated contributions. The Board may implement all legal action necessary to recover such funds.
(Ord. 99-26, passed 7-6-99)

§ 34.92 INDEMNIFICATION.

(A) To the extent not covered by insurance contracts in force from time to time, the town shall indemnify, defend and hold harmless members of the Board from all personal liability for damages and costs, including court costs and attorneys' fees, arising out of claims, suits, litigation, or threat of same, herein referred to as "claims," against these individuals because of acts or circumstances connected with or arising out of their official duty as members of the Board. The town reserves the right, in its sole discretion, to settle or not settle the claim at any time, and to appeal or to not appeal from any adverse judgment or ruling, and in either event will indemnify, defend and hold harmless any members of the Board from the judgment, execution, or levy thereon.

(B) This section shall not be construed so as to relieve any insurance company or other entity liable to defend the claim or liable for payment of the judgment or claim, from any liability, nor does this section waive any provision of law affording the town immunity from any suit in whole or part, or waive any other substantive or procedural rights the town may have.

(C) This section shall not apply nor shall the town be responsible in any manner to defend or pay for claims arising out of acts or omissions of members of the Board which constitute felonies or gross malfeasance or gross misfeasance in office.
(Ord. 99-26, passed 7-6-99)

§ 34.93 DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

(A) General. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the System to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(B) Definitions.

(1) "ELIGIBLE ROLLOVER DISTRIBUTION." An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under § 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income.

(2) "ELIGIBLE RETIREMENT PLAN." An eligible retirement plan is an individual retirement account described in § 408(a) of the Code, an individual retirement annuity described in § 408(b) of the Code, an annuity plan described in § 403(a) of the Code, or a qualified trust described in § 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(3) "DISTRIBUTEE." A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse.

(4) "DIRECT ROLLOVER." A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.
(Ord. 99-26, passed 7-6-99)

§ 34.94 FAMILY AND MEDICAL LEAVE ACT.

The fractional parts of the 12-month period ending each March 1 that a Member is on leave without pay from the town pursuant to the Family and Medical Leave Act (FMLA) shall be added to his credited service provided that:

(A) The Member contributes to the Fund the sum that he would have contributed, based on his salary and the Member contribution rate in effect at the time that the credited service is requested, had he been a Member of the System for the fractional parts of the 12 months ending each March 1 for which he is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the Fund plus payment of costs for all professional services rendered to the Board in connection with the purchase of periods of credited service.

(B) The request for credited service for FMLA leave time for the 12-month period prior to each March 1 and payment of professional fees shall be made on or before March 31.

(C) Payment by the Member of the required amount shall be made on or before April 30 for the preceding 12-month period ending March 1 and shall be made in one lump sum payment upon receipt of which credited service shall be issued.

(D) Credited service purchased pursuant to this section shall not count toward vesting. (Ord. 99-26, passed 7-6-99)

§ 34.95 SEPARATION FROM EMPLOYMENT FOR MILITARY SERVICE.

(A) The years or fractional parts of a year that a Member serves in the military service of the Armed Forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily, after separation from employment as a General Employee with the town to perform training or service, and reemployment on or after December 12, 1994, shall be added to his years of credited service for all purposes, including vesting, provided that:

(1) The Member must return to his employment as a General Employee within one year from the earlier of the date of his military discharge or his release from service.

(2) The Member deposits into the Fund the same sum that the Member would have contributed if he had remained a General Employee during his absence. The Member must deposit all missed contributions within a period equal to three times the period of military service, but not more than five years from the date of reemployment or he will forfeit the right to receive credited service for his military service pursuant to this section.

(3) The maximum credit for military service pursuant to this section shall be five years.

(4) The Member must have been discharged or released from service under honorable conditions.

(5) This section is intended to satisfy the minimum requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA), (P.L. 103-353). To the extent that this section does not meet the minimum standards of USERRA, as it may be amended from time to time, the minimum standards shall apply.
(Ord. 99-26, passed 7-6-99)

SALARY SAVINGS PLAN

§ 34.99 SALARY SAVINGS PLAN.

(A) The Town of Longboat Key, Florida, Salary Savings Plan and the Related Trust, both dated June 5, 1985, attached to the ordinance codified in this section and made a part of this section are adopted.

(B) A Salary Savings Committee (formerly the Retirement Committee) consisting of the following members is established to carry out the duties set forth in the Town of Longboat Key Salary Savings Plan, to act as Trustee of the Trust, and to perform any other duties assigned to it from time to time by the Town Commission. The members of the Salary Savings Committee shall be:

(1) The Mayor;

(2) The Town Manager;

(3) The Finance Director;

(4) A general employee representative appointed by the members of the General Employees Administrative Staff;

(5) A general employee representative appointed by members of the General Employees Public Works Staff;

(6) A Police Department employee representative appointed by members of the Police Department;

(7) A Fire Department employee representative appointed by members of the Fire Department;

(8) A resident of the town appointed by the Town Commission;

(9) One additional Town Commissioner;

(10) A Plan Administrator appointed by the Town Manager.

(Ord. 85-1, passed 4-22-85; Amd. Ord. 88-11, passed 5-2-88; Amd. Ord. 91-23, passed 11-4-91; Amd. Ord. 92-18, passed 6-1-92; Amd. Ord. 94-27, passed 10-3-94; Amd. Ord. 95-02, passed 2-6-95; Amd. Ord. 99-26, passed 7-6-99)

Chapter 35: GENERAL POLICY

Section

35.01	Cost of giving notice for permit applications
35.02	Liability of town or town officials
35.03	Liability insurance on town-owned vehicles
35.04	Assessment for law enforcement education expenditures

§ 35.01 COST OF GIVING NOTICE FOR PERMIT APPLICATIONS.

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

§ 35.02 LIABILITY OF TOWN OR TOWN OFFICIALS.

(A) To the extent not covered by insurance contracts in force from time to time, the town shall indemnify and hold harmless its Town Commissioners, officers, officials, appointed board members, department heads and employees from all personal liability for damages and costs, including court costs and attorney's fees, arising out of claims, suits, litigation, or threat of same, herein referred to as "claims," against these individuals because of acts or circumstances connected with or arising out of their official duty or employment as Commissioner, officer, official, appointed board member, department head or employee of the town. For purposes of this section, all members of the Board of Trustees of the Municipal Firefighters, Police Officers and General Employees Retirement Trust Fund shall be deemed to be appointed board members. The town reserves the right, in its sole discretion, to settle or not settle the claim at any time, and to appeal or not to appeal from any adverse judgment or ruling, and in either event will indemnify and hold harmless any Commissioners, officers, officials, appointed board members, department heads and employees from the judgment, execution, or levy thereon.

(1) The defendant Commissioner, officer, official, appointed board member, department head or employee against whom a claim is made shall cooperate with the town, its attorneys and agents, in every respect requested in the defense of the claim, including but not limited to appearances at depositions and trials, presentation and preservation of evidence, and obtaining of witnesses.

(2) In the event that the defendant Commissioner, officer, official, appointed board member, department head or employee is awarded damages or court costs against the plaintiff or is awarded an affirmative judgment against the plaintiff upon a counterclaim against the plaintiff which was litigated by the town in the action, this sum shall be assigned and paid over to the town in consideration of its undertaking described in this section; however, the sums paid to the town under this section shall not exceed its costs and attorney fees incurred in defending and litigating the claim. (Ord. 90-18, passed 7-2-90; Amd. Ord. 95-24, passed 1-8-96)

(B) This section shall not be construed so as to relieve any insurance company or other entity liable to defend the claim or liable for payment of the judgment or claim from any liability, nor does this section waive any provisions of law affording the town immunity from any suit in whole or part or waive any other substantive or procedural rights the town may have.

(C) This section shall not apply nor shall the town be responsible in any manner to defend or pay for claims arising out of acts or omissions of Town Commissioners, officers, officials, appointed board members, department heads or employees which constitute felonies or gross malfeasance or gross misfeasance in office.

(D) The provisions of this section shall apply equally to Commissioners, officers, officials, appointed board members, department heads and employees, both past and present.
('71 Code, § 2-2) (Ord. 77-14, passed 6-1-77; Amd. Ord. 86-8, passed 5-5-86; Amd. Ord. 86-33, passed 10-6-86; Amd. Ord. 86-24, passed 12-1-86)

§ 35.03 LIABILITY INSURANCE ON TOWN-OWNED VEHICLES.

The town shall carry liability insurance on all motor vehicles, including motorcycles, owned and operated by the town, in an amount of $100,000 with respect to any one person and $300,000 with respect to any one accident or disaster. However, this coverage may be limited by the usual and customary limitations and conditions contained in standard liability policies written by stock or mutual insurance companies doing business in the state.
('71 Code, § 2-3) (Ord. 78-25, passed 1-17-79)

§ 35.04 ASSESSMENT FOR LAW ENFORCEMENT EDUCATION EXPENDITURES.

The sum of $2.00 shall be assessed as a court cost against every person convicted for violation of this code or other town ordinance; however, no assessment shall be made against any person convicted for violation of any provision of this code or other town ordinance relating to the parking of vehicles. Assessments collected under this section shall be used only for law enforcement education expenditures for law enforcement officers of this town.
('71 Code, § 1-10) (Ord. 158, passed 10-1-69; Amd. Ord. 81-30, passed 9-2-81)

Section

36.01 Absentee voting.
36.02 Voter qualifications
36.03 Candidate qualifications
36.04 Polling places
36.05 Vacancy in candidacy

Cross reference:
Town commission district boundaries; see §§ 30.15 through 30.19

§ 36.01 ABSENTEE VOTING.

The provisions of F.S. §§ 101.62 through 101.694 concerning absentee voting are hereby adopted by reference.
('71 Code, § 9-1)

§ 36.02 VOTER QUALIFICATIONS.

Any person eligible to register must register to be entitled to vote in the elections of the town, with the Supervisor of Elections of Manatee County or the Supervisor of Elections of Sarasota County, as provided by law.
('71 Code, § 9-2) (Ord. 73-19, passed 8-1-73; Am. Ord. 73-28, passed 11-7-73)

Statutory reference:
Qualification to register, see F.S. § 97.041

§ 36.03 CANDIDATE QUALIFICATIONS.

An elector of the town shall be qualified as a candidate for public office on the filing by the elector, in person, with the Town Clerk no later than 12:00 noon, January 2, or the following business day if January 2 falls on a nonbusiness day, prior to the date of the preliminary election, of a petition signed by at least 10 electors requesting the name of the proposed candidate be placed on the ballot for a vacancy in office to be voted on at the next special or annual election. However, in those cases where the candidate is qualifying for a particular district the petition for the candidate shall be signed by electors from that district and where the candidate is one at large the petition for the candidate shall be signed by any 10 electors of the town.
('71 Code, § 9-3) (Ord. 106, passed 11-23-65; Am. Ord. 119, passed 2-28-67)

§ 36.04 POLLING PLACES.

At least 15 days prior to any election, the Town Commission, on the 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.
('71 Code, § 9-4) (Ord. 73-19, passed 8-1-73)

Cross reference:
Conduct of elections, see Charter Art. II, § 6

§ 36.05 VACANCY IN CANDIDACY.

(A) If the death, withdrawal, or removal of a qualified candidate following the end of the qualifying period results in only one candidate remaining on the ballot for that office, and less than 52 days remain before the date of the general town election, the remaining candidate shall be declared unopposed and no election for that office shall be required. The remaining candidate shall assume office at the same time and in the same manner as those elected in the general town election.

(B) (1) If the death, withdrawal or removal of a qualified candidate following the end of the qualifying period results in only one candidate remaining on the ballot for that office and at least 52 days remain before the date of the general town election, qualifying shall be reopened to allow candidates to qualify for the election to that office in accordance with the Town Charter and Code. Any candidate wishing to qualify shall file the required qualifying statements and petitions no later than noon of the seventh day following the date the vacancy in candidacy occurred. The remaining candidate for that office shall not be required to re-qualify for election and may continue to accept contributions until declared unopposed. Should no other candidates qualify during the supplemental qualifying period, the remaining candidate shall be declared unopposed and no election for that office shall be required. The remaining candidate shall assume office at the same time and in the same manner as those elected in the general town election.

At the close of the supplemental qualifying period, if no more than two candidates shall have qualified for that office including the remaining candidate, names of those two candidates shall appear on the ballot at the regular general town election.

(2) If more than two candidates qualify during the supplemental qualifying period under paragraph (B)(1) and at least 21 days remain prior to the first Tuesday in February, the date of the preliminary town election provided for in Article II, Section 5, of the Town Charter, the names of all candidates qualified for that office shall appear on the ballot for the preliminary town election.

(3) If more than two candidates qualify during the supplemental qualifying period under paragraph (B)(1) and less than 21 days remain prior to the preliminary town election provided for in the Town Charter, a special preliminary election shall be held for such candidates at the same time as the general town election. A separate ballot shall be provided for the names of such candidates. The names of the two candidates who receive the first and second highest number of votes cast for any seat in the special preliminary election shall be placed on a ballot for a special election to be held within 45 days following the special preliminary election; provided, should any one candidate in the special preliminary election receive a

majority of all votes cast for the seat on the Town Commission, such candidate shall be declared elected without the necessity of being voted upon in a special election. The winning candidate shall assume office at the same time and in the same manner as those elected in the general town election.

(C) (1) If the death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period results in no candidates for an office, and more than 28 days remain prior to the date of the general town election, qualifying shall be reopened to allow candidates to qualify for the election to that office in accordance with the Town Charter and Code. Any candidate wishing to qualify shall file the required qualifying statements and petitions no later than noon of the seventh day following the date the vacancy in candidacy occurred.

At the close of the supplemental qualifying period if only one candidate shall have qualified for that office, that candidate shall be declared unopposed and shall assume office at the same time and in the same manner as those elected in the general town election.

(2) At the close of the supplemental qualifying period reopened pursuant to paragraph (C)(1) if two candidates shall have qualified for that office, a supplemental ballot shall be provided at the general town election. Supplemental absentee ballots shall be mailed by the Town Clerk to any absentee voter who was mailed an absentee ballot for the general town election. If an absentee voter returns the initial ballot he was mailed, his vote for that office for which the supplemental ballot was subsequently provided will be null and void, but his votes on all other offices and issues shall be counted. All supplemental absentee ballots issued that are received by the Town Clerk in a timely manner as provided by Florida law shall be counted.

The candidate receiving the highest number of votes cast shall assume office at the same time and in the same manner as all others elected in the general town election.

(3) If more than two candidates qualify during the supplemental qualifying period pursuant to paragraph (C)(1) and less than 21 days remain prior to the date of the preliminary election set by the Town Charter, a special preliminary election shall be held at the same time as the general town election for the candidates qualifying during the supplemental qualifying period. A separate ballot shall be provided for such candidates. The names of the two candidates who receive the first and second highest number of votes cast for any seat in the special preliminary election shall be placed on a ballot for that office at a special election to be held within 45 days following the special preliminary election; provided, should any one candidate in the special preliminary election receive a majority of all votes cast for the seat on the Town Commission, such candidate shall be declared elected without the necessity of being voted upon in a special election. The winning candidate shall assume office at the same time and in the same manner as those elected in the general town election.

(D) The filing of campaign expense statements pursuant to F.S. Ch. 106, by candidates in a special election called under paragraphs (B)(3) and (C)(2) shall not be later than such dates as fixed by the Town Clerk. In fixing such dates, the Town Clerk shall take into consideration

and be governed by the practical time limitations and the dates established for such statements in a regular municipal election.

(E) (1) If a special election is called pursuant to paragraphs (B)(3) and (C)(2), supplemental absentee ballots for the special elections shall be mailed by the Town Clerk to any absentee voter who was mailed an absentee ballot for the regular election. If an absentee voter returns the initial ballot he was mailed, his vote for that office for which the special election was called will be null and void; but his votes on all other offices and issues shall be counted.

(2) The name of any qualified candidate who has withdrawn, died or been removed from the ballot shall not be printed on the ballot. If the ballot cannot be changed, any votes for that candidate shall be null and void.
(Ord. 92-03, passed 6-18-92)

Section

Accounting and Bookkeeping

37.01 Compliance with accepted standards
37.02 Receipts; records
37.03 Annual inventory of town equipment
37.04 Bank accounts; check vouchers

Taxation

37.10 Public service tax
37.11 Excise tax on insurance companies
37.15 Additional homestead exemption for persons 65 and older

ACCOUNTING AND BOOKKEEPING

§ 37.01 COMPLIANCE WITH ACCEPTED STANDARDS.

The Finance Director shall comply with accepted accounting practices and standards to insure good internal control.
('71 Code, § 2-22) (Ord. 211, passed 1-19-72)

§ 37.02 RECEIPTS; RECORDS.

The Finance Director 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 Finance Director shall be delivered to the person making payment and shall specify the purpose for which the payment was made. The Finance Director shall keep 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 adopted by the town in its annual budget.
('71 Code, § 2-23) (Ord. 211, passed 1-19-72)

§ 37.03 ANNUAL INVENTORY OF TOWN EQUIPMENT.

The Finance Director shall prepare an annual physical inventory of all furniture, fixtures, and equipment owned by the town. The inventory shall show the identification number placed on each and every item of furniture, fixtures, and equipment. The inventory shall be checked annually.
('71 Code, § 2-24) (Ord. 211, passed 1-19-72)

§ 37.04 BANK ACCOUNTS; CHECK VOUCHERS.

(A) The Finance Director shall maintain necessary bank accounts for all funds of the town and shall require the necessary collateral for the public funds.
('71 Code, § 2-26)

(B) Check vouchers for the disbursement of funds for the town shall be prepared in three copies as follows.

(1) An original copy to be mailed or given to the payee.

(2) A second copy to be attached to the invoice or bill paid, showing necessary approval and filed alphabetically.

(3) The third copy to be filed numerically for each fund.
('71 Code, § 2-27) (Ord. 211, passed 1-19-72)

TAXATION

§ 37.10 PUBLIC SERVICE TAX.

(A) Definitions. For the purpose of this subchapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"ACCESS CHARGE" or "RIGHT OF ACCESS," "LOCAL TELEPHONE SERVICE," "PRIVATE COMMUNICATION SERVICE," "TELETYPEWRITER OR COMPUTER EXCHANGE SERVICE" and "TOLL TELEPHONE ACCESS" shall have the meanings set forth in Florida Statutes Subsection 203.012, as the same may be amended from time to time, which definitions are adopted and incorporated herein by reference.

"CLASS A TELECOMMUNICATION SERVICE." Local telephone service, toll telephone service, telegram or telegraph service, teletypewriter or computer exchange service or private communication service.

"CLASS B TELECOMMUNICATION SERVICE." Cellular mobile telephone or communication service; or specialized mobile radio, and pagers and paging service, including but not limited to "beepers" and any other form of mobile and portable one-way or two-way communication, but does not include services or equipment incidental to the telecommunication services enumerated in this subsection, such as maintenance of customer premises equipment, whether owned by the customer or not, or equipment sales or rental for which charges are separately stated, itemized, or described on the bill, invoice, or other tangible evidence of the provision of such service.

"ELECTRICITY." All electric current or energy for lighting, heating, cooking, power or any other purpose delivered to any purchaser thereof within the town.

"PURCHASE." Every act or transaction whereby possession of, utilization of, control over or title to electricity, telecommunication service and water service, and the duty and obligation to pay therefor, become 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, the state, the county or the town.

"PURCHASE WITHIN THE TOWN." Telecommunications service provided within the town, or, if the location of the telecommunications service provided cannot be determined, the total amount billed for such telecommunications service to a telephone or telephone number, a telecommunications number or device, or a customer's billing address located within the town. The following charges are excluded: public telephone charges collected on site, charges for any foreign exchange service or any private line service except when such services are used or sold as a substitute for any telephone company switched service or dedicated facility by which a telephone company provides a communication path, access charges, and any customer access line charges paid to a local telephone company.

"PURCHASER." Every person legally liable for the payment of electricity, telecommunication service or water service rendered to him by a seller, unless such person is an agency or instrumentality of the Government of the United States of America, the state, the county or the town.

"SELLER." Every person delivering eletricity, telecommunication service or water service to any purchaser thereof.

"WATER SERVICE." All water utilized for human consumption, fire protection, irrigation, consumption by business, consumption by industry or any other purpose delivered to any purchaser thereof for which the quantity utilized is measured by a water meter located within the town.

(B) Levy of Excise Taxes.

(1) There is hereby levied by the town on every purchase of electricity in the town, a tax of four percent of the payments received by the seller from the purchaser for electricity.

(2) There is hereby levied by the town on every purchase of water service in the town, a tax of six percent of the payments received by the seller from the purchaser for water service.

(3) There is hereby levied by the town a tax upon every "purchase within the town" of class A telecommunication service, which originates and terminates within the state, at the rate of seven percent of the total charge for such service.

(4) There is hereby levied by the town a tax upon every "purchase within the town" of class B telecommunication service, as defined herein, which originates and terminates within the state, at the rate of seven percent of the monthly recurring customer service charges excluding variable usage charges.

The purchase of local telephone service or other telecommunications service for use in the conduct of a telecommunications

service for hire or otherwise for resale shall be exempt from the tax imposed by this subsection.

(C) Discontinuance of Service for Failure to Pay Bill. If the purchaser fails, neglects or refuses to pay the excise tax prescribed by this section to the seller when such bill becomes due and payable, the seller is empowered to discontinue forthwith to make any further sales or to render further service to the purchaser until the total amount, including such excise tax shown upon such bill, has been paid in full. If the purchaser fails, neglects, or refuses to pay the excise tax prescribed by this section to the seller when such bill becomes due and payable, the town shall cause to be brought all suits and actions and shall take all necessary proceedings in the name of the town for the collection and recovery of such tax.

(D) Duty of Seller to Pay Excise Tax. The seller shall collect the excise tax prescribed under this section from such purchaser at the time of the payment of each such bill and remit the same to the finance director in accordance with the provisions of subsection (E) of this section; provided, that the seller shall have the right and privilege of assuming and paying such excise tax in lieu of collecting the same from the purchaser; provided further, that whenever the seller fails or neglects to collect such excise tax from the purchaser as provided in this section, the seller shall thereupon become liable for the payment of the amount thereof to the town to the same extent as if such excise tax has been collected from the purchaser; provided, however, that the seller shall not be liable for the payment of such tax upon uncollected charges.

(E) Seller to File Monthly Statement; Payment of Excise Tax. Every seller shall execute and file not later than the twentieth day of each month, at the office of the finance director, a sworn statement on a form prescribed by such office, setting forth the amount of such excise tax to which the town became entitled under the provisions of subsection (B) of this secdtion, on account of bills paid by purchasers during the preceding fiscal month. Contemporaneously with the filing of such statement, each seller shall pay the amount of such excise tax to the finance director to be deposited to the credit of such funds of the town and to be utilized for such purposes as the town commission may prescribe by ordinance or resolution.

(F) Records to be Kept by Seller; Inspection; Rules and Regulations. Every seller shall establish and maintain appropriate accounts and records showing in such detail as the finance director prescribes the amount of such excise tax payable to the town under the provisions of subsection (B) of this section. Such accounts and records shall be open to inspection by the finance director at all reasonable times. The finance director is authorized and empowered to promulgate from time to time such rules and regulations with respect to the establishment and maintenance of such accounts and records as the finance director deems necessary to carry into effect the purpose and intent of the provisions of this section.

(G) Seller's Collection Expense to be Recognized in Establishing Rates.

(1) All reasonable expense incurred by a seller in making the collections and remittances and in fulfilling the duties prescribed by this section, constitutes an operating expense and shall be accorded full recognition as such in the establishment of rates and charges for supplying electric and water service in the town.

(2) Each seller of telecommunication services may deduct and retain one percent of the amount of the tax collected and due to the town as compensation for records keeping and the collection and remittance of the tax.

(H) Violation or Failure to Comply with Section. No purchaser shall evade the payment of the excise tax levied in this section, or of any part thereof, or fail or neglect to pay such excise tax within 30 days after the same has become due and payable, nor shall any seller fail or refuse to pay to the town all amounts of excise tax payable to the town by the seller under this section or fail or refuse to file such monthly sworn statement, or set forth any erroneous or false information therein with intent to defraud the town or refuse to permit the finance director to examine the accounts and records to be kept as required by subsection (F) of this section. ('71 Code, §§21-6--21-10) (Ord. 183, passed 11-4-70; Amd. Ord. 188, passed 2-3-71; Amd. Ord. 86-35, passed 1-5-87)

§ 37.11 EXCISE TAX ON INSURANCE COMPANIES.

(A) Casualty risks insurance.

(1) There is hereby assessed, imposed, and levied on every insurance company, corporation, or other insurer now engaging in or carrying on, or which shall hereafter engage in or carry on, the business of insuring with respect to casualty risks, as shown by the records of the State Insurance Commissioner, an excise or license tax in addition to any license tax or excise tax now levied by the town. This tax shall be in the amount of .85% of the gross amount of receipts of premiums from policyholders on all premiums collected on casualty insurance policies covering property within the corporate limits of the town.

(2) The license or excise tax herein levied shall be due and payable annually on the first day of March of each year hereafter.
('71 Code, § 21-24)

(B) Property insurance.

(1) There is hereby assessed, imposed, and levied on every insurance company, corporation, or other insurer now engaging in or carrying on, or which shall hereafter engage in or carry on, the business of property insurance, as shown by the records of the State Insurance Commissioner, an excise or license tax in addition to any license tax, or excise tax now levied by the town. This tax shall be in the amount of 1.85% of the gross amount of receipts of premiums from policyholders on all premiums collected on property insurance policies covering property within the corporate limits of the town.

(2) The license or excise tax herein levied shall be due and payable annually on the first day of March of each year hereafter.
('71 Code, § 21-25) (Ord. 75-15, passed 9-10-75; Amd. Ord. 75-16, passed 9-10-75; Amd. Ord. 88-33, passed 3-6-88)

§ 37.15 ADDITIONAL HOMESTEAD EXEMPTION FOR PERSONS 65 AND OLDER.

In accordance with Section 6(f), Article VII, Florida Constitution, and § 196.075, Florida Statutes, any person 65 years or over who has legal or equitable title to real estate located within the Town of Longboat Key and maintains thereon his/her permanent residence which residence qualifies for and receives homestead exemption pursuant to § 6(a), Art. VII, Florida Constitution, and whose household income does not exceed $20,000 shall be entitled to make application for an additional homestead exemption of $25,000. This additional homestead exemption, if granted shall be applicable to all ad valorem tax millage rates levied by the town.

(A) Definitions. For the purpose of this subsection, the following words and phrases shall have the meanings respectively ascribed to them as in Section 196.075, F.S.:

"HOUSEHOLD." A person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling.

"HOUSEHOLD INCOME." The adjusted gross income, as defined in Section 62 of the United States Internal Revenue Code, of all members of a household.

(B) Requirements. Every person claiming the additional homestead exemption pursuant to this section is subject to the following provisions.

(1) An application therefore must be filed with the County Property Appraiser not later than March 1 of each year for which such exemption is claimed. Such application shall include a sworn statement of household income for all members of the household and shall be filed on a form prescribed by the Florida Department of Revenue.

(2) On or before June 1 of each such year every applicant must file supporting documentation with the Property Appraiser. Said documentation shall include copies of all federal income tax returns for the prior year, wage and earning statements (W-2 forms), and any other documentation deemed necessary and required by the Property Appraiser, including documentation necessary to verify the income received by all members of the household for the prior year. The taxpayer's statement shall attest to the accuracy of such copies and documentation.

(3) Failure to file the application and sworn statement by March 1 or failure to file the required supporting documentation by June 1 of any given year shall constitute a waiver of the additional exemption privilege for that year.

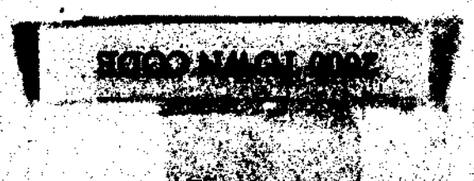
(4) If title is held jointly with right of survivorship, the person residing on the property and otherwise qualifying may receive the entire amount of the additional homestead exemption.

(5) Receipt of additional homestead exemption provided for in this section shall be subject to the provisions of §§ 196.131 and 196.161, F.S. pertaining to wrongful receipt of a homestead exemption.
(Ord. 99-31, passed 11-16-99)

Statutory reference:
Maintenance of Police Officers' Retirement Trust Fund through excise tax on certain insurance companies, see F.S.A. § 185.07
Maintenance of Firefighters' Retirement Trust Fund through excise tax on certain insurance companies, see F.S.A. § 175.091

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Chapter 38: PURCHASING DEPARTMENT

Section

General Provisions

38.01 Purpose

Organization

38.10 Department of Purchasing
38.11 Duties of Purchasing Agent
38.12 Encumbrance of funds
38.13 Department head purchasing authority
38.14 Public access to procurement information

Purchasing Department Procedures

38.20 Standard objectives
38.21 Routine purchases under $1,000
38.22 Purchases under $10,000
38.23 Purchases over $10,000
38.24 Purchases of goods through public entity bid
38.25 Blanket purchase orders
38.26 Sole-source purchases
38.30 Invitations for bids or requests for proposals
38.31 Direct negotiation
38.32 Responsibility of bidders and offerors
38.33 Bond requirements
38.34 Authority of the Purchasing Agent to settle bid protests and contract claims
38.35 Retention of procurement records

Purchases of Real Property

38.37 Procedures

GENERAL PROVISIONS

§ 38.01 PURPOSE.

The purpose of this chapter is the establishment of a centralized purchasing department in order to provide for the fair and equitable treatment of all persons involved in public purchasing by the town, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity. (References are to Model Procurement Code)
(Ord. 84-17, 10-1-84)

ORGANIZATION

§ 38.10 DEPARTMENT OF PURCHASING.

There is created the Department of Purchasing within the town with the position of Purchasing Director which will report directly to the Town Manager, and if there is no Director, the position of Purchasing Agent, which will report to the Town Manager's designee. The Purchasing Director, or Agent if there is no Director, shall serve as the principal public purchasing official (hereinafter referred to as Purchasing Agent) for the town, and shall be responsible for the procurement of supplies, services, and construction in accordance with this chapter, as well as the management and disposal of supplies. (2-204), (2-205)
(Ord. 84-17, passed 10-1-84; Amd. Ord. 92-11, passed 3-2-92)

§ 38.11 DUTIES OF PURCHASING AGENT.

The duties of the Purchasing Agent are governed by the Town Manager or designee and set forth in the job description. These duties include but are not limited to the following:
(2-204), (4-201), (4-202), (8-201), (10-201)

(A) Purchase, supervise, or monitor the purchasing of all supplies, services, and construction needed by the town;

(B) Exercise direct supervision over any purchase to the town's central stores;

(C) Sell, trade, or otherwise dispose of surplus supplies or equipment belonging to the town;

(D) Establish and maintain programs for specifications development, contract administration, and inspection and acceptance of goods and supplies, in cooperation with the using department;

(E) Keep informed of current developments in the field of purchasing and secure for the town the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition, and by private businesses and organizations;

(F) Prescribe and maintain such forms as are reasonably necessary to the effective operation of the purchasing system;

(G) Prepare a standard procedures manual for using departments and vendors;

(H) Prepare and maintain a vendor's catalog file;

(I) Maintain a vendor roster of current responsible vendors capable of supplying supplies and services;

(J) Explore and utilize bulk purchases where possible to take full advantage of discounts;

(K) Procure for the town all state and federal tax exemptions to which it is entitled;

(L) Join with other units of government in cooperative purchasing plans, when the best interest of the town would be served thereby;

(M) Consistent with this chapter, and with the approval of the Town Manager, the Purchasing Agent may adopt operational procedures relating to the execution of purchasing duties;

(N) Perform such other functions as are necessary to effectively implement this chapter and a centralized purchasing program for the town;

(O) Keep up-to-date on Florida state purchasing laws, including the Consultants' Competitive Negotiation Act, F.S. § 287.055.
(Ord. 84-17, passed 10-1-84; Amd. Ord. 92-11, passed 3-2-92)

§ 38.12 ENCUMBRANCE OF FUNDS.

(A) No department head shall award any contract, issue any order for delivery on a contract, or make any open market purchase, until the department head obtains certification from the Finance Department that there is a sufficient unencumbered appropriation balance to defray the amount of such order, pursuant to Article V, § 9, of the Longboat Key Charter.

(B) Any purchase which would exceed the amount budgeted by up to $5,000 for that item or service, and where sufficient unencumbered appropriations remain within the department, office, or agency, requires the Town Manager's authorization pursuant to Article V, § 9(d), of the Longboat Key Charter.

(C) Any purchase which would exceed the amount budgeted by $5,000 or more for that item or service, and where sufficient unencumbered appropriations remain within a department, office, or agency, may be authorized by the Town Commission upon a written request by the Town Manager to transfer funds, pursuant to Article V, § 9(d) of the Longboat Key Charter.

(D) Any purchase which would exceed the amount budgeted by $5,000 or more for that item or service and where there are insufficient unencumbered funds within a department, office or agency and there are sufficient unencumbered funds within another department, office, or agency, may be authorized by resolution by the Town Commission upon a written request by the Town Manager to transfer funds, pursuant to Article V, § 9(d) of the Longboat Key Charter.

(E) Any purchase which would exceed the amount budgeted for that item or service and for which there are insufficient unencumbered funds within the department, office, or agency, will require supplemental appropriations which shall be in accordance with Article V, § 9 of the Longboat Key Charter.

(F) Approval by the Town Manager is required for all purchases. In addition thereto, the Town Commission may reserve its authority to approve purchases, in whole or in part, at the time of the annual budget approval.

(G) All purchases in excess of $1,000, unless emergency in nature, shall be processed through the Purchasing Department and in accordance with the provisions of this Chapter. Any purchase or contract made contrary to the provisions hereof shall not be binding on the town unless approved by the Town Manager or Town Commission or in accordance with the town Charter and Code of Ordinances.
(Ord. 84-17, passed 10-1-84; Amd. Ord. 92-11, passed 3-2-92; Amd. Ord. 96-11, passed 7-1-96)

§ 38.13 DEPARTMENT HEAD PURCHASING AUTHORITY.

(A) A department head, with prior approval of the Town Manager, may make or authorize others to make procurements of supplies, services, or construction items in amounts of $1,000 or less per vendor, on a routine basis to maintain work flow and services. The purchases are to be reviewed periodically by the Purchasing Agent and the Finance Department for adherence to competitive and fair purchasing practices.

(B) The department head may make emergency purchases in excess of $1,000 when there exists a threat to public health, welfare, or safety with prior, written approval of the Town Manager. Emergency purchases over $1,000 shall be made with such competition as is practicable under the circumstances. Written determination of the basis for the emergency purchase and for the selection of the particular vendor/contractor, as well as any quotations obtained, shall be submitted to the Purchasing Department with the requisition for a confirming purchase order.
(Ord. 84-17, passed 10-1-84; Amd. Ord. 86-13, passed 6-5-86; Amd. Ord. 92-11, passed 3-2-92; Amd. Ord. 96-11, passed 7-1-96)

§ 38.14 PUBLIC ACCESS TO PROCUREMENT INFORMATION.

Procurement information shall be a public record to the extent provided for by applicable Florida law and all town records by this Code and shall be available to the public as provided therein. (1-401)
(Ord. 84-17, passed 10-1-84; Amd. Ord. 86-13, passed 6-5-86)

PURCHASING DEPARTMENT PROCEDURES

§ 38.20 STANDARD OBJECTIVES.

It is the objective of the Purchasing Department to secure the lowest possible price, or discounts whenever possible, on the procurement of goods and services that meet the needs of the town.
(Ord. 84-17, passed 10-1-84)

§ 38.21 ROUTINE PURCHASES UNDER $1,000.

Day-to-day purchases of supplies and services up to $1,000 shall be handled on a request-to-pay basis. These routine purchases will be with established vendors after satisfactory prices have been agreed upon, using competitive and fair purchasing practices. A requisition with the invoice and any quotations should be submitted to the Purchasing Department for processing.
(Ord. 84-17, passed 10-1-84; Amd. Ord. 92-11, passed 3-2-92; Amd. Ord. 96-11, passed 7-1-96)

§ 38.22 PURCHASES UNDER $10,000.

Requisitions for purchases over $1,000 and less than $10,000 shall be submitted to the Purchasing Department for competitive bidding and purchase order issuance. At least three quotations (verbal or written) shall be obtained by either the using department or the Purchasing Agent and included on the requisition. Written quotations are mandatory for capital outlay purchases and may be required by the Purchasing Agent for other purchases. Note: The purchasing procedures as outlined in the standard purchasing procedures manual, issued by the Purchasing Department, shall be followed. The Purchasing Agent reserves the right to review and make recommendations based on competitive and fair purchasing practices.
(Ord. 84-17, passed 10-1-84; Amd. Ord. 86-13, passed 6-5-86; Amd. Ord. 92-11, passed 3-2-92; Amd. Ord. 96-11, passed 7-1-96)

§ 38.23 PURCHASES OVER $10,000.

(A) Purchases for goods, services, or construction totaling $10,000 or more will be subject to formal, sealed bid. Specifications shall be supplied by the using department and reviewed by the Purchasing Department for adherence to competitive and fair purchasing practices. All other bid documents shall be developed by the Purchasing Department. Final bid documents will be approved by the using department head prior to advertising. Note: The purchasing procedures as outlined in the standard purchasing procedures manual, issued by the Purchasing Department, shall be followed.

(B) The department head's decision to award shall be based on the evaluation criteria stated in the bid and shall be submitted in writing to the Purchasing Agent. Town Manager approval of the department head's recommendation is required prior to purchase.
(Ord. 84-17, passed 10-1-84; Amd. Ord. 86-13, passed 6-5-86; Amd. Ord. 92-11, passed 3-2-92)

§ 38.24 PURCHASES OF GOODS THROUGH PUBLIC ENTITY BID.

(A) Regular and capital outlay requisitions may be specified for purchase through state contract or other Florida public entities' bids when it is obvious that the contract price is the lowest available. Purchase through state contract or other Florida public entities' bids will circumvent the necessity for obtaining quotations or sealed bids, provided the entity's bidding procedure meets that of the town.

(B) Items over $10,000 must be approved by the Town Manager for purchase under state contract or other Florida public entities' bids.
(Ord. 84-17, passed 10-1-84; Amd. Ord. 86-13, passed 6-5-86; Amd. Ord. 92-11, passed 3-2-92)

§ 38.25 BLANKET PURCHASE ORDERS.

(A) Blanket purchase orders will be placed with selected vendors for goods and services to provide the best combination of convenience, service, and price or price discounts. A blanket purchase order may be with one vendor for miscellaneous routine purchases up to $1,000 at a time or with one vendor for a specific item or service to be purchased throughout the year. If the blanket purchase order is for a specific item, competitive quotes are required, consistent with this Chapter. Departments should submit a requisition for any blanket purchase orders. A request for partial payment shall be completed by the using department and submitted to the Purchasing Department to cover purchases against blanket purchase orders.

(B) Requisitions for blanket purchase orders over $10,000 must be approved by the Town Manager prior to submitting to the Purchasing Department and may require a sealed bid.
(Ord. 84-17, passed 10-1-84; Amd. Ord. 92-11, passed 3-2-92; Amd. Ord. 96-11, passed 7-1-96)

§ 38.26 SOLE-SOURCE PURCHASES.

(A) A purchase order over $1,000 may be issued without competition for purchase when the Purchasing Agent determines in writing, after conducting a good faith review of available sources, that there is only one source. The supporting information becomes a permanent part of the Purchasing Department files.

(B) Town Manager approval is required for purchases over $10,000 from a sole source.
(Ord. 84-17, passed 10-1-84; Amd. Ord. 86-13, passed 6-5-86; Amd. Ord. 92-11, passed 3-2-92; Amd. Ord. 96-11, passed 7-1-96)

§ 38.30 INVITATIONS FOR BIDS OR REQUESTS FOR PROPOSALS.

An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected; in whole or in part, when it is for good cause and in the best interests of the town. The reasons therefor shall be made part of the contract file and retained by the Purchasing Department. (3-301)
(Ord. 84-17, passed 10-1-84; Amd. Ord. 92-11, passed 3-2-92)

§ 38.31 DIRECT NEGOTIATION.

If, due to time constraints or other circumstances, resolicitation for bids is not in the best interest of the town, the Town Manager may authorize direct negotiation for the procurement of goods, services, or construction, and waive any or all requirements set forth in this chapter that might otherwise apply to the procurement.
(Ord. 84-17, passed 10-1-84; Amd. Ord. 92-11, passed 3-2-92)

§ 38.32 RESPONSIBILITY OF BIDDERS AND OFFERORS.

If a bidder or offeror who otherwise would have been awarded a contract is found not responsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the contracting department and the Purchasing Agent. (Ord. 84-17, passed 10-1-84; Amd. Ord. 92-11, passed 3-2-92)

§ 38.33 BOND REQUIREMENTS.

The Town Commission may require any bond which is deemed appropriate to protect the interests of the town in the completion of any contract for goods, services, or construction (i.e., performance bond, payment bond, bid bond, etc.).
(Ord. 84-17, passed 10-1-84; Am. Ord. 92-11, passed 3-2-92)

§ 38.34 AUTHORITY OF THE PURCHASING AGENT TO SETTLE BID PROTEST AND CONTRACT CLAIMS.

The Purchasing Agent, with the concurrence of the Town Manager or his designee, is authorized to settle any protest regarding the solicitation or award of a town contract, or any claims arising out of the performance of a town contract, prior to an appeal to the Town Commission within such limits as may be established by the Town Commission by resolution. (9-101.2)
(Ord. 84-17, passed 10-1-84; Am. Ord. 92-11, passed 3-2-92)

§ 38.35 RETENTION OF PROCUREMENT RECORDS.

All procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the Department of State, Division of Archives, for the State of Florida. All retained documents shall be made available to the Department of State upon request and proper receipt therefor. (3-703)
(Ord. 84-17, passed 10-1-84; Am. Ord. 92-11, passed 3-2-92)

PURCHASES OF REAL PROPERTY

§ 38.37 PROCEDURES.

(A) Purpose. The purpose of this subchapter is to provide procedures for the purchase of real property by the town to be used for lawful municipal purposes.

(B) Procedure for Purchases of Real Property.

(1) The Town Commission is authorized to approve the purchase of real property (which may include lands, buildings and associated personal property) for use by the town for any lawful municipal purpose.

(2) Prior to authorizing any purchase of real property, the Town Commission shall direct that an appraisal of the property be secured from a professional appraiser who is a member of an organization listed in F.S. § 253.025(7)(b). If the purchase price exceeds $500,000, a minimum of two appraisals shall be obtained. The appraisal(s) shall be provided to the Town Manager at least three days prior to the final action by the Town Commission on the proposed purchase. A copy of the appraisal shall also be available in Town Hall for public inspection. The Town Commission may by a majority vote exempt a purchase in the amount of $100,000 or less from the requirement of the appraisal stated above.

(3) The Town Commission shall consider the appraisal(s), any other information provided by the Town Manager, his staff or consultant and shall receive and consider public comment on the decision to purchase.

(4) If the Commission is to consider purchase of real property pursuant to this subsection at a meeting other than a regular meeting of the Town Commission, then the Town Manager shall publish, at least seven days prior to the proposed special meeting, a notice in a newspaper of general circulation within the town that the Commission is considering the purchase of real property which shall be briefly described, and the appraisal(s) will be available for public inspection as provided herein.

(5) The Town Commission may purchase real property pursuant to this subsection by a vote of not less than five affirmative votes.

(C) Additional Procedures. Nothing contained in this section shall be construed to prohibit or limit the town from utilizing any other procedure for the purchase of real property which may be provided by state law, including but not limited to F.S. § 166.045.
(Ord. 91-12, passed 7-3-91)

Chapter 39: CODE OF ETHICS

Section

39.01	Declaration of purpose and policy
39.02	Definitions
39.03	Establishment
39.04	Responsibilities of public office
39.05	Fair and equal treatment
39.06	Standards of conduct; conflicts of interest
39.07	Voting conflicts
39.08	Influence of board members by Town Commissioners; appearance before boards
39.09	Applicability of the code
39.10	Relationship to state statute
39.11	Copies furnished
39.12	Special Masters
39.13	Subpoena power
39.14	Appeals

§ 39.01 DECLARATION OF PURPOSE AND POLICY.

The purpose of this chapter is to promote the welfare of the citizens of the town through the adoption of a code of ethics to govern all town officers and town employees, employed either on a part-time or full-time basis by the town. Within this framework, the general objectives of this chapter are as follows:

(A) To facilitate the proper operation of municipal government by providing officers and employees who are independent, impartial and responsible to the people, and able to make governmental decisions and formulate policy within the established channels of governmental structure.

(B) To ensure that public office or public employment not be used for private gain other than as provided for by law.

(C) To ensure that the financial interests of employees and public office holders present neither a conflict nor the appearance of a conflict with the public trust.

(D) To foster continued recognition of the concept that public employees and public office holders are agents of the public and hold office or employment for the benefit of the public.

(E) To enhance public confidence in the integrity of its municipal government

(F) To promote a recommitment to the concept that public employees and public office holders are required to uphold the Constitution of the United States, the Constitution of the State of Florida and the Charter of the town, and are required to impartially carry out and enforce the laws of the nation, the state and the town.

(G) To continue high moral standards in government.

To this end, there is established a code of ethics for the town.
(Ord. 90-13, passed 5.7-90; Amd. Ord. 91-28, passed 16-92)

§ 39.02 DEFINITIONS.

When used in this chapter:

(A) "BUSINESS ENTITY." Any person or individual, proprietorship, partnership, corporation, association or any organization which is engaged in business.

(B) "CONFLICT" or "CONFLICT OF INTEREST." A situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

(C) "GOVERNMENTAL BODY." The town or any of its departments, agencies, commissions, authorities or boards.

(D) "REPRESENT" or "REPRESENTATION." Actual physical attendance on behalf of a client in a town proceeding, the writing of letters or filing of documents on behalf of a client, and personal communications made with the officers or employees of the town on behalf of a client.

(E) "TOWN EMPLOYEE." Any person employed by the town or any of its departments, agencies, commissions, authorities or boards, whether on a full-time or part-time basis.

(F) "TOWN OFFICER." Any person elected or appointed to any public office or public body of the town, whether paid or unpaid, and whether part-time or full-time, including the Town Commission, Planning and Zoning Board, Code Enforcement Board, Zoning Board of Adjustment, Pension Board, and the Investment Advisory Board, but excluding any person serving on an advisory body not stated above or required by Florida law; except that any person serving on an advisory body shall be subject to the requirements of the ethics code, except for § 39.06 (H)(1).

(Ord. 90-13, passed 5-7-90; Amd. Ord. 91-28, passed 1-6-92; Amd. Ord. 99-19, passed 6-7-99)

§ 39.03 ESTABLISHMENT.

The requirements set forth in this chapter shall constitute a code of ethics establishing reasonable standards and guidelines for the ethical conduct of town officers and employees.
(Ord. 90-13, passed 5-7-90)

§ 39.04 RESPONSIBILITIES OF PUBLIC OFFICE.

Town officers and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this state and to carry out impartially the laws of the nation, state and municipality and thus to foster respect for all government. As such, they are bound to observe the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern.
(Ord. 90-13, passed 5-7-90)

§ 39.05 FAIR AND EQUAL TREATMENT.

(A) Influencing Appointments. Canvassing the members of the Town Commission, directly or through a third party, in order to obtain preferential consideration in connection with any appointment to and any application for employment in the town service shall disqualify the candidate for appointment except with reference to positions filled by appointment by the Town Commission. Town officers and employees shall not canvass any Town Commissioner on behalf of a candidate for appointment to the town service. Town Commissioners shall not respond to canvassing by granting any special consideration, treatment, or advantage to the candidate which is not available to every other candidate. Members of the Town Commission shall adhere to Article II, § 13, of the Town Charter, entitled "Relationship of Town Commission With Administration."

(B) Use of Property. No town officer or employee shall use, request or permit the use of town-owned vehicles, equipment, materials or property for personal convenience or profit; except when such services are available to the public generally or are provided as town policy for the use of such officer, employee or others in the conduct of official business. Notwithstanding anything herein to the contrary, the Town Manager may authorize the personal use of the following town-owned property by town officers or employees upon receipt of a written request for such use and an authorization for the town to collect payment for any damages to the town property by payroll deduction:

(1) Hand tools not requiring a power source to operate;

(2) Folding chairs and tables;

(3) Books;

(4) On-premises, after-hours use of typewriters, drafting boards, calculators and similar nonexpendable office equipment.

(C) Obligations to Citizens. No town officer or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

(Ord. 90-13, passed 5-7-90; Amd. Ord. 91-28, passed 1-6-92)

§ 39.06 STANDARDS OF CONDUCT; CONFLICTS OF INTEREST.

(A) Solicitation or Acceptance of Gifts.

(1) No town officer or employee, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the town officer or employee, or candidate would be influenced thereby.

(2) No town officer or employee shall accept any gift in excess of $100 in value, whether in the form of entertainment, service, loan, thing, or promise, from any person, firm or cor-

poration which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the town.

(B) Doing Business With Town. No employee of the town acting in his official capacity as a purchasing agent, or town officer acting in his official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for the town from any business entity of which he or his spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or his spouse or child, or any combination of them, has a material interest. Nor shall a town officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods or services of the town if he is serving as an officer or employee of the town. This subsection shall not affect or be construed to prohibit contracts entered into prior to:

(1) October 1, 1975;

(2) Qualification for elective office;

(3) Appointment to public office;

(4) Beginning public employment.

(C) Unauthorized Compensation. No town officer or employee or his spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such officer or employee knows or, with the exercise of reasonable care, should know that it was given to influence a vote or other action in which the officer or employee was expected to participate in his official capacity.

(D) Salary and Expenses. No town officer or employee shall be prohibited from voting on a matter affecting his salary, expenses, or other compensation as a town officer, as provided by law.

(E) Misuse of Public Position. No town officer or employee of the town shall corruptly use or attempt to use his official position or any property or resource which may be within his trust, or perform his official duties, to secure a special privilege, benefit, or exemption for himself or others. This section shall not be construed to conflict with F.S. § 104.31.

(F) Conflicting Employment or Contractual Relationship.

(1) No town officer or employee shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, the town, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the town; nor shall an officer or employee of the town have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his private interests and the performance of his public duties or that would impede the full and faithful discharge of his public duties.

(2) This subsection shall not prohibit a town officer or employee from practicing in a particular profession or occupation when such practice by persons holding such town office or employment is required or permitted by law or ordinance.

(3) No Town Commissioner may represent another person or entity for compensation before the Town Commission or any town board for a period of two years following vacation of office.

(G) Disclosure or Use of Certain Information. No town officer or employee shall disclose or use information not available to members of the general public and gained by reason of his official position for his personal gain or benefit or for the personal gain or benefit of any other person or business entity.

(H) Disclosure of Specified Interests.

(1) If a town officer or employee is an officer, director, partner, proprietor, associate, or general agent (other than a resident agent solely for service of process) of, or owns a material interest in, any business entity which is granted a privilege to operate in this state, he shall file with the Town Clerk a statement disclosing such facts. Such statement shall be filed no later than 45 days after becoming an officer or employee or after the acquisition of such position or material interest. The statement shall give the name, address, and principal business activity of the business entity and shall state the position held with such business entity or the fact that a material interest is owned and the nature of that interest. New appointees to town office or new town employees shall file the statement required herein, if applicable, no later than 45 days after their appointment or after the date their employment begins.

(2) A person seeking to qualify as a candidate for nomination or election to any office shall file a like statement along with, and as a part of, the required qualification papers. Persons seeking to qualify as a candidate for nomination or election to town office, and officers and employees of the town, shall file their statements with the Town Clerk and the Supervisor of Elections of the county in which they are principally employed or are residents in accordance with Florida law.

(I) Employees Holding Office. No employee of the town shall hold office as a member of the Town Commission while, at the same time, continuing as an employee of the town.

(J) Exemption. The requirements of subsections (B) and (F) as they pertain to persons serving on advisory boards may be waived in a particular instance by the Town Commission upon a full disclosure of the transaction or relationship to the Town Commission prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of the Town Commission. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person. In addition, no person shall be held in violation of subsection (B) or subsection (F) if:

(1) Within the town the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the town.

(2) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

(a) The official or his spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;

(b) The official or his spouse or child has in no way used or attempted to use his influence to persuade the town or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

(c) The official, prior to or at the time of the submission of the bid, has filed a statement with the Supervisor of Elections of Sarasota or Manatee County disclosing his interest, or the interest of his spouse or child, and the nature of the intended business.

(3) The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.

(4) An emergency purchase or contract which would otherwise violate a provision of subsection (B) or subsection (F) must be made in order to protect the health, safety, or welfare of the citizens of the town.

(5) The business entity involved is the only source of supply within the town and there is full disclosure by the officer or employee of his interest in the business entity to the Town Commission prior to the purchase, rental, sale, leasing, or other business being transacted.

(6) The total amount of the subject transaction does not exceed $500.

(7) The fact that a town officer or member of a town board or body, is a stockholder, officer, or director of a bank will not bar such bank from qualifying as a depository of funds coming under the jurisdiction of any such town board or body, provided it appears in the records of the town that the Town Commission has determined that such officer or member of a town beard or body has not favored such bank over other qualified banks.

(K) Additional Exemption. No elected Town Commissioner shall be held in violation of subsection (F) (1) or (F) (2) if the Commissioner maintains an employment relationship with an entity which is currently a tax-exempt organization under § 501(c) of the Internal Revenue Code and which contracts with or otherwise enters into a business relationship with the town and:

(1) The Town Commissioner's employment is not directly or indirectly compensated as a result of such contract or business relationship;

(2) The Town Commissioner has in no way participated in the town's decision to contract or to enter into the business relationship with his employer, whether by participating in discussion at the meeting, by communicating with officers or employees of the town or otherwise; and

(3) The Town Commissioner abstains from voting on any matter which may come before the town involving the Town Commissioner's employer, publicly states to the assembly the nature of his interest in the matter from which he is abstaining, and files a written memorandum as provided in F.S. § 112.3143, (3).

(Ord. 90-13, passed 5-7-90; Amd. Ord. 96-24, passed 12-2-96)

§ 39.07 VOTING CONFLICTS.

(A) No town officer is prohibited from voting in his official capacity on any matter, except that no town officer shall vote in his official capacity upon any measure which inures to his special private gain or loss or shall knowingly vote in his official capacity upon any measure which inures to the special gain or loss of any principal, other than an agency, as defined in Chapter 112.312(2), F.S., by whom he is retained.

(B) Any town officer abstaining pursuant to subsection (A) of this section shall, prior to the vote being taken, publicly state to the assembly the nature of his interest in the matter from which he is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(C) Any Town Commissioner voting in his official capacity on a matter or measure which inures to the special gain or loss of any person or business entity from whom he has received a campaign contribution as defined in Chapter 106.011(3), in excess of $100 within two years prior to the time the vote is taken shall disclose such fact on the record of the Commission prior to the vote. He shall also disclose any such contribution if received from an officer, director, major stockholder, general or limited partner (if known), or any other principal of any such contributing business entity.

(D) No appointed town officer shall participate in any matter which inures to his special private gain or loss or the special gain or loss of any principal by whom he is retained, without first disclosing the nature of his interest in the matter and the nature of the factual situation in which the regard for his private interest tends to lead to a disregard of his public duty or the public interest. Such disclosure shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting and shall be incorporated in the minutes; if the disclosure is initially made orally at a meeting attended by the officer, the written memorandum disclosing the nature of the conflict shall be filed within 15 days with the person responsible for recording the minutes of the meeting and shall be incorporated in the minutes. A copy of such memorandum, which shall become a public record upon filing, shall immediately be provided to the other members of the agency and shall be read publicly at the meeting prior to the consideration of the matter. For purposes of this paragraph, the term "participate" means any attempt to influence the decision by oral or written communication whether made by the officer or at his direction.

(E) Whenever a town officer or former town officer is being considered for appointment or reappointment to public office, the appointing body shall consider the number and nature of the memoranda of conflict previously filed under this section by the officer.
(Ord. 90-13, passed 5-7-90; Amd. Ord. 91-28, passed 1-6-92; Amd. Ord. 96-24, passed 12-2-96)

§ 39.08 INFLUENCE OF BOARD MEMBERS BY TOWN COMMISSIONERS; APPEARANCE BEFORE BOARDS.

(A) Town Commissioners are hereby prohibited from:

(1) Attempting directly or indirectly to influence the decision or official act of any member of any board or committee of the town;

(2) Appearing before any such board except upon invitation of a majority of the members of such Board; provided, however, that if a Town Commissioner shall appear before such Board without invitation, he shall be presumed to have a financial or personal interest in any matter which he shall have advocated or espoused before the Board.

(B) Excepted from the provisions hereof is participation by the mayor or members of the Town Commission in the acts and deliberations of any board of which they are appointed regular, or ex officio, or liaison members of the Board.

(C) Violations of this section shall be deemed a misuse of public position as set forth in § 39.06(E) above.
(Ord. 90-13, passed 5-7-90; Amd. Ord. 91-28, passed 1-6-92)

§ 39.09 APPLICABILITY OF THE CODE.

When a Town Commissioner or other officer or employee has doubt as to the applicability of a provision of this code to a particular situation, he shall apply to the Town Attorney for an advisory opinion and be guided by that opinion when given. The Town Attorney may refer the request to a Special Master chosen pursuant to Section 39.12. The Commissioner or other officer or employee shall have the opportunity to present his interpretation of the facts at issue and of the applicable provisions of the code before such advisory decision is made. This code shall be operative in all instances covered by its provisions except when superseded by an applicable statutory or charter provision.
(Ord. 90-13, passed 5-7-90; Amd. Ord. 99-19, passed 6-7-99)

§ 39.10 RELATIONSHIP TO STATE STATUTE.

To the extent of any conflict between F.S. Chapter 112, (1987), as it may be amended from time to time, and this code, Chapter 112 shall apply, except that any provision of this code, which is more stringent than or in addition to the requirements of Chapter 112 shall apply if not in conflict with Chapter 112. (Ord. 90-13, passed 5-7-90)

§ 39.11 COPIES FURNISHED.

A copy of this ethics code shall be furnished to all new town officers and town employees prior to assumption of any official duties.
(Ord. 90-13, passed 5-7-90)

§ 39.12 SPECIAL MASTERS.

(A) Special Masters. The Town Commission shall appoint a minimum of three independent Special Masters selected on the basis of their qualifications. When an ethics complaint is filed which is within the jurisdiction of the Special Master as set forth below, the Special Master shall be chosen by lot. Special Masters may conduct investigations upon complaints or information received, and may subpoena evidence and swear witnesses. Special Masters shall cause to be kept accurate and complete minutes of any and all public hearings.

(B) Ethics Complaints concerning Elected Officials, Candidates for Town Commission, and Advisory Board or Committee Members.

(1) Upon the filing with the Town Clerk of a written, sworn complaint of any person concerning an alleged ethical breach by a town officer, candidate for Town Commission, or advisory board or committee member, the Town Clerk shall present the complaint to the Town Attorney, who, within five days of receipt of the complaint, shall cause a copy to be delivered to the alleged violator. If the facts contained within the complaint, if true, set forth a violation of the Town's Ethics Code, the Town Attorney shall refer the matter to a Special Master who shall be chosen by lot by the Town Clerk. The Special Master, once selected, shall investigate the alleged violation of this chapter in accordance with the procedures set forth herein. All proceedings, the complaint, and other records relating to the preliminary investigation as provided herein, including a dismissal of the complaint, shall be open to the public. In no event shall a complaint under this section against a candidate in any town election be filed or the filing of or intention of filing such a complaint be disclosed on the day of any such election or within the five days immediately preceding the date of the election.

(2) (a) A preliminary investigation shall first be undertaken by the Special Master to determine if the facts alleged in the complaint constitute probable cause to believe that an ethical violation has occurred. If upon completion of the preliminary investigation the Special Master finds no probable cause to believe that this chapter has been violated, the Special Master shall dismiss the complaint stating with particularity the reasons for dismissal of the complaint. The complaint, together with a written statement of the findings of the preliminary investigation and a summary of the facts, shall be transmitted to the complainant and the alleged violator.

(b) If the Special Master finds from the preliminary investigation probable cause to believe that this chapter has been violated, he shall so notify the complainant and the alleged violator in writing. Such notification and all documents made or received in the disposition of the complaint shall be public records.

(c) Upon request submitted to the Special Master in writing, any person who the Special Master finds probable cause to believe has violated any provision of this chapter shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if request therefor is not received by the Special Master within 14 days following the mailing of the probable cause notification required by this section; however, the Special Master may on his own motion require a public hearing and may conduct such further investigation as he deems appropriate and necessary. The complainant and alleged violator

shall be given notice in writing of the date and time set for such public hearing at least 10 days before the public hearing is held.

(d) The hearing shall be conducted in accordance with all requirements of due process of law and in accordance with any written rules and regulations that have been promulgated by the Special Master and approved by the Town Commission. Any person filing such a sworn complaint and any alleged violator may appear before the Special Master in person or by counsel and shall be entitled to question witnesses and present evidence in accordance with any rules that have been adopted. Within 10 days after the public hearing, the Special Master shall make and promulgate written findings of fact and conclusions based thereon, including a determination as to the propriety of the conduct of the alleged violator, all of which shall be transmitted to the complainant, the alleged violator, the Town Commission, and the Town Manager.

(e) In any case in which the Special Master finds probable cause to believe a violation of criminal law has been committed by an alleged violator, or where the Special Master finds probable cause to believe that a complainant has committed perjury in regard to any document filed with or any testimony given before the Special Master, he shall refer such evidence to the appropriate law enforcement agency for prosecution.

(3) Sanctions to be Determined by Special Master.

(a) If the Special Master, pursuant to the provisions of this subsection makes a determination that the conduct of any Town Commissioner, candidate for Town Commission, or member of any advisory board or committee is or was improper, the Town Commission may institute appropriate action for correction or rectification of that conduct, and may institute appropriate action to avoid any transaction with a public body or any determination made by a public body.

(b) Violation of any provision of the Town Ethics Code, in addition to any criminal penalty involved, shall constitute grounds for, and the Special Master may impose, one or more of the following sanctions:

1. Public censure and reprimand.

2. Forfeiture of no more than one-third of any salary per month for no more than 12 months.

3. Restitution of any pecuniary benefits received because of any violation committed.

4. Removal of the town officer from office.

5. Recommendation to the Governor of the State of Florida for the removal from public office of the town officer.

(c) The Special Master shall base any decision to impose sanctions upon written findings of fact, conclusions and determinations. The imposition of sanctions should occur after the promulgation of the findings of fact, conclusions and determinations by the Special Master.

(C) Ethics Complaints Concerning Town Employees.

(1) If the complaint involves ethical conduct of any town employee other than the Town Manager, the complainant shall file the sworn complaint with the Town Manager who shall review the complaint pursuant to federal and state law, the Charter, this code, and the personnel rules and regulations then in existence. The Town Manager shall have the power to investigate, and when appropriate to reprimand, punish, demote, dismiss or take any and all other disciplinary action concerning employees who breach ethical standards. For purposes of the Whistleblower Act, the Town Commission designates the Town Manager as the Chief Executive Officer and appropriate local official for all complaints filed pursuant to F.S. § 112.3187 et seq. as amended.

(D) Ethics Complaints Concerning the Town Manager and Town Attorney.

(1) Upon the filing with the Town Clerk of a written, sworn complaint of any person concerning an alleged ethical breach by the Town Manager or Town Attorney, the Town Clerk shall present the Complaint to a Special Master chosen by lot who, within five days of receipt of the complaint, shall cause a copy to be delivered to the alleged violator. If the facts contained within the complaint, if true, set forth a violation of the Town's Ethics Code, the Special Master shall instruct the Town Clerk to select another Special Master by lot to investigate the alleged violation of this chapter in accordance with the procedures as set forth in subsection (B) above, except that after all due proceedings the Special Master shall only make findings of fact as to whether an ethical breach occurred. These findings of fact shall be forwarded to the Town Commission for its consideration and further action.

(E) The Right to Notice of Public Hearing from the Special Master.

(1) Timing of the Notice to the Person Charged. The notice shall be given to the person charged whenever all the following conditions are present:

(a) The stated reason(s) for the allegations and the finding of the probable cause have a significant bearing on the individual's reputation; and

(b) There is a factual dispute as to the truth or falsity of the stated reason(s); and

(c) The stated reason(s) is/are made or become a public record pursuant to Florida's Public Records Law, or is made public in any other way.

(2) Content of the Notice. At the time of the relevant finding of probable cause action, under the necessary conditions, the Special Master shall inform the person charged that he/she has a right to seek a hearing. The notice:

(a) Shall be in writing; and

(b) Shall inform the person charged of the nature of the stated charge(s) that were made public in connection with any of the Special Master actions, in sufficient detail to enable the person to show the error in the statements and allegations, including but not limited to the laws, statutes, ordinance, rules or regulations which the employee or public official has

allegedly violated along with an explanation of the factual circumstances that constitute the alleged violation; and

(c) Shall state that the person charged may request a hearing; and

(d) Shall inform the person charged that he/she may submit documents or testimony at the hearing that contradicts the stated charge(s) that were made in connection with the Special Master's finding of probable cause. The notice shall inform the person charged that the purpose of the hearing is to factually dispute the statement or charge, and its purpose is not to inquire into or dispute the propriety of the Special Master's decision to investigate any initial finding of probable cause, even though the employee or public official may be totally exonerated or found innocent of all charges by the Special Master after due process.

(3) Hearing.

(a) The hearing shall be set if the employee/town officer requests a hearing within 14 days after the mailing and receipt of the probable cause or right to hearing notification or if the Special Master requests a hearing upon its own initiative.

(i) The public hearing will be deemed waived as to the person charged if timely request is not made by the person charged.

(ii) If the person charged waives his right to a public hearing, the Special Master may on his own require a public hearing.

(b) Notice of the date and time of the hearing shall be sent in writing to the complainant and person charged at least 10 days before the public hearing is held.

(c) The hearing shall be conducted by the Special Master, who shall be the hearing officer.

(d) The town officer may submit documents and/or sworn testimony of himself/herself and/or third party witnesses and the initial complainant to contradict the statement(s) that were publicly made in connection with the charges.

(e) The hearing shall be recorded by a court reporter, whose minutes or transcript shall become public record. One original transcript may be ordered and paid for by the town. Any party or interested person may order additional transcriptions or copies thereof at their own expense.

(f) Both the complainant and the person charged who requested the hearing shall have the opportunity to submit written memoranda and/or briefs to the Special Master within such reasonable time as shall be set by the Special Master. The public hearing shall be continued and not closed pending receipt or official transcripts, memoranda, briefs, or proposed findings of fact and conclusions of law to be considered by the Special Master.

(Ord. 90-13, passed 5-7-90; Amd. Ord. 90-22, passed 7-19-90; Amd. Ord. 91-28, passed 1-6-92; Amd. Ord. 94-20, passed, 7-21-94; Amd. Ord. 94-30, passed 1-9-95; Amd. Ord. 96-24, passed 12-2-96; Amd. Ord. 99-19, passed 6-7-99)

§ 39.13 SUBPOENA POWER.

(A) The Special Master is empowered to issue subpoenas to persons, ordering them to appear for testimony before the Special Master, and to issue subpoenas ordering the person to whom it is directed to produce books, papers, documents or tangible things designated therein. The Special Master may issue subpoenas for investigatory functions or probable cause determinations, and public hearings.

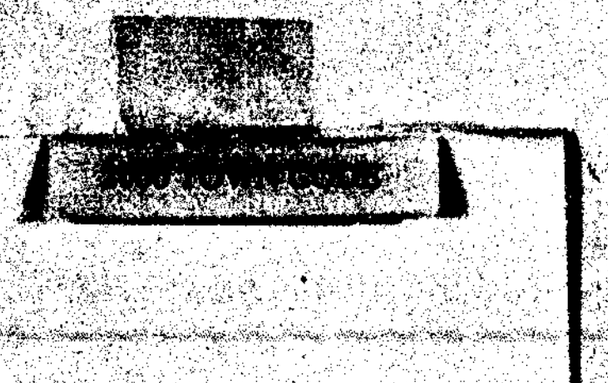
(B) Every subpoena shall be sealed by the Town Clerk upon request of the Special Master for issuance of a subpoena. The Special Master shall sign the subpoena upon the Town Clerk's verifying that the Town Seal has been affixed to the subpoena.

(C) The Special Master may have the subpoena served by any person authorized by law to serve process or any other person who is not a party and who is not less than 18 years of age. Service of a subpoena upon a person named therein shall be as provided by law. Proof of such services shall be made by affidavit of the person making service if not otherwise served by a public officer authorized by law to do so.

(D) In the event the person to whom the subpoena is directed fails to obey it, the Special Master may apply to the Circuit Court for its enforcement.
(Ord. 91-28, passed 1-6-92; Amd. Ord. 99-19, passed 6-7-99)

§ 39.14 APPEALS.

Anyone aggrieved by a determination of the Special Master shall apply to the Circuit Court for judicial relief within 30 days after rendition of the decision.
(Ord. 99-19, passed 6-7-99)



TITLE V: PUBLIC WORKS

Chapter

50. GENERAL PROVISIONS

51. CHARGES, RATES, AND BILLING

52. SEWERS

53. WATER

54. WATER SHORTAGE ORDERS

Chapter 50: GENERAL PROVISIONS

Section

50.01 Connections to water or sewer lines
50.02 Easements and rights-of-way
50.03 Maintenance of water and sewer pipes
50.04 Bond required to make tap
50.05 Subdivisions, housing developments, mobile home parks
50.06 Right of appeal

50.99 Penalty

§ 50.01 CONNECTIONS TO WATER OR SEWER LINES.

(A) No person shall be allowed to connect into any water or sewer line owned by the town without the written consent of the town, and then the connection with the line shall be made only under the direction and supervision of the town. Any property owner or plumber who makes any connection without the consent of the town shall, on conviction, be subject to the penalties provided in § 50.99. ('71 Code, § 22-1)

(B) Whenever it is desirable to connect old plumbing with the town sewer main or waterline, the owner or plumber contemplating doing the work shall notify the Plumbing Inspector who will inspect the old plumbing and notify the owner or plumber what alterations will be necessary to place the old plumbing in an acceptable condition for the connection. Any owner or plumber who shall make any connection without the approval of the Plumbing Inspector shall, on conviction, be subject to the penalties provided in § 50.99. ('71 Code, § 22-5) (Ord. 75-21, passed 10-21-75) Penalty, see § 50.99

§ 50.02 EASEMENTS AND RIGHTS-OF-WAY.

(A) This title shall not be construed to require or entitle any person to cross the private property of another to make any sewer or water connection. ('71 Code, § 22-2)

(B) Extensions to the water or sewer system shall be made only when the customer 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. ('71 Code, § 22-3)

(C) Prior to installation of lines across private property to provide either water or sewer service, utility easements sufficient for the required installation and the maintenance thereof in a form acceptable to the Town Manager shall be furnished to the town. ('71 Code, § 22-4) (Ord. 206, passed 10-20-71; Amd. Ord. 73-4, passed 3-7-73; Amd. Ord. 75-14, passed 9-10-75; Amd. Ord. 75-21, passed 10-21-75) Penalty, see § 50.99

§ 50.03 MAINTENANCE OF WATER AND SEWER PIPES.

The owner of the property shall be responsible for maintaining and keeping clean the water and sewer pipes leading to and connecting with the plumbing system to the town's distribution lines and main sewers. Failure to keep the sewer pipe, that is, the pipe leading from the plumbing system to the town's main, clean and maintained in a proper manner will give the town the right to cut off the water connection, which shall not be reconnected until the sewer pipe is cleaned and maintained properly. Any violation of this provision by reconnecting a private water supply or the connection from the town's waterline, until the sewer pipes are cleaned and maintained properly, shall be considered a violation of this chapter and shall subject the violator to the penalties provided in § 50.99.
('71 Code, § 22-6) (Ord. 75-21, passed 10-21-75)

§ 50.04 BOND REQUIRED TO MAKE TAP.

Any person who desires to make any tap to a sewer main within any private right-of-way shall obtain the necessary permits and shall give a bond filed with the town in the amount of $10,000 payable to the town in cash, irrevocable letter of credit or other form of security approved by the Town Attorney, before engaging in the proposed work.
('71 Code, § 22-7) (Ord. 76-18, passed 6-2-76; Amd. Ord. 96-16, passed 12-2-96) Penalty, see § 50.99)

§ 50.05 SUBDIVISIONS, HOUSING DEVELOPMENTS, MOBILE HOME PARKS.

In all new subdivisions, group housing developments, and mobile home parks where there are in excess of 12 dwelling units, plans for water and sewer service must be prepared by a registered professional engineer licensed to practice in the state. Plans for water and sewer service must be approved by the town and by the proper agencies of the state prior to commencement of any construction.
('71 Code, § 22-8) (Ord. 73-4, passed 3-7-73) Penalty, see § 50.99

§ 50.06 RIGHT OF APPEAL.

Every person who shall, by reason of the imposition of the requirements, rules, and regulations established by this title, or who shall by reason of a decision made by an administrative officer of the town in the application of the provisions hereof, be aggrieved, shall have an appeal to the Town Commission. The Commission shall hear the appeal at any regular meeting, or at any special meeting called for the purpose, and on finding that a literal enforcement of the rules, requirements, and regulations will result in an unnecessary hardship on the applicant, owing to special conditions, may grant a special exception and variance to the

requirements, not contrary to the public interest or injurious to public health and welfare, and not in impairment of the general purposes sought to be obtained by the requirements, rules, and regulations.
('71 Code, § 22-9) (Ord. 75-12, passed 7-9-75)

§ 50.99 PENALTY.

Any person, firm, or corporation violating any of the provisions of this title shall, on conviction, for each such offense be subject to a fine not exceeding $500 or imprisonment for a period not exceeding 60 days. Any failure or refusal by an owner to connect to the town's sewer system after notification so to do, as herein provided, or any failure or refusal to pay the charges or rates provided in Chapter 51, shall be construed to be a violation of this title.
('71 Code, § 22-10; Am. Ord. 75-21, passed 10-21-75)

[redacted]

Chapter 51: CHARGES, RATES, AND BILLING

Section

General Provisions

51.01 Free service; credit for defective meter
51.02 Unit defined; schedule of equivalent living uses
51.03 Separate connection and meter required
51.04 Contracts with large users

Water

51.10 Water system connection fee
51.11 Rates and charges
51.12 Meter reading

Sewers

51.20 Wastewater system connection fee
51.21 Rates and charges
51.22 Monthly billing

Bill Payment

51.30 Payment procedure
51.31 Complaints and adjustment
51.32 Refund of service deposit; nonpayment of bills
51.33 Automatic utility rate adjustments

GENERAL PROVISIONS

§ 51.01 FREE SERVICE; CREDIT FOR DEFECTIVE METER.

(A) No water or sewage disposal service shall be furnished or rendered free of charge to any person, firm, or corporation whatsoever, and the town and each and every agency, department, or instrumentality which uses either or both such services shall pay for them at the rates fixed by this chapter.

(B) On application of a single-family dwelling owner and a finding of the Town Commission that the water charge was a result of a defective meter and not as a result of leaking plumbing fixtures in and about the single-family dwelling, the Town Commission may, on replacement of the defective water meter, authorize the Finance Director to issue a credit memo for the amount of water determined by the Town Commission that was not used by the single-family residence, nor allowed to be leased by the owner of the single-family residence. In no event may the credit memo exceed 50% of the total amount billed.
('71 Code, § 22-89) (Ord. 75-21, passed 10-21-75; Amd. Ord. 81-8, passed 3-4-81)

§ 51.02 UNIT DEFINED; SCHEDULE OF EQUIVALENT LIVING USES.

For the purpose of this chapter the following definition shall apply unless the context clearly indicates or requires a different meaning.

"UNIT." Any of the following.

(A) Each single hotel or motel unit.

(B) Each single apartment or condominium.

(C) Each single-family dwelling.

(D) Each single efficiency apartment or mobile home.

(E) Each individual dwelling within a duplex.

(F) In each individual office building or financial building providing private lavatory facilities within the building, each private lavatory facility shall be considered one unit; however, in instances where separate lavatory facilities are provided for men and women, each two lavatory facilities shall be considered one unit.

(G) In office buildings or financial buildings providing lavatory facilities to be used in common with other tenants of the financial or office building, and where separate facilities are provided for men and women, each two lavatory facilities shall be considered one unit.

(H) In all other commercial type buildings or businesses, for the purpose of computing the water and wastewater units, the schedule of equivalent living units, as set out in division (J) below, shall be used for computing units.

(I) In mixed use instances for the purpose of computing the water and wastewater units, each use shall be considered as separate, and units shall be calculated for each use as set forth in the schedule of equivalent living units set forth in division (J) below.

(J) Schedule of equivalent living units.

(1) Church, per kitchen and same as (F)	1.0 minimum of 1.0
(2) Gas station, garage per bay	1.0 minimum of 1.0
(3) Garage, gas station with car wash, per bay	3.0
(4) Barber shop	1.0
(5) Beauty shop per wash station	0.9 minimum of 1.0
(6) Laundromat per washing machine	1.1
(7) Retail store with lavatory facilities, per 2,000 square feet	0.3 minimum of 1.0
(8) Other store with lavatory facilities, per 2,000 square feet	0.6 minimum of 1.0

(9)	Retail store (food), per 1,000 square feet	0.3 minimum of 1.0
(10)	Hospital per bed	0.6
(11)	Nursing home per bed	0.3
(12)	School with toilets only, per 35 students	1.0 minimum of 1.0
(13)	School with toilets and kitchen, per 35 students	1.3 minimum of 1.3
(14)	School with toilets and gym, per 35 students	1.5 minimum of 1.5
(15)	School with toilets, kitchen, and gym, per 35 students	2.0 minimum of 2.0
(16)	Manufacturing warehouse, per 10 employees	0.4 minimum of 1.0
(17)	Restaurant per 15 seats	1.5 minimum of 1.5
(18)	Banquet room per 15 seats	0.5 minimum of 1.0
(19)	Theater per 75 seats	0.6 minimum of 1.0
(20)	Irrigation meter	1.0
(21)	Lounge, bar and cocktail per 15 seats	0.5 minimum of 1.0
(22)	Health club	10.0
(23)	Public toilets per two urinals, two toilets (men), three toilets (women), or fraction thereof	2.0 minimum of 2.0
(24)	Toilets, private in common with others, per two urinals, two toilets (men), three toilets (women) or fraction thereof	1.0 minimum of 1.0
(25)	Recreation	Same as (F) or (G)
(26)	Marina per slip-water	0.3
(27)	Marina per slip-wastewater. (Marinas having wastewater pump-out stations connected to the town's wastewater system)	0.3

('71 Code, § 22-90) (Ord. 74-19, passed 7-24-74; Am. Ord. 75-12, passed 7-9-75; Am. Ord. 82-4, passed 3-31-82; Am. Ord. 82-13, passed 7-21-82; Am. Ord. 90-08, passed 4-2-90)

§ 51.03 SEPARATE CONNECTION AND METER REQUIRED..

Each residential unit, whether occupying one or more lots and whether occupying any lot or parcel jointly with any other residential unit, shall be considered a separate unit for the payment of water fees, sewage disposal fees, and separate connections, and meters will be required for each building.

('71 Code, § 22-91) (Ord. 75-21, passed 10-21-75)

2000 TOWN CODE

§ 51.04 CONTRACTS WITH LARGE USERS.

The town reserves the right to enter into contracts with large users of water or sewer service for the purpose of setting and determining a monthly charge or rate for the use of the services, which may be computed on a different basis than set forth in §§ 51.11 and 51.21. Such contracts shall be entered into by means of resolution duly adopted by the Town Commission. ('71 Code, # 22-101) (Ord. 75-21, passed 10-21-75)

WATER

§ 51.10 WATER SYSTEM CONNECTION FEE.

(A) There is hereby established a water connection fee of $690 for each unit connected to the water system, whether by individual connections or by one connection. The connection fee shall run with the land and inure to the benefit of subsequent owners and in no event be collected a second time for the same unit.

(B) The water connection fee hereby established shall be payable to the town and placed in a separate trust for the purpose of extensions, expansions, oversizing or other future capital construction expenditures for the water system to enable the water system to provide service to new customers or for the purpose of retiring bonds or other indebtedness issued previously for the expansion of the system to serve new customers now requiring service from the water system. Funds may be disbursed from this account in the customary manner in accordance with appropriate law with the added requirement that the disburaal of such funds shall require the written approval of the Town Manager and the Town Engineer.
('71 Code, § 22-92) (Ord. 74-19, passed 7-24-74; Am. Ord. 77-26, passed 11-2-77; Am. Ord. 81-8, passed 3-4-81; Am. Ord. 87-36, passed 12-7-87; Am. Ord. 88-09, passed 4-4-88)

§ 51.11 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, as follows:

(A) Classes of service.

(1) Residences, apartments, condominiums, mobile homes, hotel/motel, and seasonal, furnished rental apartments.

(a) Service charge per month per living unit	$5.37
(b) Meter/billing charge per month per meter	1.66
(c) Usage charge, per 1,000 gallons up to 7,000 gallons per month per living unit	1.18
(d) Excess usage charge, per 1,000 gallons over 7,000 gallons per month per living unit	1.87

(2) Commercial.

(a) Service charge per month per equivalent living unit	$5.37
(b) Meter/billing charge per month per meter	1.66
(c) Usage charge, per 1,000 gallons up to 7,000 gallons per month per equivalent living unit	1.18
(d) Excess usage charge, per 1,000 gallons over 7,000 gallons per month per equivalent living unit	1.87

Commercial users shall be classified as to equivalent living units using one unit per 7,000 gallons per month average annual consumption. Combination users, such as a hotel with restaurant, shall be classified by adding to the number of living units the equivalent living units of the restaurant and shops.

(3) Irrigation or construction meters.

(a) Service charges per month per meter	$5.37
(b) Meter/billing charge per month per meter	1.66
(c) Usage charge, per 1,000 gallons up to 7,000 gallons per month per equivalent living unit	1.18
(d) Excess usage charge, per 1,000 gallons over 7,000 gallons per month per equivalent living unit	1.87

(B) Meters.

(1) Installation charges and deposits. The town shall collect the following charges as installation charges and the following meter deposits.

Meter Required (Inches)	Installation Charge	Deposit
5/8 x 3/4	$ 160.00	$ 20.00
3/4	200.00	20.00
1	250.00	50.00
1-1/2	405.00	80.00
2	Cost + 20%	150.00
3	Cost + 20%	350.00
4	Cost + 20%	450.00
6	*Cost + 20%	600.00

* Cost will be based on estimates by the Public Works Director. The Public Works Director may require wet taps. The cost will be at the expense of the customer requiring service.

(2) Construction meters. A standard two-inch meter connected to a fire hydrant requires the deposit of $350 plus a deposit on water to be used of $150. Water rates will be the same as irrigation rates. Connection to a fire hydrant without a meter shall cost $25 per day, with a minimum deposit of four days, ($100.00), required. Installation will be at the town's cost plus 20%.

(C) Service charges.

Disconnect	$ 25.00
Reconnect	10.00
Service call	10.00
Inspection fee	2.00

('71 Code, § 22-94) (Ord. 195, passed 4-21-71; Amd. Ord. 82-4, passed 3-31-82; Amd. Ord. 82-13, passed 7-21-82; Amd. Ord. 82-16, passed 9-15-82; Amd. Ord. 87-39, passed 1-4-88; Amd. Ord. 89-24, passed 12-4-89; Amd. Ord. 95-21, passed 12-4-95; Amd. Ord. 98-26, passed 10-5-98; Amd. Ord. 99-43, passed 1-10-00)

§ 51.12 METER READING.

Meters will be read and bills rendered monthly, but the town reserves the right to vary the dates or the length of period covered, temporarily or permanently if necessary or desirable. Bills for water service will be figured in accordance with § 51.11 and will be based on the amount consumed for the period covered by the meter reading. However, where a consumer orders turn-off less than one month after turn-on, the minimum bill to the consumer for the period shall be equal to the minimum charge for one full month's service. Customer subscribing for water service will commence payment of at least a minimum water bill when water is available and a meter is installed. Readings from different meters will not be combined for billing.
('71 Code, § 22-95) (Ord. 206, passed 10-20-71; Amd. Ord. 75-1, passed 2-5-75)

SEWERS

§ 51.20 WASTEWATER SYSTEM CONNECTION FEE.

(A) There is hereby established a wastewater connection fee of $1,224 for each unit connected to the wastewater system, whether by individual direct or indirect connections or by one direct or indirect connection. The connection fee shall run with the land and inure to the benefit of subsequent owners and in no event be collected a second time for the same unit.

(B) The wastewater connection fee hereby established shall be payable to the town and placed in a separate trust fund for the purpose of extensions, expansions, oversizing or other future capital construction expenditures for the wastewater system to enable the wastewater system to provide service to new customers or for the purpose of retiring bonds or other indebtedness issued previously for the expansion of the system to serve new customers now requiring service from the wastewater system. Funds may be disbursed from this account in the customary manner in accordance with appropriate law with the added requirement that the disbursal of such funds shall require the written approval of the Town Manager and the Town Engineer.

(C) Except as may be expressly provided otherwise, all persons making application for the construction of new buildings within the town shall be required to pay the wastewater connection fee at the time the person makes application for construction of a new building.

(D) Any person who has paid or who hereafter pays the town a wastewater connection fee shall be entitled to a refund of one-half the wastewater connection fee paid by the person for each unit, as defined in § 51.02, which is eliminated from the construction permit within one year from the date of its issuance. However, in no event shall any person be entitled to any refund whatsoever if the town has expended, contracted to expend, or otherwise become obligated to pay any money for constructing or furnishing wastewater services to the property described in the construction permit.
('71 Code, § 22-93) (Ord. 75-12, passed 7-9-75; Amd. Ord. 75-14, passed 9-10-75; Amd. Ord. 77-26, passed 11-2-77; Amd. Ord. 81-8, passed 3-4-81; Amd. Ord. 87-36, passed 12-7-87; Amd. Ord. 88-09, passed 4-4-88; Amd. Ord. 90-8, passed 4-2-90)

§ 51.21 RATES AND CHARGES.

The monthly rate and charges for the services and facilities of the town's wastewater system shall be as follows:

(A) Classes of Service.

(1) Residences, apartments, condominiums, mobile homes, hotel/motel, and seasonal furnished rental apartments.

(a) Service charge per month per living unit	$13.54
(b) Usage charge per 1,000 gallons of water consumption up to a maximum of 7,000 gallons per living unit	2.22

(c) Residences without water meters shall be charged for one service charge and a usage charge for 7,000 gallons.

(2) Commercial.

(a) Service charge per month per equivalent living unit	$13.54
(b) Usage charge per 1,000 gallons of water consumption up to a maximum of 7,000 gallons per equivalent living unit	2.22
(c) Commercial wastewater users will be classified in the same manner as for water classification.	

(B) Inspection Fees. The inspection fee for all single-family units shall be a minimum of $12.50 per inspection. The inspection fee for all other units shall be determined by the Director of Public Works and shall be at least the cost of inspection plus 10%.

(C) Installation Charges—Sewer Laterals. The town shall collect the following charges as installation charges for town-owned service laterals within town-owned streets: Cost plus 20% (includes a cleanout installed at the property line).
(Ord. 93-25, passed 2-7-94) ('71 Code, § 22-96) (Ord. 75-21, passed 10-21-75; Amd. Ord. 82-4, passed 3-13-82; Amd. Ord. 87-39, passed 1-4-88; Amd. Ord. 95-21, passed 12-4-95; Amd. Ord. 96-16, passed 12-2-96; Amd. Ord. 98-26, passed 10-5-98; Amd. Ord. 99-43, passed 1-10-00)

§ 51.22 MONTHLY BILLING.

Bills will be rendered monthly for wastewater service and the charges included as a separate amount on the town's monthly utility bills. Customers applying for wastewater service on or before the 15th of the month will be billed for the entire month in which the connection is made. Connections after the 15th will not be billed until the following month.
('71 Code, § 22-97) (Ord. 75-21, passed 10-21-75)

BILL PAYMENT

§ 51.30 PAYMENT PROCEDURE.

(A) Bills shall be paid at the town hall, or at other specific places of business designated by the Town Commission, by mail or in person.

(B) All accounts shall be due and payable on the date statements are submitted to the customer and shall become delinquent on the 30th of the month in which the bill is submitted. If not paid within that period, bills shall be subject to a 10% surcharge on the delinquent amount. Once the account is delinquent, the customer will be mailed a delinquent notice stating that if the account is not paid in full by the 15th of the month, the service may be discontinued. Failure to receive bills or notices shall not prevent the accounts from becoming delinquent, nor relieve the consumer from payment.

(C) The Town Manager is hereby authorized to place in effect a system of rendering bills and past-due accounts necessary to effect proper administrative procedures in complying with the provisions of this chapter.
('71 Code, § 22-98) (Ord. 206, passed 10-20-71; Amd. Ord. 75-1, passed 2-5-75; Amd. Ord. 75-21, passed 10-21-75)

§ 51.31 COMPLAINTS AND ADJUSTMENT.

(A) If the consumer believes his bill to be in error, he shall present his claims at the town office before the bill becomes delinquent. The claim, if made after the bill has become delinquent, shall not be effective in preventing discontinuance of service as provided in § 51.30. The consumer may pay the bill under protest, and 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 $2.00; however, if the special reading discloses that the meter was overread, no charge will be made. Meters will be tested at the request of the consumer on payment to the town of the actual cost of making the test; however, if the meter is found to overregister beyond three percent of the correct volume, no charge will be made.

(C) 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.
('71 Code, § 22-99) (Ord. 206, passed 10-20-71)

§ 51.32 REFUND OF SERVICE DEPOSIT; NONPAYMENT OF BILLS.

(A) When services are discontinued and all bills paid, the service deposit will be refunded.

(B) On 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. Service discontinued for nonpayment of bills will be restored only after the bills are paid in full, the service deposit as may be required by the town is made, and a service charge of $12.50 is paid for each meter reconnected.
(Ord. 93-25 passed 2-7-94) ('71 Code, § 22-100) (Ord. 206, passed 10-20-71)

§ 51.33 AUTOMATIC UTILITY RATE ADJUSTMENTS.

(A) The operational revenue of the Utility Fund shall generate to the town a return of a minimum of five percent. This return shall be determined annually, based upon the passage of the town's budget for the Utility Department. The rates and charges shall be automatically calculated and adjusted to achieve the five percent return as set forth below:

(B) Total all utility personnel cost and the utility operating expenditures as set forth in the chart of accounts numbers 1100 through 5999 as set forth in the Town's budget, as adopted.

(C) Multiply the total achieved in (B) above by a factor 1.05.

(D) Total the operating revenues of water sales and wastewater collection charges as reflected in chart of accounts numbers 6101 and 6104 set forth in the town's budget, as adopted.

(E) Compare the total of (B) and (C). If (C) is less than (B), then the amount of revenue from the water and wastewater rates shall be adjusted until the totals are equal. If (B) is less than (C), then the rates shall not be adjusted.

(F) The amount determined in (E) shall be made a percentage of the total operating revenues as determined in (D) to arrive at a percentage.

(G) The percentage increase as determined in (F) shall be applied to each category of services for water and wastewater as set forth in § 51.11(A) and § 51.21(A) of this chapter.

(Ord. 95-21, passed 12-4-95)

Chapter 52: SEWERS

Section

General Provisions

52.01 Definitions
52.02 Connection required
52.03 Connection by town; cost recovery
52.04 Private wastewater disposal
52.05 Unlawful disposal
52.06 Sanitary requirements for disposal
52.07 Moving or demolishing buildings; sewer to be capped
52.08 Damaging wastewater equipment

Building Sewers and Connections

52.15 Compliance with certain standards
52.16 Prohibited connections
52.17 Connection permit
52.18 Connections to be gas- and watertight; deviations
52.19 Separate sewers
52.20 Use of old building sewers
52.21 Lifts
52.22 Excavations
52.23 Preconnection inspections
52.24 Costs; liability and restoration

Use Regulations

52.30 Unlawful discharges
52.31 Storm water; unpolluted drainage
52.32 Director to review certain wastes
52.33 Interceptors
52.34 Preliminary treatment or flow-equalizing facilities
52.35 Manholes
52.36 Measurements and analyses
52.37 Inspections; right of entry
52.38 Special arrangements for certain wastes

GENERAL PROVISIONS

§ 52.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"BOD" or "BIOCHEMICAL OXYGEN DEMAND." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C., expressed in milligrams per liter.

"BUILDING DRAIN." That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipe inside the walls of the building and conveys it to the building sewer, beginning ten feet outside the inner face of the building wall.

"BUILDING SEWER." The extension from the building drain to the property line.

"COMBINED SEWER." A sewer receiving both surface runoff and wastewater.

"DIRECTOR." The Town Manager or his authorized deputy, agent, or representative.

"GARBAGE." Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

"INDUSTRIAL WASTES." The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary wastewater.

"LATERALS." That portion of the sewer located between the building sewer and the sewer main.

"NATURAL OUTLET." Any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

"pH." The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"PROPERLY SHREDDED GARBAGE." The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

"PUBLIC SEWER." A sewer controlled by public authority located in public or private right-of-ways. Laterals within the Gulf of Mexico Drive or private road right-of-ways are not part of the public sewers.

"SANITARY SEWER." A sewer which carries wastewatar and to which storm, surface, and ground waters are not intentionally admitted.

"SEWER MAIN." A pipe or conduit for carrying wastewater.

"SLUDGE." Any discharge of water, wastewater, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

"STORM DRAIN (BUILDING)." A building drain used for conveying rainwater, surface water, groundwater, subsurface water, condensate, cooling water, or other similar discharge

to a building storm sewer or a combined building sewer extending to a point not less than ten feet outside the building wall.

"STORM SEWER." A sewer used for rainwater, surface water, condensate, cooling water, or other similar liquid wastes.

"SUSPENDED SOLIDS." Solids that are in suspension in water, wastewater, or other liquids, and which are removable by laboratory filtering.

"WASTEWATER." A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments.

"WASTEWATER TREATMENT PLANT." Any arrangement of devices and structures used for treating wastewater.

"WASTEWATER WORKS." All facilities for collecting, pumping, treating, and disposing of wastewater.

"WATERCOURSE." A channel in which a flow of water occurs, either continuously or intermittently.

('71 Code, § 22-21) (Ord. 73-4, passed 3-7-73; Amd. Ord. 96-16, passed 12-2-96)

§ 52.02 CONNECTION REQUIRED.

The owner of each lot or parcel of land within the town on which any building, or trailer used as a dwelling, in now situated or shall hereafter be situated, for either residential, commercial, or industrial use, shall connect or cause the building or trailer to be connected with the public sewer facilities of the sewer system of the town and use the facilities, within 90 days following notification to do so by the Town Clerk. All connections shall be made in accordance with rules and regulations which shall be adopted from time to time by the Town Commission, which shall provide for a charge for making any connections in a reasonable amount as the Commission may fix and determine.
('71 Code, § 22-22) (Ord. 73-4, passed 3-7-73; Amd. Ord. 75-12, passed 7-9-75; Amd. Ord. 75-21, passed 10-21-75) Penalty, see §50.99

Cross reference:
Wastewater sewer system connection fee, see § 51.20

§ 52.03 CONNECTION BY TOWN; COST RECOVERY.

If any owner of any lot or parcel of land within the town shall fail and refuse to connect with and use the facilities of the sewer system of the town after notification by the Town Clerk, as provided in § 52.02, then the town shall be authorized to make the connections, entering on or upon any lot or parcel of land for the purpose of making the connection. The town shall thereupon be entitled to recover the cost of making the connection, together with reasonable penalties and interest and attorney's fees, by suit in any court of competent jurisdiction. In

addition and as an alternative means of collecting the costs of making the connections, the town shall have a lien on the lot or parcel of land for the cost, which shall be of equal dignity with the lien of state, county, and municipal taxes. The lien may be foreclosed by the town in the same manner provided by the state law for the foreclosure of mortgages on real estate.
('71 Code, § 22-23) (Ord. 75-21, passed 10-21-75)

§ 52.04 PRIVATE WASTEWATER DISPOSAL.

The disposal of wastewater by means other than the use of the available sanitary wastewater system shall be in accordance with ordinances of the town and laws of the state. The disposal of wastewater by private disposal systems shall be permissible only in those instances where service from the sanitary wastewater system is not available.
('71 Code, § 22-24) (Ord. 73-4, passed 3-7-73) Penalty, see § 50.99

§ 52.05 UNLAWFUL DISPOSAL.

(A) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on any public or private property within the town, or in any area under its jurisdiction, any human excrement, garbage, or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet within the town, or in any area under its jurisdiction, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(C) Except as provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
('71 Code, § 22-25) (Ord. 73-4, passed 3-7-73; Amd. Ord. 75-12, passed 7-9-75) Penalty, see § 50.99

§ 52.06 SANITARY REQUIREMENTS FOR DISPOSAL.

(A) Every residence and building in which human beings reside, are employed, or are congregated, shall be required to have a sanitary method of disposing of human excrement, namely either a sanitary water closet that is connected with the town sewer, or an approved type of septic tank. A septic tank shall not be used or constructed if the property is within 200 feet of the sewer line. No septic tank other than those approved by the State Department of Pollution Control shall be constructed within the corporate limits of the town.

(B) It shall be unlawful for any person, firm, or corporation owning or leasing any premises in the town to permit the disposal of any human excrement on any property leased or rented by the person, firm, or corporation, or the agent of the person, firm, or corporation, except in a sanitary water closet where sewage lines are available as provided in division (A) above.

(C) No person, group of persons, firm, or corporation shall build or remodel, or cause to be built or remodeled, any structure used for human habitation or occupancy within the town

which is within 200 feet of a public sanitary sewer line, unless it is provided with water-carried sewerage facilities.
('71 Code, § 22-26) (Ord. 75-21, passed 10-21-75) Penalty, see § 50.99

§ 52.07 MOVING OR DEMOLISHING BUILDINGS; SEWER TO BE CAPPED.

All persons engaged in the moving or demolition of buildings shall, prior to the movement or demolition, first locate the sewer lateral at the property line and obtain a permit from the town to cap the sewer. In applying for the permit, the applicant shall be required to first submit an inspection ticket showing that the premises have been inspected by the Building Inspector.
('71 Code, § 22-27) (Ord. 73-4, passed 3-7-73) Penalty, see § 50.99.

Cross reference:
Moving of buildings, see §§ 150.50 through 150.55

§ 52.08 DAMAGING WASTEWATER EQUIPMENT.

It shall be unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the wastewater works. This provision, however, shall not be construed to prevent persons authorized by the town or the Director from performing maintenance and repairs in connection with the wastewater works.
('71 Code, § 22-28) (Ord. 73-4, passed 3-7-73) Penalty, see § 50.99

BUILDING SEWERS AND CONNECTIONS

§ 52.15 COMPLIANCE WITH CERTAIN STANDARDS.

All inside plumbing; the size, slope, alignment, materials of construction of a building sewer; the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench; and the connection of the building sewer with the public sewer; shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the town. Construction of gravity sewers, lift stations, and force mains must conform to "Standards for Waste Water Collection System, Town of Longboat Key, dated December 1, 1972," hereby adopted by reference. All such work must be inspected and approved by the Building Inspector before any new installations are connected to the existing public sewer system.
('71 Code, § 22-34) (Ord. 73-4, passed 3-7-73) Penalty, see § 50.99

Cross reference:
Building code adopted, see § 150.01
Plumbing code adopted, see § 155.01

§ 52.16 PROHIBITED CONNECTIONS.

It shall be unlawful for any person to make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
('71 Code, § 22-35) (Ord. 73-4, passed 3-7-73) Penalty, see § 50.99

§ 52.17 CONNECTION PERMIT.

(A) It shall be unlawful for any unauthorized person to make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director. ('71 Code, § 22-36)

(B) When sewer service is required or desired, the owner or his agent shall make application to the Planning, Zoning and Building Department. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the Director of Planning, Zoning and Building. The permit, tapping, and inspection fees as provided by Chapter 51 shall be paid to the town at the time the application is filed.
('71 Code, § 22-37) (Amd. Ord. 73-4, passed 3-7-73; Amd. Ord. 96-16, passed 12-2-96) Penalty, see § 50.99

Cross reference:
Wastewater system connection fee, see § 51.20
Inspection fees, see § 51.21

§ 52.18 CONNECTIONS TO BE GAS- AND WATERTIGHT; DEVIATIONS.

All connections of the building sewer into the public sewer shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Director before installation.
('71 Code, § 22-38) (Ord. 73-4, passed 3-7-73) Penalty, see § 50.99

§ 52.19 SEPARATE SEWERS.

A separate and independent building sewer shall be provided for every building. However, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
('71 Code, § 22-39) (Ord. 73-4, passed 3-7-73) Penalty, see § 50.99

§ 52.20 USE OF OLD BUILDING SEWERS.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Director, to meet all requirements of this chapter.
('71 Code, § 22-40) (Ord. 73-4 passed 3-7-73) Penalty, see § 50.99

§ 52.21 LIFTS.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary wastewater carried by the building drain shall be lifted by an approved means and discharged to the building sewer.
('71 Code, § 22-41) (Ord. 73-4, passed 3-7-73) Penalty, see § 50.99

§ 52.22 EXCAVATIONS.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.
('71 Code, § 22-42) (Ord. 73-4, passed 3-7-73) Penalty, see § 50.99

§ 52.23 PRECONNECTION INSPECTIONS.

The applicant for the building sewer permit shall notify the Building Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Building Inspector or his representative.
('71 Code, § 22-43) (Ord. 73-4, passed 3-7-73) Penalty, see § 50.99

§ 52.24 COSTS; LIABILITY AND RESTORATION.

(A) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(B) For private streets or right-of-ways, installation of wastewater sewer laterals between the town's main sewer and the property requesting service shall be the responsibility of the property owner requiring service to install and maintain.
('71 Code, § 22-44) (Ord. 73-4, passed 3-7-73; Amd. Ord. 75-14, passed 9-10-75; Amd. Ord. 96-16, passed 12-2-96)

USE REGULATIONS

§ 52.30 UNLAWFUL DISCHARGES.

(A) It shall be unlawful for any person to discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process water into any sanitary sewer. ('71 Code, § 22-50)

(B) It shall be unlawful for any person to discharge or cause to be discharged any of the following described waters or wastes into any public sewer.

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

(3) Any waters or wastes having a pH lower than 5 or greater than 10, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.

(4) Solid or viscous substances in quantities or of a size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper towels, dishes, cups, milk containers, and the like, either whole or ground by garbage grinders.

('71 Code, § 22-52) (Ord. 73-4, passed 3-7-73) Penalty, see § 50.99

§ 52.31 STORM WATER; UNPOLLUTED DRAINAGE.

(A) Storm water and all other unpolluted drainage, including cooling water, shall be discharged to the sewers that are specifically designated as storm sewers, or to a natural outlet approved by the Town Engineer.

(B) It shall be unlawful for any person to:

(1) Discharge or cause to be deposited any sewage, industrial wastes or other wastes into the storm sewer system whether such discharges and deposits occur through runoff, piping connections, seepage or leaks.

(2) Maintain, use or establish any direct or indirect connection to any storm sewer owned by the town that results in any discharge in violation of any provision of federal, state, town or other law or regulation.

(C) No material other than those composed entirely of storm water shall be disposed of, dumped or spilled in a separate storm sewer system, whether such materials are in solid or liquid form.

(D) The provisions of this subsection are retroactive and apply to connections made prior to the effective date of this subsection [June 24, 1993], regardless of whether made under a permit, or other authorization, or whether permissible under laws or practices applicable or prevailing at the time the connection was made.
('71 Code, § 22-51) (Ord. 73-4, passed 3-7-73; Amd. Ord. 93-12, passed 6-24-93)

§ 52.32 DIRECTOR TO REVIEW CERTAIN WASTES.

(A) It shall be unlawful for any person to discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Director that the wastes can harm either the sewers or the wastewater treatment process or equipment, have an adverse effect on the receiving stream, or otherwise endanger life, limb, or public property, or constitute a nuisance. Informing his opinion as to the acceptability of those wastes, the Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of

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LONGBOAT KEY - REVISED 23B

1997 S-14

construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, and other pertinent factors. The substances prohibited are as follows.

(1) Any liquid or vapor having a temperature higher than 150°F. or 65°C.; any waste from grease traps or septic tanks.

(2) Any water or waste containing fats, wax, grease, or oil, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150°F., or 0° and 65°C.

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Director.

(4) Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not.

(5) Any waters or wastes containing iron, chromium, copper, zinc, nickel, cyanide, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that the material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Director.

(6) Any waters or wastes containing phenols or other taste-producing or odor-producing substances in concentrations exceeding limits which may be established by the Director as necessary, after treatment of the composite wastewater, to meet the requirements of the state, federal, or other public agencies of jurisdiction for the discharge to the receiving waters.

(7) Any radioactive wastes or isotopes of a half-life or concentration that may exceed limits established by the Director in compliance with applicable state or federal regulations.

(8) Materials which exert or cause the following.

(a) Unusual concentrations of inert suspended solids including, but not limited to, Fuller's earth, lime slurries and lime residues, or dissolved solids including, but not limited to, sodium chloride, sodium sulfate, phosphates, nitrates, and ammonia.

(b) Excessive discoloration including, but not limited to, dye wastes and vegetable tanning solutions.

(c) BOD (above 300 mg/l), chemical oxygen demand, or chlorine requirement in quantities that constitute a significant load on the wastewater treatment works.

(d) Unusual volume of flow or concentration of wastes constituting sludge as defined in § 52.01.

(9) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to a degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(10) Waters or wastes containing suspended solids in excess of 300 mg/l.
('71 Code, § 22-53)

(B) If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain the substances or possess the characteristics enumerated in § 52.32, and which in the judgment of the Director may have a deleterious effect on the wastewater works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Director may reject the wastes; require pretreatment to an acceptable condition for discharge to the public sewers; require control over the quantities and rates of discharge; or require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of § 52.38. If the Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Director and the Department of Public Health, and subject to the requirements of all applicable codes, ordinances, and laws. ('71 Code, § 22-54)
(Am. Ord. 73-4, passed 3-7-73)

§ 52.33 INTERCEPTORS.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Building Inspector, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; however, the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Building Inspector and shall be located so as to be readily and easily accessible for cleaning and inspection.
('71 Code, § 22-55) (Ord. 73-4, passed 3-7-73)

§ 52.34 PRELIMINARY TREATMENT OR FLOW-EQUALIZING FACILITIES.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
('71 Code, § 22-56) (Ord. 73-4, passed 3-7-73)

§ 52.35 MANHOLES.

When required by the Director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with the necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. The manhole, when required, shall be accessibly and safely located and shall be maintained by the owner so as to be safe and accessible at all times. ('71 Code, § 22-57) (Ord. 73-4, passed 3-7-73)

§ 52.36 MEASUREMENTS AND ANALYSES.

(A) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this division shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided or on suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(B) Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents on the wastewater works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pH's are determined from periodic grab samples.
('71 Code, § 22-58; Am. Ord. 73-4, passed 3-7-73)

§ 52.37 INSPECTIONS; RIGHT OF ENTRY.

(A) The Director, Building Inspector, and other duly-authorized employees of the town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The Director, Building Inspector, or their representative shall have no authority to inquire into any process, including metallurgical, chemical, oil, refining, ceramic, paper, or other industries, beyond that point having a direct bearing on the kind and source of discharge to the sewers, waterways, or facilities for waste treatment.

(B) While performing the necessary work on private properties, the Director, Building Inspector, and other authorized employees of the town shall observe all safety rules applicable to the premises established by the owners of the private properties.

(C) The Director and other duly-authorized employees of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town has an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater works lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the easement to the private property involved.
('71 Code, § 22-59) (Ord. 73-4, passed 3-7-73)

§ 52.38 SPECIAL ARRANGEMENTS FOR CERTAIN WASTES.

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment satisfactory to the town by the industrial concern.
('71 Code, § 22-60) (Ord. 73-4, passed 3-7-73)

CHAPTER 53: WATER

Section

53.01 Water Department
53.02 Connection required; exception
53.03 Potable water determination
53.04 Service application
53.05 Tapping without permission
53.06 Town rights and duties
53.07 Consumer duties
53.08 Change of occupancy procedure
53.09 Use of nonpotable water supply
53.10 Emergency water use restrictions
53.11 Special contract agreements
53.12 Planning construction of water distribution systems
53.13 Injunctions

§ 53.01 WATER DEPARTMENT.

The town Water Department shall operate in accordance with the services, rules, and regulations established by this chapter.
('71 Code, § 22-66) (Ord. 206, passed 10-20-71)

§ 53.02 CONNECTION REQUIRED; EXCEPTION.

The owner, tenant, or occupant of each parcel of land within the town abutting on a street or easement which contains a water main serving or which may be served by the town's water distribution system and not connected to the water main, on which a building has been or shall be constructed for multiple-unit apartments, multiple-unit condominiums, commercial and industrial uses, motels, hotels, duplexes, trailer park facilities or for public use, shall do the following. Within 30 days after placing the town's public water system in operation, or within 30 days after construction of the building, the building shall be connected with the water system, and shall cease to use any other water except for outside use, including lawn sprinkling and automobile washing, for consumption purposes. However, if the existing water supply system meets the minimum standards of the agencies of the state having control for potable water, connection of the building shall not be required unless connection is otherwise required by state law or regulations. All connections shall be in accordance with the rules and regulations adopted from time to time by the Town Commission. A charge for making such a connection shall be as provided in § 51.10.
('71 Code, § 22-67) (Ord. 200, passed 10-6-71; Am. Ord. 75-21, passed 10-21-75) Penalty, see § 50.99

§ 53.03 POTABLE WATER DETERMINATION.

The existing minimum standards of the agencies of the state having control for potable water shall govern and determine whether the existing water supply is potable. In order to ascertain that the existing water supply meets the minimum standards of the agencies of the state having control for potable water, the Town

Commission shall cause the water supply to be tested not less than four times per year and if the minimum standards for potable water are not met, the building shall be required to connect to the town's public water system.
('71 Code, § 22-68) (Ord. 200, passed 10-6-71) Penalty, see § 50.99

Cross-reference:
Use of nonpotable water supply, see § 53.09

§ 53.04 SERVICE APPLICATION.

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 as required by § 51.11
('71 Code, § 22-69) (Ord. 206, passed 10-20-71) Penalty, see § 50.99

§ 53.05 TAPPING 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 the pipe or main, or for any other purpose, nor take or use any water from the pipe or main, or from any hydrant used for the purpose of taking or drawing water from the pipe or main.
('71 Code, § 22-70) (Ord. 195, passed 4-21-71) Penalty, see § 50.99

§ 53.06 TOWN RIGHTS AND DUTIES.

(A) The town shall run a service line from is 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. The town may make connections to service other properties not adjacent to its lines on payment of reasonable costs for the extension of its distribution lines as may be required to render the service. The town may install its meter at or near the property line or, at the town's option, on the consumer's property. 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 ensure compliance with the foregoing.

(B) Under normal conditions, the consumer will be notified of any anticipated interruption of service. However, the town reserves the right to discontinue its service without notice for the following 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.

(C) The town may, in addition to prosecution by law, permanently or temporarily refuse service to any consumer who tampers with a meter or other measuring device.

(D) 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.
('71 Code, § 22-71) (Ord. 206, passed 10-20-71) Penalty, see § 50.99

§ 53.07 CONSUMER DUTIES.

(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. The consumer shall furnish and maintain a private cutoff valve on the consumer's side of the meter; the town shall provide a like valve on its side of the meter. 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.

(B) 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.

(C) All air-handling equipment which employs the use of water shall be designed to recirculate the water. There shall be no waste of water except that which is lost by cleaning, lubricating, repairing, and evaporation.
('71 Code, § 22-72) (Ord. 206, passed 10-20-71; Am. Ord. 74-19, passed 7-24-74) Penalty, see § 50.99

§ 53.08 CHANGE OF OCCUPANCY PROCEDURE.

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. 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. The new occupant will apply for water service within 48 hours after occupying the premises and failure to do so will make him liable for the water consumed since the last meter reading.
('71 Code, § 22-73) (Ord. 206, passed 10-20-71) Penalty, see § 50.99

§ 53.09 USE OF NONPOTABLE WATER SUPPLY.

The continued use of a nonpublic water supply in any school, hotel, motel, public place, or other public building where water is served to customers, patrons, or the general public, including commercial and industrial uses, apartments, multiple-unit apartments and multiple-unit condominiums, duplexes, trailer parks, and mobile home parks, which secures its water from a water supply which does not meet the minimum standards for potable water of the agencies of the state having control, promulgated pursuant to F.S.A. Ch. 120, is expressly prohibited.
('71 Code, § 22-74) (Ord. 200, passed 10-6-71) Penalty, see § 50.99

Cross-reference:
Potable water determination, see § 53.03

§ 53.10 EMERGENCY WATER USE RESTRICTIONS.

(A) For the purpose of this section only the following definition shall apply unless the context clearly indicates or requires a different meaning.

"WATER." Public water from mains, water from wells, water from lakes, ponds, or other surface supplies within the town.

(B) The Town Commission shall, upon consideration of all presentations made at any meeting thereof, have the responsibility and authority by duly adopted resolution to do the following.

(1) Determine the existence of an emergency drought condition.

(2) Determine the boundary of an emergency drought area.

(3) Limit or restrict the consumption and use of water within an emergency drought area by limiting or restricting the quantity of water which may be consumed, pumped, or used, the purpose for which water is consumed or used and the time period or periods within which the limitations or restrictions apply.

(4) Determine and declare the end of an emergency drought condition.

§ 53.11 SPECIAL CONTRACT AGREEMENTS.

Extraordinary circumstances, such as subdivision extensions, industrial users, and the like, shall be governed by a special contract agreement.
('71 Code, § 22-76) (Ord. 206, passed 10-20-71)

§ 53.12 PLANNING, CONSTRUCTION OF WATER DISTRIBUTION SYSTEMS.

All planning and construction of water distribution systems within the town shall conform with this section, state laws applying to health regulations, and the following regulations:

(A) Preliminary report. Prior to the preparation of construction drawings, the design engineer shall submit a preliminary report to the town establishing the elements of the proposed engineering design. This submittal is intended to inform the town of all aspects of the engineering design and assist in planning for the future. The preliminary report will be reviewed by the Town Engineer and returned with approval or appropriate comments within 15 days. The report shall contain at least the following information.

(1) A map of the proposed distribution system, showing its location and relationship to the existing system, or any other system that may be affected by the proposed construction.

(2) Pipe sizes and approximate lengths.

(3) Location of fire hydrants.

(4) Design criteria, including the following.

(a) Lots or tracts to be served.

(b) Population designed to be served.

(c) Hydraulic computations justifying pipe sizes larger than six inches in diameter.

(d) Location and method of connection to the existing system.

(B) Construction drawings. All construction drawings shall comply with the preliminary report and shall be done in ink on 24 by 36 inch mylar reproducible materials provided by the town and imprinted with their title block. Each drawing shall provide space for the name, address, registration number, signature, and seal of the registered engineer preparing the drawings, and for the name and signature of the approving official of the town. All original drawings of constructed water distribution systems shall remain the property of the town and the information they contain shall be available for planning for future construction. Plans for the water system shall not be combined with the wastewater system or any other system. However, any other systems and facilities, such as storm drainage, in the vicinity of the water system shall be indicated in an appropriate form. Final approval and acceptance at the completion of the project shall be contingent on the following.

(1) Certification by the design engineer that the water distribution system has been completed in accordance with the plans and specifications.

(2) Delivery to the town of the original mylar reproducible drawing showing completed construction and with certification by the design engineer that they are "as-built" drawings.

(C) Design criteria generally. The following design criteria shall govern all public water distribution systems. A "PUBLIC WATER DISTRIBUTION SYSTEM" is defined as a system which can serve 25 or more persons. At the town's discretion, all such systems shall become the property of the town, together with rights-of-way and easements (minimum five feet each side of main) necessary for the operation and maintenance of the system. Mains shall be generally located along street and drives for ready access.

(1) The minimum size of pipe shall be six inches in diameter; however, smaller sizes may be allowed under special circumstances, provided the future extensions and looping will not be jeopardized. The standard grading schedule of the American Insurance Association and related agencies shall be followed in determining larger sizes. Supply mains not intended to carry fire flows shall not be connected to fire hydrants.

(2) Pipe shall be ductile iron manufactured in conformance with the latest standards of the Amercian Water Works Association. However, 4-inch, 6-inch, 8-inch, 10-inch, and 12-inch PVC class pressure pipe complying with American Water Works Associa- tion specifications C-900-75, having Underwriters Laboratories, Inc. approval; SDR 17 or SDR 18 having cast-iron pipe equivalent OD may be allowed.

(3) Joints shall be push-on or mechanical compression-type joints manufactured in conformance with the latest standards of the American Water Works Association. Iron pipe shall be suitably protected against corrosion with polyethylene wrapping or other approved methods. When required by the town, PVC pipe shall be buried with a metal tape capable of being detected with aboveground detection equipment.

(4) Selection of pipe is at the option of the town.

(D) Fire prevention standards. All public water distribution systems must make provision for fire protection in accordance with the standard grading schedule of the American Insurance Association and related agencies, hereby adopted by reference, three or more copies of which are on file with the Town Clerk, identified as official copies, and shall be kept available for public use, inspection, and examination.

(E) Extensions. Extensions of water mains must be provided to adjacent properties when, in the opinion of the town, it will assist in providing proper circulation and looping of mains for future construction.

(F) Individual connections. Each building must be connected individually to the water main, complete with meter.

(G) Right of town to specify materials, method of construction. The town reserves the right to specify materials,

methods of construction, and locations of facilities when, in their judgment, it will provide for improved long-range operation of the system. The town reserves the right to revise the foregoing provisions or to supplement them by the adoption of standard plans and specifications.

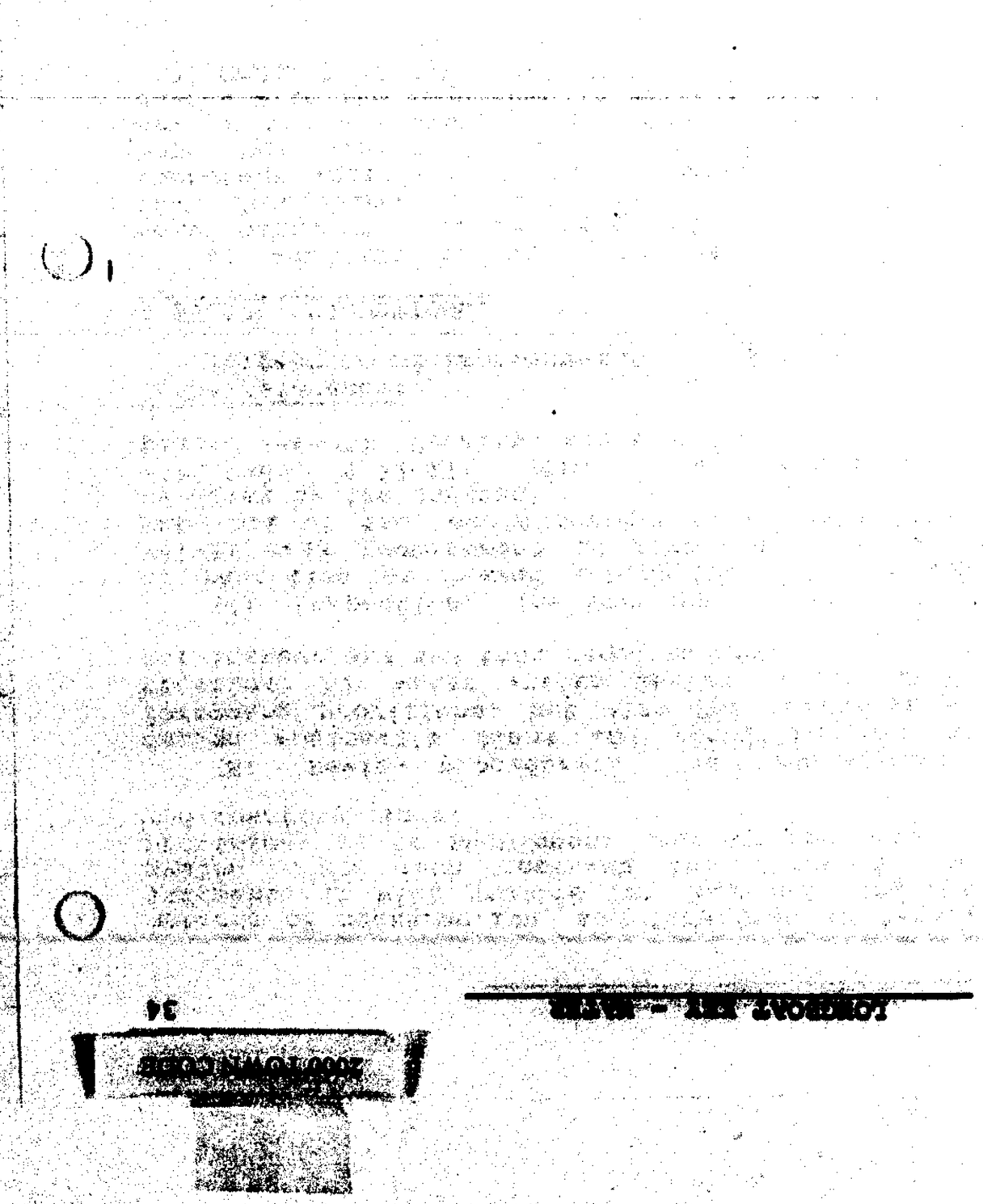
(H) Review procedures. The Town Engineer shall review the design engineer's plans and specifications not only as to the foregoing provisions, but also for conformance to established good practices for water system design, which shall include provisions for inspections and test requirements.

(I) Inspection. The town shall provide an inspector, full-time or part-time as deemed appropriate by the town, unless the town waives this requirement in favor of other appropriate inspection. The cost of the town's inspector, as determined by the town, shall be borne by the contractor.
('71 Code, § 22-77) (Ord. 73-8, passed 5-2-73; Am. Ord. 76-5, passed 2-4-76) Penalty, see § 50.99

Cross-reference:
Inspection of improvements, see § 97.03

§ 53.13 INJUNCTIONS.

In addition to the remedies provided in this chapter, 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 from violating or continuing to violate any of the sections of this chapter or from failing or refusing to comply with the requirements of this chapter.
('71 Code, § 22-78) (Ord. 200, passed 10-6-71) Penalty, see § 50.99



CHAPTER 54: WATER SHORTAGE ORDERS

Sections

54.01 Definitions
54.02 Applicability
54.03 Declaration of shortage; emergency
54.04 Enforcement
54.05 Penalties
54.06 Water users to accept provisions of chapter

§ 54.01 DEFINITIONS.

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. "Shall" is always mandatory and not merely directory.

"DISTRICT." The Southwest Florida Water Management District.

"PERSON." Any person, firm, partnership, association, corporation, company or organization of any kind.

"WATER RESOURCE." Any and all water on or beneath the surface of the ground, including natural or artificial watercourses, ponds or diffused surfacewater, and water percolating, standing or flowing beneath the surface of the ground.

"WATER SHORTAGE CONDITION." When sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

"WATER SHORTAGE PLAN." Chapter 40D-21, Florida Administrative Code, the codification of the Water Shortage Plan adopted and published by the Southwest Florida Water Management District July 1983.
(Ord. 85-8, passed 6-12-85)

§ 54.02 APPLICABILITY.

The provisions of this chapter apply to all persons using the water resource, whether from public or privately owned water utility systems, private wells, or private connections with surfacewater bodies. This chapter does not apply to persons using treated effluent or saltwater.
(Ord. 85-8, passed 6-17-85)

§ 54.03 DECLARATION OF SHORTAGE; EMERGENCY.

The declaration of a water shortage or water shortage emergency within all or any part of Manatee or Sarasota Counties by the

Governing Board or the Executive Director of the District shall invoke the provisions of this chapter. Upon such declaration all water use restrictions or other measures adopted by the District pursuant to Chapter 40D-21, Florida Administrative Code, applicable to Manatee or Sarasota County, or any portion thereof, shall be subject to enforcement action pursuant to Section 54.04 of this chapter. Any violation of the provisions of Chapter 40D-21, Florida Administrative Code, or any order issued pursuant thereto, shall be a violation of this chapter. The Town Commission may also declare emergency water restrictions as set forth in Section 53.10 of this code, and such restrictions shall be enforced in addition to any restrictions adopted by the District to the extent they are more restrictive and not inconsistent with District regulations.
(Ord. 85-8, passed 6-17-85)

§ 54.04 ENFORCEMENT.

Every police officer or sheriff of the County or municipalities in the service areas governed by this chapter shall, in connection with all other duties imposed by law, diligently enforce the provisions of this chapter. In addition, the Town Manager may also delegate enforcement responsibility for this chapter to agencies and departments of local government in the service areas governed by this chapter, in accordance with state and local law.
(Ord. 85-8, passed 6-17-85)

§ 54.05 PENALTIES.

(A) Violation of any provision of this chapter shall be subject to the following penalties:

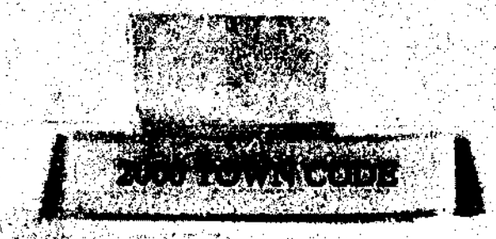
(1) First violation, $25.00.

(2) Second and subsequent violations, fine not to exceed $500; and/or imprisonment in the County jail not to exceed 60 days.

(B) Each day in violation of this chapter constitutes a separate offense. In the initial stages of a water shortage, law enforcement officials may attempt to provide violators with no more than one written warning.
(Ord. 85-8, passed 6-17-85)

§ 54.06 WATER USERS TO ACCEPT PROVISIONS OF CHAPTER.

No water service shall be furnished to any person by a public or private utility unless such person agrees to accept all the provisions of this chapter. The acceptance of water service shall be in itself the acceptance of the provisions of this chapter.
(Ord. 85-8, passed 6-17-85)



TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. TRAFFIC RULES

72. STOPPING, STANDING, AND PARKING

73. BICYCLES

74. PARKING SCHEDULES

75. TRAFFIC SCHEDULES

CHAPTER 70: GENERAL PROVISIONS

Section

70.01 Application of state law
70.02 Impoundment of vehicles

§ 70.01 APPLICATION OF STATE LAW.

It shall be unlawful to commit within the limits of the town any act which is prohibited by the state as a misdemeanor, including anything prohibited by the State Uniform Traffic Control Act. The commission of any such act within the town shall be considered a violation of the laws of the town and traffic infractions may be administered and disposed of in accordance with the Florida Uniform Disposition of Traffic Infractions Act.
('71 Code, § 13-1) (Ord. 75-20, passed 10-15-75; Am. Ord. 76-31, passed 10-27-76)

Statutory reference:
Uniform Disposition of Traffic Infractions Act, see F.S.A. Ch. 318
Uniform Traffic Control Act, see F.S.A. Ch. 316

§ 70.02 IMPOUNDMENT OF VEHICLES.

(A) Members of the Police Department are hereby authorized to remove a vehicle from a street to the nearest garage or other place of safety, or to a garage or parking area designated or maintained by the Police Department or by this town, under the following circumstances.

(1) When any vehicle is left unattended on any bridge, causeway, or viaduct where the vehicle constitutes an obstruction to traffic.

(2) When a vehicle on a street is so disabled as to constitute an obstruction to traffic, or the person in charge of the vehicle is, by reason of physical injury, incapacitated to such an extent as to be unable to provide for its custody and removal.

(3) When a vehicle is found being operated on the streets and is not in proper condition according to state inspection requirements.

(4) When any vehicle is left unattended on a street and is parked illegally so as to constitute a definite hazard or obstruction to the normal movement of traffic.

(5) When any vehicle is left unattended upon a street continuously for more than 24 hours and may be presumed to be abandoned.

(6) When the driver of a vehicle is taken into custody by the Police Department and the vehicle would thereby be left unattended on a street.

(7) When removal is necessary in the interest of public safety because of fire, flood, storm, or other emergency reason.

(8) When removal is authorized under state law.

(B) No vehicle impounded in an authorized garage or parking area as herein provided shall be released therefrom until the charges for towing the vehicle into the garage and storage charges have been paid. The charge for towing or removal of any vehicle and storage charges shall be the actual expenses and $5 per day when stored on town property.
('71 Code, § 13-38)

(C) Whenever an officer removes a vehicle from a street, as authorized in division (A) above, and the officer knows or is able to ascertain the name and address of the owner thereof, the officer shall immediately give or cause to be given notice in writing to the owner of the fact of the removal, the reasons therefor, and of the place to which the vehicle has been removed. In the event any vehicle is stored in an authorized garage, a copy of the notice shall be given to the proprietor of the garage. ('71 Code, § 13-39)

(D) Whenever any police officer finds a vehicle standing on a street or alley in violation of any of the provisions of this section, the officer is hereby authorized to move the vehicle or require the driver or person in charge of the vehicle to move it to a position off the paved or improved or main-traveled part of the street or alley. Whenever any police officer finds a vehicle unattended on any street, bridge, or causeway within this town where the vehicle constitutes an obstruction to traffic, the officer is hereby authorized to provide for the removal of the vehicle in accordance with the provisions of this section. ('71 Code, § 13-40) (Ord 76-1, passed 2-4-76)

Cross-reference:
Impoundment for illegal stopping, standing, or parking, see § 72.08

Chapter 71: TRAFFIC RULES

Section

71.01 Vehicular traffic on coastal beaches
71.02 Town speed limits
71.03 Obedience to traffic-control devices

§ 71.01 VEHICULAR TRAFFIC ON COASTAL BEACHES.

No person shall operate any motor vehicles, as defined under F.S. § 320.01, motorcycle or any bicycle between the area designated as the vegetation line and the waters of the Gulf of Mexico; however, the Town Manager or his designee may authorize the operation of such vehicles if it is deemed to be in the best interest of the health, safety and welfare of the residents of the town.
('71 Code, § 13-2) (Ord. 127, passed 7-11-67; Am. Ord. 92-06, passed 3-2-92) Penalty, see § 10.99

Statutory reference:
Vehicular traffic on coastal beaches, F.S. § 161.58

§ 71.02 TOWN SPEED LIMITS.

It shall be unlawful to drive any motor vehicle on any street, road, or road right-of-way not under the jurisdiction of the state, within the town, at a speed in excess of 20 miles per hour; however, on Broadway east of Gulf of Mexico Drive, motor vehicles shall not be driven at a speed in excess of 25 miles per hour.
('71 Code, § 13-3) (Ord. 75-11, passed 6-18-75) Penalty, see § 10.99

Statutory reference:
Authority of municipalities to establish speed limits, see F.S. § 316.189

§ 71.03 OBEDIENCE TO TRAFFIC-CONTROL DEVICES.

It shall be unlawful, except on direction of a police officer, for the driver of any vehicle to disobey the instructions of existing traffic signs and signals and any traffic sign and traffic signal hereafter placed in view by authority of the Town Manager in accordance with the manual and specifications of the State of Department of Transportation.
('71 Code, § 13-4) (Ord. 78-21, passed 12-20-78) Penalty, see § 10.99

Statutory reference:
Authority for municipality to place traffic-control devices upon streets and highways within its jurisdiction, see F.S. § 316.006(2)

CHAPTER 72: STOPPING, STANDING, AND PARKING

Section

72.01 Parking prohibited in certain places
72.02 Unattended vehicle
72.03 Obstruction of traffic prohibited
72.04 All-night parking
72.05 Parking for certain purposes prohibited
72.06 Restrictions on parking and use of travel trailers
72.07 Restricted parking zones
72.08 Removal; impoundment

72.99 Penalty

Cross-reference:
Court cost assessment not applicable to parking violations, see § 35.05

Statutory reference:
Authority of municipalities to regulate stopping, standing, and parking, see F.S.A. § 316.008

§ 72.01 PARKING PROHIBITED IN CERTAIN PLACES.

No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places.

(A) Generally.

(1) On a sidewalk and easements.

(2) In front of a public or private driveway.

(3) At an intersection.

(4) Within 15 feet of a fire hydrant.

(5) Within 20 feet of a crosswalk.

(6) Within 75 feet of the driveway entrance of any fire station.

(B) In fire lanes.

(1) Adjacent to sidewalks located around Publix, Eckards, and other shops in Bay Isles Shopping Center.

(2) Other areas determined by the Fire Chief and Police Chief that the parking of vehicles does or will interfere with ready access by the Fire Department to the property, and the fire lane is conspicuously furnished with signs or markers designating the area as a fire lane.
('71 Code, § 13-19) (Ord. 76-9, passed 4-21-76; Am. Ord. 80-14, passed 12-10-80; Am. Ord. 81-11, passed 3-4-81; Am. Ord. 81-36, passed 10-7-81) Penalty, see § 72.99

§ 72.02 UNATTENDED VEHICLE.

No person driving or in charge of any motor vehicle, except a licensed delivery truck or other delivery vehicle, shall permit it to stand unattended without first stopping the engine, locking the ignition, and removing the key.
('71 Code, § 13-20) (Ord. 76-9, passed 4-21-76; Am. Ord. 76-19, passed 6-2-76) Penalty, see § 72.99

§ 72.03 OBSTRUCTION OF TRAFFIC PROHIBITED.

No person shall park any vehicle on a street in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic.
('71 Code, § 13-21) (Ord. 76-9, passed 4-21-76; Am. Ord. 76-19, passed 6-2-76) Penalty, see § 72.99

§ 72.04 ALL-NIGHT PARKING.

No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all-night parking without giving notice to the Police Department.
('71 Code, § 13-22) (Ord. 76-9, passed 4-21-76) Penalty, see § 72.99

§ 72.05 PARKING FOR CERTAIN PURPOSES PROHIBITED.

No person shall park a vehicle on any street for the principal purpose of the following.

(A) Displaying the vehicle for sale.

(B) Washing, greasing, or repairing the vehicle, except repairs necessitated by an emergency.

(C) Displaying advertising.

(D) Selling merchandise from the vehicle except in a duly-established marketplace or when so authorized or licensed under this code or other town ordinances.

(E) Storage or as junkage or dead storage for more than 24 hours.
('71 Code, § 13-23) (Ord. 76-9, passed 4-21-76; Am. Ord. 76-19, passed 6-2-76) Penalty, see § 72.99

§ 72.06 RESTRICTIONS ON PARKING AND USE OF TRAVEL TRAILERS.

(A) For the purpose of this section, the words "HOUSE CAR," "TRAILER," "TRAVEL TRAILER," "CAMPER," "MOTOR HOME," or "SELF-PROPELLED VEHICLES WITH SLEEPING ACCOMMODATIONS" shall mean any structure intended for or usable for human habitation, mounted

on or susceptible of being mounted on wheels, and which can be moved from place to place, either by its own power or power supplied by some vehicle attached or to be attached to the structure.

(B) It shall be unlawful for any person to park any vehicle designed to be occupied or used for living purposes, including but not limited to vehicles commonly known as campers, travel trailers, house trailers, and motor homes, for more than nine hours within any 24-hour period while the vehicle is parked on any of the following.

(1) Public streets.

(2) Public or municipal parking lots.

(3) Public or municipal rights-of-way.

(4) Private parking facilities which are open to the public generally or to any particular segment thereof.

(C) It shall be unlawful for any person to park, place, or locate, or for the owner of the lot to allow to park, place, or locate any house car, trailer, travel trailer, camper, motor home, or self-propelled vehicle with sleeping accommodations on any lot, tract, or parcel of land within the town for more than five days in any 30-day period, except as follows:

(1) In a carport, garage, or other building.

(2) In a permitted mobile home park.

(3) In a parking area of an existing motel or hotel.

(D) No person shall use the house car, trailer, travel trailer, camper, motor home, or self-propelled vehicle with sleeping accommodations for sleeping accommodations within the town, except when it is located in a permitted mobile home park.

(E) It shall be unlawful for occupants of any house car, trailer, travel trailer, camper, motor home, or self-propelled vehicle with sleeping accommodations to cook food therein or to serve any foods cooked therein, or to connect such vehicles to any source of electrical power or potable water during the time that the vehicle is parked in any of the areas described in subsection (B), and within the prohibited areas described in subsection (C).
('71 Code, § 14-3) (Ord. 73-5, passed 4-18-73) Penalty, see § 72.99

§ 72.07 RESTRICTED PARKING ZONES.

No person shall stop, stand, or park a vehicle for any purpose or length of time in any restricted parking zone other than for the purpose to which parking in the zone is restricted; however, a driver of a passenger vehicle may stop temporarily in the zone for the purpose of, and while actually engaged in, loading or unloading passengers when the stopping does not interfere with any vehicle which is waiting to enter or about to enter the zone for the purpose of parking in accordance with the purpose to which parking is restricted.
('71 Code, § 13-24) (Ord. 76-9, passed 4-21-76; Am. Ord. 76-19, passed 6-2-76) Penalty, see § 72.99

§ 72.08 REMOVAL; IMPOUNDMENT.

Whenever any police officer finds a vehicle standing on a street or alley in violation of any of the provisions of this chapter, the officer is hereby authorized to move the vehicle or require the driver or person in charge of the vehicle to move the vehicle to a position off the paved or improved or main-traveled part of the street or alley. Whenever any police officer finds a vehicle unattended on any street, bridge, or causeway within the town, where that vehicle constitutes an obstruction to traffic, the officer is authorized to provide for the removal of the vehicle.
('71 Code, § 13-26) (Ord. 76-9, passed 4-21-76; Am. Ord. 76-19, passed 6-2-76; Am. Ord. 79-3, passed 3-27-79; Am. Ord. 79-4, passed 5-2-79) Penalty, see § 72.99

Cross reference:
Authority of police to impound certain vehicles; procedure for impoundment of vehicles, see § 70.02

§ 72.99 PENALTY.

(A) The provisions of this chapter include the following parking violations, and the fines payable in each instances are as set forth opposite each listed violation.

(1) Overtime parking ..... $ 15.00

(2) Parking in restricted area (except handicapped spaces), unlawful parking, or parking where parking is prohibited 30.00

(3) Parking, stopping or standing a vehicle within any specially designated and marked handicapped parking space in violation of § 316.1955, Florida Statutes..... ..... 100.00

(B) Any person found guilty of violating any other provision of this chapter or any order issued pursuant thereto shall, upon conviction thereof, be punished by a fine not exceeding $500 or by imprisonment for a term not exceeding 60 days.
('71 Code, § 13-27)

(C) Any person, firm, company, corporation, or association, or the managing agent of any person, firm, company, corporation, or association who violates any of the provisions of § 72.06 shall, upon conviction thereof, be fined in a sum of not more than $50, or be imprisoned for not more than three days, with each day of the violation constituting a separate offense.
('71 Code, § 14-3) (Ord. 73-5, passed 4-18-73; Ord. 76-9, passed 4-21-76; Am. Ord. 76-19, passed 6-2-76; Am. Ord. 79-3, passed 3-27-79; Am. Ord. 79-4, passed 5-2-79; Am. Ord. 89-02, passed 2-6-89; Am. Ord. 90-27, passed 10-8-90)

Chapter 73: BICYCLES

Section

73.01 Definitions
73.02 Rental businesses
73.03 Enforcement
73.04 Bicycle regulations
73.05 Use of bicycle paths
73.06 Penalties

Prior history:
'71 Code §§ 13-50—13-57; and Ords. 77-24, 78-4 and 81-5.

Statutory reference:
Authority of municipality to regulate bicycles, see F.S. § 316.008

§ 73.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"BICYCLE." Every vehicle propelled solely by human power, or any moped propelled by a pedal-activated helper motor with a manufacturer's certified maximum rating of one and one-half brake horsepower, upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device.

"BICYCLE PATH." Any road, or way that is open to bicycle travel, which road, path, or way is physically separated from motorized vehicular traffic by a strip contiguous to a motorized highway or by an open space or by a barrier and is located either within the highway right-of-way or within an independent right-of-way, and which in some manner is specifically designated as being open to bicycle travel regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.

"MOTOR VEHICLE." Any vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, but not including any bicycle or moped as defined in this section.

"OPERATOR." Any person who drives or who is in actual physical control of a motor vehicle on a highway, or who is exercising control of his vehicle or steering a vehicle being towed by a motor vehicle.

"VEHICLE." Every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks, and manual and battery-powered wheelchairs, scooters, and carts designed for the use of the sick or disabled. (Ord. 93-19, passed 7-22-93)
(Ord. 85-6, passed 9-9-85)

§ 73.02 RENTAL BUSINESSES.

(A) All businesses in the town renting or providing bicycles shall comply with all safety standards required herein for the bicycles. Copies of this chapter on the premises of all bicycle rental agencies and on the premises of all businesses in the town furnishing bicycles for its customers or tenants. Each customer, upon renting a bicycle, shall receive a condensed version of this chapter from the renting agency. Such versions shall be supplied to the renting agency by the Town Police Department.

(B) All bicycle renting businesses in the town shall make their bicycles available for inspection by a town law enforcement officer upon demand during normal business hours.
(Ord. 85-6, passed 9-9-85; Am. Ord. 91-11 passed 7-1-91)

§ 73.03 ENFORCEMENT.

Any police officer or code enforcement officer of the town shall enforce the provisions of this chapter.
(Ord. 85-6, passed 9-9-85; Am. Ord. 91-11 passed 7-1-91)

§ 73.04 BICYCLE REGULATIONS.

(A) Every person propelling a vehicle by human power has all of the rights and all of the duties applicable to the driver of any other vehicle under Chapter 316, Florida Statutes, except as to special regulations in Chapter 316, Florida Statutes, and except as to provisions of Chapter 316, Florida Statutes, that by their nature can have no application.

(B) A person operating a bicycle may not ride other than upon or astride a permanent and regular seat attached to the bicycle.

(C) No bicycle may be used to carry more persons at one time than the number for which it is designed or equipped, except that an adult rider may carry a child securely attached to his person in a backpack or sling.

(D) No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle may attach the same or himself to any vehicle upon a roadway. This subsection may not prohibit attaching a bicycle trailer or bicycle semi-trailer to a bicycle if that trailer or semi-trailer has been designed for such attachment and solely for carrying cargo.

(E) (1) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

(a) When overtaking and passing another bicycle or vehicle proceeding in the same direction.

(b) When preparing for a left turn at an intersection or into a private road or driveway.

(c) When reasonably necessary to avoid any collision, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, or sub-standard-width land, that makes it unsafe to continue along the right-hand curb or edge. For the purposes of this subsection, a "sub-standard-width lane" is a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

(2) Any person operating a bicycle upon a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.

(F) Persons riding bicycles upon a roadway may not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast may not impede traffic when traveling at less than the normal speed of traffic at the time and place and under the conditions then existing and shall ride within a single lane.

(G) Any person operating a bicycle shall keep at least one hand upon the handlebars.

(H) Every bicycle in use between sunset and sunrise shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear each exhibiting a red light visible from a distance of 600 feet to the rear, except that a red reflector meeting the requirements of this section may be used in lieu of the red light. A bicycle or its rider may be equipped with lights or reflectors in addition to those required by this section.

(I) No parent of any minor child and no guardian of any minor ward may authorize or knowingly permit any such minor child or ward to violate any of the provisions of this section.

(J) A person propelling a vehicle by human power upon and along a sidewalk, or across a roadway upon and along a crosswalk, has all the rights and duties applicable to a pedestrian under the same circumstances.

(K) A person propelling a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian. (Ord. 91-11, passed 7-1-91)

(L) No person upon roller skates, or riding in or by means or any coaster, toy vehicle, or similar device, may go upon any roadway except while crossing a street on a crosswalk; and when so crossing, such person shall be granted all rights and shall be subject to all of the duties applicable to pedestrians.

(M) This section shall not apply upon any street while set aside as a play street.

(N) No person under 15 years of age may operate a moped as defined in this chapter.

(O) No person may operate a moped as defined in this chapter that does not conform to all applicable federal motor vehicle safety standards relating to lights and safety and other equipment contained in Section 49, Code of Federal Regulations.

(P) Every bicycle shall be equipped with a brake or brakes which will enable its rider to stop the bicycle within 25 feet from a speed of 10 miles per hour on dry, level, clean pavement.

(Q) All bicycles shall be equipped with an operating sound device.

(R) A person engaged in the business of selling bicycles at retail shall not sell any bicycles unless the bicycle has an identifying number permanently stamped or cast or its frame.
(Ord. 85-6, passed 9-9-85; Am. Ord. 87-25, passed 9-24-87)

§ 73.05 USE OF BICYCLE PATHS.

(A) No person shall drive any vehicle other than by human power upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or duly authorized temporary driveway.

(B) No vehicle shall be operated on bicycle paths or sidewalks at a speed in excess of 10 miles per hour. (Ord. 91-11, passed 7-1-91)

(C) This section shall not apply to municipal and utility vehicles or private maintenance vehicles while engaged in the performance of construction or maintenance duties.
(Ord. 85-6, passed 9-9-85; Am. Ord. 87-25, passed 9-24-87)

§ 73.06 PENALTIES.

Any person not a juvenile, as such is defined by the laws of this state, found guilty of a violation of any provisions found in this Chapter 73 shall be punished by a civil penalty of $5

for each infraction and a separate infraction shall be deemed committed on each day during or on which an infraction occurs or continues, or by impounding of such person's bicycle for a period not to exceed 90 days. Upon the recommendation of a judge of a juvenile court or a competent court having jurisdiction over the person of a minor, the town may impound such minor's bicycle for such period as the court may determine.
(Ord. 85-6, passed 9-9-85)

Chapter 74: PARKING SCHEDULES

Schedule

I. Prohibited parking
II. Restricted parking

SCHEDULE I: PROHIBITED PARKING

No person shall stop, stand, or park a vehicle, except when necessary to avoid a conflict with other traffic or in compliance with the direction of a police officer or traffic-control device, in any of the following places.

Street	Between	Side
Bayside Drive		South
Bayside Drive	Linley and Cedar	Both
Bayside Drive	Russell Street and Broadway Street	Both
Binnacle Point Drive		South
Broadway Street	Property line West side of 7015 Bayside Drive; East 125 feet to Bayside Drive; Bayside Drive from the Southeast end of Bayside Drive	North
	47 feet West to the East side of property line of 800 Broadway Street	South
Broadway Street	Gulf of Mexico Drive and Palm Drive and Longboat Drive South, Longboat Drive South and Poinsettia Drive, Seabreeze Avenue and waters of Gulf of Mexico	
	Gulf of Mexico Drive and Firehouse Road	North
Cedar Street	Gulf of Mexico Drive and Palm Drive, except 100 feet west of Palm Drive	North
Coral Avenue	Firehouse Road and waters of Gulf of Mexico	Both
Firehouse Court	Gulf of Mexico Drive and Joy Street	Both
Firehouse Road	Coral Avenue and 7043 Firehouse Road	
	Fire station and Broadway Street	West
Gulfbay Road	Gulf of Mexico Drive and a point 425 feet easterly of Gulf of Mexico Drive	Both
Gulf of Mexico Drive	At any place where official signs of the Department of Transportation prohibit stopping, standing or parking	

Street	Between	Side
Gulfside Road	Entire length, Gulf of Mexico Drive to Gulf of Mexico Drive	Both, except northerly side of southerly leg commencing at a point 30' from Gulf of Mexico Drive thence extending 94'
Hibiscus	Shell Street and a point 50 feet easterly	Southerly
Hibiscus Way	Entire length	Northwest
Joy Street	Firehouse Court and North Shore Road, and North Shore Road and waters of Longboat Pass	Both
Jungle Queen Way	Gulf of Mexico Drive and a point 525 feet easterly of Gulf of Mexico Drive	Both
Longboat Drive North	Broadway street and Russell Street	Both
Longboat Drive South	Broadway street and Linley Street	Both
Lyons Lane	Entire length	Both
North Shore Road	Gulf of Mexico Drive to Joy Street	Both
	Joy Street and waters of Gulf of Mexico	South
Palm Drive	Cedar Street and Broadway Street, and Broadway Street and dead end	Both
Palmetto Avenue	Firehouse Road and waters of Gulf of Mexico	Both
St. Judes Drive	Gulf of Mexico Drive and a point 400 feet easterly of Gulf of Mexico Drive	Both
Seabreeze Avenue	Broadway Street and waters of Gulf of Mexico	Both
Shell	Hibiscus and a point 50 feet southerly	Westerly
Tarawitt Drive	Gulf of Mexico Drive and a point 400 feet easterly of Gulf of Mexico Drive	Both

(Ord. 76-9, passed 4-21-76; Amd. Ord. 76-19, passed 6-2-76; Amd. Ord. 80-14, passed 12-10-80; Amd. Ord. 81-36, passed 10-7-81; Amd. Ord. 85-14, passed 10-7-85; Amd. Ord. 86-23, passed 10-6-86; Amd. Ord. 87-12, passed 5-4-87; Amd. Ord. 88-18, passed 5-2-88; Amd. Ord. 90-16, passed 6-4-90; Amd. Ord. 93-26, passed 2-7-94; Amd. Ord. 95-01, passed 1-9-95) Penalty, see § 72.99

SCHEDULE II: RESTRICTED PARKING

(A) Parking a motor vehicle in excess of 15 minutes on the following streets or portions thereof is prohibited.

Street	Portion	Side
Cedar Street	The 100 feet west of Palm Drive	North

(B) No person shall park a vehicle on any of the following streets or portions thereof when marked to prohibit parking between the hours of 8:00 p.m. and 5:00 a.m. October 30 to April 30, and between 9:00 p.m. and 5:00 a.m. April 30 to October 30.

Street	Portion	Side
Broadway		
Coral Avenue		
Firehouse Court		
Firehouse Road		
Joy Street		
North Shore Road		
Palmetto Avenue		
Seabreeze Avenue		

(C) No person shall park a vehicle on any of the following streets or portions thereof when marked to prohibit parking between the hours of 12:00 midnight and 8:00 a.m.

Street	Portion	Side
North St. Judes Drive		

(D) No person shall park a vehicle in the designated parking areas for the Quick Point Nature Preserve or Overlook Park between the hours of 11:00 p.m. and 5:00 a.m.

(E) No person shall park a vehicle on any of the following streets or portions thereof when marked to prohibit parking between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

Street	Portion	Side
Bay Isles Road	From a point beginning at the northernmost boundary of the United States Post Office extending southward to the intersection of Bay Isles Road and Bay Isles Parkway	Both

(Ord. 76-9, passed 4-21-76; Amd. Ord. 76-19, passed 6-2-76; Amd. Ord. 79-3, passed 3-27-79; Amd. Ord. 79-4, passed 5-2-79; Ord. 81-11, passed 3-4-81; Amd. Ord. 81-36, passed 10-7-81; Amd. Ord. 88-18, passed 5-2-88; Amd. Ord. 88-30, passed 11-7-88; Amd. Ord. 98-21, passed 7-6-98; Amd. Ord. 99-06, passed 2-1-99) Penalty, see § 72.99

CHAPTER 75: TRAFFIC SCHEDULES

Schedule

I. Stop signs

SCHEDULE I: STOP SIGNS

Stop signs at the following locations are hereby approved by the Town Commission.

Intersection

Bayview Drive at Gulf of Mexico Drive
Binnacle Point Drive at Gulf of Mexico Drive
Broadway Street at Gulf of Mexico Drive
Buttonwood Drive at Gulf of Mexico Drive
Cedar Street at Gulf of Mexico Drive
Cedar Street at Longboat Drive
Cedar Street at Poinsettia Drive
Channel Lane at Gulf of Mexico Drive
Companion Way at Gulf of Mexico Drive
Coral Avenue at Firehouse Road
Country Club Shores Center Entrance at Gulf of Mexico Drive
Country Club Shores Center Entrance at Bogey Lane
Country Club Shores North Entrance at Bogey Lane
Country Club Shores North at Gulf of Mexico Drive
Country Club Shores South Entrance at Bogey Lane
Country Club Shores South af Gulf of Mexico Drive
Cutter Lane at Gulf of Mexico Drive
DeNavarez Drive at Gulf of Mexico Drive
Dream Island Road at Gulf of Mexico Drive
Fox Street at Longboat Drive
Fox Street at Poinsettia Drive
General Harris Road at Gulf of Mexico Drive
Gulfbay Road at Gulf of Mexico Drive
Gulfside Road North at Gulf of Mexico Drive
Gulfside Road South at Gulf of Mexico Drive
Gunwale Lane at Gulf of Mexico Drive
Hibiscus Way at Longboat Drive
Hibiscus Way at Poinsettia Drive
Hornblower Lane at Gulf of Mexico Drive
Hughes Street at Jackson Street
Joy Street at North Shore Road
Juan Anasco Drive at Gulf of Mexico Drive
Jungle Queen Way at Gulf of Mexico Drive
Ketch Lane at Gulf of Mexico Drive
Linley Street at Longboat Drive
Linley Street at Poinsettia Drive
Lois Street at Broadway Street
Lyons Lane at Gulf of Mexico Drive
Marbury Lane at General Harris Road
Neptune Avenue at Gulf of Mexico Drive
North Shore Road at Gulf of Mexico Drive

Intersection

Norton Street at General Harn's Street
Outrigger Lane at Gulf of Mexico Drive
Palm Drive at Broadway Street
Palmetto Avenue at Firehouse Road
Penfield Street at General Harris Street
Poinsettia Drive at Broadway Street
Reclinata Drive at Gulf of Mexico Drive
Royal Road at Gulf of Mexico Drive
Russell Street at Longboat Drive
Russell Street at Poinsettia Drive
St. Judes Drive at Gulf of Mexico Drive
Schooner Lane at Gulf of Mexico Drive
Shell Street at Hibiscus Way
Sloop Lane at Gulf of Mexico Drive
Spanish Drive at Gulf of Mexico Drive
Spinnaker Lane at Gulf of Mexico Drive
Tarawitt Drive at Gulf of Mexico Drive
Yawl Lane at Gulf of Mexico Drive

(Am. Ord. 84-4, passed 3-5-84; Am. Ord. 87-8, passed 5-4-87)

TITLE IX: GENERAL REGULATIONS

Chapter

90. AIRCRAFT AND AIRPORTS
91. ANIMALS
92. BEACHES AND PARKS
93. VESSELS, WATERWAYS AND WATER ACTIVITIES
94. FIRE PREVENTION CODE
95. GARBAGE, RUBBISH, JUNK AND RECYCLING
96. HEALTH AND SANITATION
97. STREETS AND SIDEWALKS
98. TREES
99. ABANDONED AND SEIZED PROPERTY
100. SEA TURTLES
101. BURGLAR ALARM SYSTEMS

CHAPTER 90: AIRCRAFT AND AIRPORTS

Section

90.01 Pilot's certificate required
90.02 Compliance with federal regulations
90.03 Landing within town limits
90.04 Required flying height

90.99 Penalty

§ 90.01 PILOT'S CERTIFICATE REQUIRED.

It shall be unlawful for any person to operate any aircraft, including helicopters, over the territory within the town limits without first having then in effect a pilot's certificate issued by the Department of Commerce of the United States and a valid certificate of air-worthiness for the aircraft issued by the Department of Commerce.
('71 Code, § 2A-1) (Ord. 73-20, passed 8-22-73) Penalty, see § 90.99

§ 90.02 COMPLIANCE WITH FEDERAL REGULATIONS.

It shall be unlawful for any person to operate any aircraft, including helicopters, over the territory within the town limits in violation of any regulation of the Department of Commerce of the United States or any other authorized department governing the operation of aircraft.
('71 Code, § 2A-2) (Ord. 73-20, passed 8-22-73) Penalty, see § 90.99

§ 90.03 LANDING WITHIN TOWN LIMITS.

It shall be unlawful for any person to land any aircraft, including helicopters, within the town limits at any time except at established airports. However, nothing in this section shall be construed to prohibit emergency landings by the U.S. Coast Guard or other governmental agencies, and landings by law enforcement officers in the performance of their law enforcement duties. Further, nothing in this section shall be construed to prohibit landings on an individual basis where the Mayor or the Town Commission has granted prior approval on showing that there would be no damage to the property or the residents of the town.
('71 Code, § 2A-3) (Ord. 73-20, passed 8-22-73; Am. Ord. 74-5, passed 3-6-74; Am. Ord. 79-11, passed 6-20-79) Penalty, see 90.99

§ 90.04 REQUIRED FLYING HEIGHT.

It shall be unlawful for any person to operate any aircraft, including helicopters, over any building within the town limits at a height of less than 1,000 feet above the ground, except U.S. Coast Guard emergency aircraft or other governmental aircraft and mosquito control aircraft.
('71 Code, § 2A-4) (Ord. 73-20, passed 8-22-73) Penalty, see § 90.99

§ 90.99 PENALTY.

Any person, firm, company, corporation, or association or the managing agent of any person, firm, company, corporation, or association who violates this chapter shall be deemed guilty and, upon conviction thereof shall be fined in a sum not more than $500, or shall be imprisoned for not more than 60 days, with each day of the violation constituting a separate offense.
('71 Code, § 2A-5) (Ord. 73-20, passed 8-22-73)

CHAPTER 91: ANIMALS

Section

General Regulations

91.01 Quarantine
91.02 Animals within town limits
91.03 Confinement in unattended motor vehicles
91.04 Injuring or destroying peafowl

Dogs and Cats

91.10 License and tags
91.11 Unlicensed dogs and cats
91.12 Vaccination required
91.13 Confinement when rabies suspected
91.14 Leash or lead requirements
91.15 Impoundment
91.16 Pound
91.17 dog and Cat Warden
91.18 Barking, howling, or biting
91.19 Cruel and inhumane treatment
91.20 Prohibited on beaches
91.21 Disposition of fees, fines
91.22 Dog excreta

Vicious Dogs

91.30 Definition of terms
91.31 Confinement
91.32 Leash and muzzle
91.33 Signs
91.34 Dog fighting
91.99 Penalty

GENERAL REGULATIONS

§ 91.01 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 Commission may by resolution declare a state of emergency to exist and during that 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 the period of time the emergency continues, the town by

resolution may promulgate any other emergency regulations deemed necessary for the protection of the health, safety, and general welfare of the town.
('71 Code, § 4-1) (Ord. 147, passed 4-10-69)

§ 91.02 ANIMALS WITHIN TOWN LIMITS.

No livestock, fowl or domestic animals, other than household pets (dogs, cats, birds, fish or other pets generally accepted as household pets capable of and customarily sharing a dwelling with humans), shall be kept or maintained within the town.
('71 Code, § 4-1.5) (Ord. 77-28, passed 12-7-77; Am. Ord. 92-07, passed 3-2-92) Penalty, see § 91.99

§ 91.03 CONFINEMENT IN UNATTENDED MOTOR VEHICLES.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ANIMAL." All species of mammals, excepts humans, and all species of birds.

"ANIMAL SHELTER." Any facility maintained within Sarasota or Manatee Counties for the confinement and maintenance of dogs and other animals that come into its custody in the performance of its official duties, for the relief of suffering of dogs and other animals, or for the confinement, maintenance, safekeeping, and control of dogs and other animals that come into its custody.

"LAW ENFORCEMENT OFFICER." The police officer or any other officer having jurisdiction within the town.

"MOTOR VEHICLE." Any vehicle defined as a motor vehicle by F.S. Ch. 316.
('71 Code, § 4-31)

(B) It is hereby declared to be the purpose and intent of this section to protect animals from placement or confinement in unattended motor vehicles without adequate ventilation or under other conditions or for a period of time that may reasonably be expected to cause suffering, disability, or death.
('71 Code, § 4-30)

(C) All of the incorporated areas of the town shall be embraced by the provisions of this section.
('71 Code, § 4-32)

(D) No person owning or otherwise having charge or custody of an animal shall place or confine the animal or allow the animal to be placed or confined or to remain in an unattended motor vehicle without sufficient ventilation or under other conditions or for a period of time that may endanger the health or well-being of the animal due to heat, lack of water, or other circumstances that may reasonably be expected to cause suffering, disability, or death.

(E) No person owning or otherwise having dominion or control over a motor vehicle shall place or confine an animal or allow an animal to be placed or confined or to remain in an

unattended motor vehicle without sufficient ventilation or under other conditions or for a period of time that may endanger the health or well-being of the animal due to heat, lack of water, or other circumstances that may reasonably be expected to cause suffering, disability, or death.

(F) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry, or other agricultural livestock in trailers or other vehicles designed and constructed for these purposes.
('71 Code, § 4-33)

(G) Any law enforcement officer who finds an animal in a motor vehicle that in the judgment of the law enforcement officer is in violation of this section may use any lawful means to remove the



animal. The law enforcement officer removing the animal shall take the animal, or have the animal delivered, to an animal shelter. The law enforcement officer shall, in the event the owner or custodian of the animal cannot be otherwise contacted, leave in a prominent place in the motor vehicle a written notice bearing his name and department, and the address where the animal may be claimed by the owner thereof. In addition, the law enforcement officer shall notify the Animal Control Officer of the county of the fact that the animal was taken and the name of the animal shelter to which the animal was delivered.

(1) The animal will be surrendered to the owner if the owner claims the animal within ten days from the time the animal was removed from the motor vehicle and pays all reasonable charges that have accrued for the maintenance of the animal.

(2) The animal shelter having custody of the animal will make reasonable effort to contact the owner and give notice that the animal is in their custody and may be reclaimed by the owner upon payment of reasonable maintenance charges. If the owner does not reclaim the animal within the specified time, the shelter having custody of the animal may dispose of the animal in any reasonably humane manner.
('71 Code, § 4-34)
(Ord. 77-12, passed 5-18-77) Penalty, see § 91.99

§ 91.04 INJURING OR DESTROYING PEAFOWL.

It shall be unlawful for any person to intentionally injure, kill, or destroy any peafowl within the town by throwing stones or other objects, shooting at, or using any implements with the intention of killing or injuring any peafowl within the town.
(Ord. 81-17, passed 7-1-81) Penalty, see § 91.99

DOGS AND CATS

§ 91.10 LICENSE AND TAGS.

(A) It shall be unlawful for any resident to keep a dog or cat within the town without first having obtained a license to keep the dog or cat. It shall be the duty of the Finance Director to issue these licenses. "RESIDENT," as used in this section, is a person residing in the town for a period of 90 days or more. ('71 Code, § 4-2)

(B) It shall be the duty of the Finance Director, on or before October 1 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, ending September 30, thereon, which shall be furnished by him to all applicants therefor upon payment of $3. ('71 Code, § 4-3) (Ord. 229, passed 9-27-72)

(C) 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 division (B) above. ('71 Code, § 4-4)

(D) No tag shall be used on the collar of any dog or cat other than the one for which it is issued. ('71 Code, § 4-5)

(E) 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. ('71 Code, § 4-6)
(Ord. 147, passed 4-10-69) Penalty, see § 91.99

Cross-reference:
Licenses generally, see Ch. 111

Statutory reference:
Damages by dogs and liability of owners therefor, see F.S.A. §§ 767.01 through 767.04

§ 91.11 UNLICENSED DOGS AND CATS.

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 to impound the 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 the seizure. The 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 $5 for each day within five calendar days after the date of seizure. In the absence of payment, the 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.
('71 Code, § 4-7) (Ord. 147, passed 4-10-69; Am. Ord. 229, passed 9-27-72)

§ 91.12 VACCINATION REQUIRED.

Prior to the issuance of any dog or cat license by the Finance Director, any resident owning or keeping a dog or cat within the town shall have the dog or cat vaccinated against rabies by a licensed veterinarian or other properly qualified person approved by the Town Manager. Evidence of the vaccination shall consist of a certificate signed by the person administering the vaccine and containing pertinent data for the identification of the dog or cat so vaccinated and the time of the vaccination. A copy of the certificate shall be filed by the Finance Director at the time of issuance of the license.
('71 Code, § 4-8) (Ord. 147, passed 4-10-69)

§ 91.13 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 and the county involved shall be promptly notified of the existence of the suspicion of rabies in any dog, cat, or other animal by the owner or the person in charge of the animal.
('71 Code, § 4-9) (Ord. 147, passed 4-10-69)

§ 91.14 LEASH OR LEAD REQUIREMENTS.

No dog whether licensed or unlicensed, muzzled or unmuzzled, inoculated or not inoculated against rabies, shall be allowed on the streets of the town or in public places, such as railroad depots, hotels, restaurants, theaters, public conveyances, and the like, or on property other than that of its owner, unless on a suitable dependable lead or leash not longer than eight feet, or unless on property other than that of its owner with the express or implied consent of the owner of the property.
('71 Code, § 4-10) (Ord. 147, passed 4-10-69; Am. Ord. 87-22, passed 9-24-87) Penalty, see § 91.99

§ 91.15 IMPOUNDMENT.

(A) 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 licensed dog or cat, or if the dog or cat is unlicensed, the owner of the dog or cat, if known, or if, upon reasonable diligent inquiry, may 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 the dog or cat has been seized and is impounded in the dog and cat pound awaiting redemption.

(B) No 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 $5 per day for care, custody, and feeding of the dog or cat, plus $1 for neglect to pay a license fee, and if licensed, the sum of $5 per day only for care, custody, and feeding. If the impounded dog or cat is not redeemed and released to the owner or agent, and the required fees and costs paid at the time of the release on or before the fifth calendar day after the day of seizure, the dog or cat may be put to death humanely in the dog and cat pound on the sixth calendar day after the day of seizure; however, 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 15 days after seizure, unless death occurs before the expiration of the 15 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 a way as meets with the demands of public health and welfare.
('71 Code, § 4-11) (Ord. 147, passed 4-10-69)

§ 91.16 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. The Chief of Police is given the authority to make use of any of the above for any of the provisions under this chapter, and it shall be under the general supervision of the Chief of Police.
('71 Code, § 4-12) (Ord. 147, passed 4-10-69)

§ 91.17 DOG AND CAT WARDEN.

(A) The Chief of Police shall either designate a police officer as Dog and Cat Warden or appoint a 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 chapter. ('71 Code, § 4-13)

(B) 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 the dog or cat. He shall deliver to the Chief of Police, on each Monday, a duplicate copy of all records of receipts and disposals covering the preceding calendar week. ('71 Code, § 4-14)

(C) 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 provisons of this chapter. ('71 Code, § 4-15)
(Ord. 147, passed 4-10-69) Penalty, see § 91.99

§ 91.18 BARKING, HOWLING, OR BITING.

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, causes annoyance to the neighborhood or to people passing on the streets.
('71 Code, § 4-16) (Ord. 147, passed 4-10-69) Penalty, see § 91.99

§ 91.19 CRUEL AND INHUMANE TREATMENT.

It shall be unlawful for any person to be cruel or inhumane to a dog or cat, the cruelty and inhumanity consisting of cruelly beating, torturing, or mutilating, or cruelly killing, failing to

provide food, drink, and shelter, or abandoning old, sick, or disabled dogs or cats.
('71 Code, § 4-17) (Ord. 147, passed 4-10-69) Penalty, see § 91.99

Cross-reference:
Confinement of animals in unattended motor vehicles, see § 91.03

Statutory reference:
Cruelty to animals, see F.S.A. Ch. 828

§ 91.20 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 the dog or cat to be on any beaches within the town.
('71 Code, § 4-18) (Ord. 147, passed 4-10-69)

Cross-reference:
Pets prohibited on public beach accesses, see § 92.12

§ 91.21 DISPOSITION OF FEES, FINES.

All money collected as pound fees and the like, as prescribed in this chapter, shall be expended for efficient management of the pound and for the enforcement of this chapter, and for other dog and cat purposes. Any surplus after September 30 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 Finance Director every Monday morning.
('71 Code, § 4-19) (Ord. 147, passed 4-10-69)

§ 91.22 DOG EXCRETA.

It is unlawful for any dog owner or person in charge of a dog to fail to remove deposits of dog excreta occurring in the presence of the dog owner or person in charge of the dog on any public property, including but not limited to municipal parks and public rights-of-way; or on private property not belonging to the owner or person in charge of the dog without the consent of the owner of the property. If such depositing of excreta occurs, the owner or person in charge of the dog shall immediately cause its removal for disposal at the premises of the owner or person in charge of the dog or in a proper waste receptacle. (Ord. 89-01, passed 1-9-89)

VICIOUS DOGS

§ 91.30 DEFINITION OF TERMS.

As used in §§ 91.30 through 91.34:

(A) "OWNER." Any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog.

(B) "VICIOUS DOG."

(1) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or

(2) Any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this article; or

(3) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

(C) A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.
(Ord. 88-03, passed 5-2-88) Penalty, see § 91-99

§ 91.31 CONFINEMENT.

The owner of a vicious dog shall not suffer or permit the dog to go unconfined.
(Ord. 88-03, passed 5-2-88) Penalty, see § 91-99

§ 91.32 LEASH AND MUZZLE.

The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.
(Ord. 88-03, passed 5-2-88) Penalty, see § 91-99

§ 91.33 SIGNS.

The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.
(Ord. 88-03, passed 5-2-88) Penalty, see § 91-99

§ 91.34 DOG FIGHTING.

No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the

purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.
(Ord. 88-03, passed 5-2-88) Penalty, see § 91-99

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter for which another penalty is not provided, shall, upon conviction thereof, be punished by a fine not exceeding $500 or by imprisonment for not more than 60 days.

(B) Any person, firm, company, corporation, or association, or the managing agent of any person, firm, company, corporation, or association, who violates § 91.03, shall, upon conviction thereof, be fined in a sum of not more than $500, with each day of the violation constituting a separate offense.

(C) Whoever violates any provision of §§ 91.30 through 91.34 shall be guilty of a gross misdemeanor and may be punished by a fine of not more than $500, or imprisonment of not more than sixty days in jail, or byt both fine and imprisonment. ('71 Code, § 4-35) (Ord. 77-12, passed 5-18-77; Am. 88-03, passed May 2, 1988)

LONGBOAT KEY - ANNUAL

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1990 S-7

Chapter 92: BEACHES AND PARKS

Section

Parks

92.01 Closing of public parks
92.02 Possession of alcoholic beverages
92.03 Prohibited activities in Joan M. Durante Community Park
92.04 Prohibition of taking or disturbing plants or animals within public parks or other public property
92.05 Restricted activities in the Quick Point Nature Preserve and Overlook Park

Activity on Public Beaches

92.10 Time restrictions
92.11 Possession of alcoholic beverages
92.12 Prohibited activities

Removal of Dead Fish

92.20 Purpose
92.21 When dead fish deemed nuisance
92.22 Duty of beach owner to remove
92.23 Abatement of nuisance; notice

Longboat Key Beach Erosion Control District

92.30 Authority for this subchapter
92.31 Findings
92.32 Creation
92.33 Territory of district
92.34 Governing body
92.35 Purposes of district
92.36 Powers of district

Longboat Key Beach Erosion Control District B

92.50 Authority for this ordinance
92.51 Findings
92.52 Creation
92.53 Territory of district
92.54 Governing body
92.55 Purposes of district
92.56 Powers of district

92.99 Penalty

PARKS

§ 92.01 CLOSING OF PUBLIC PARKS.

(A) The Town Commission may on its own motion, or on the petition of an interested party, close and discontinue any public park within the town. ('71 Code, § 19-5)

(B) Any interested party may sign and file with the Town Clerk a petition praying for the closing and discontinuing of any public park located within the town. The petition shall state the interest of the petitioner, fully and legally describe the park sought to be closed and discontinued, and shall set forth the names of all abutting property owners, the legal description of each individual parcel, and the owner thereof abutting the park. The petition shall state fully the petitioner's reasons for desiring the park to be closed and discontinued. The facts set forth in the petition shall be sworn to by the petitioner. ('71 Code, § 19-6)

(C) On petition being filed as provided in division (B) above, or by action of the Town Commission acting on its own motion, the Commission may, in its absolute discretion, by ordinance, close and discontinue the public park if the Commission finds that the public park has not been used as such or that any prior use has been abandoned or that the public park is of no benefit to the town and the public or that the closing and discontinuing of the public park is in the best interest of the public.

(D) On the adoption of any ordinance closing and vacating and discontinuing any public park, a copy of the ordinance, duly certified or acknowledged by the Town Clerk, shall be recorded in the public records in the office of the Clerk of the Circuit Court of the County in which the park is located.

(E) Accompanying each petition filed as provided in this section, shall be a deposit of $35 to pay expenses including publication and recording connected with action on the petition.

§ 92.02 POSSESSION OF ALCOHOLIC BEVERAGES.

It shall be unlawful for any person to have in his possession any alcoholic beverage on any town-owned properties within the town.

The provisions of this section do not apply to official town functions specifically approved by the Town Manager or to parties under contract with the town for special events.
(Ord. 93-27, passed 2-7-94)

§ 92.03 PROHIBITED ACTIVITIES IN JOAN M. DURANTE COMMUNITY PARK.

No person entering on and using the public property known as the Joan M. Durante Community Park shall do any of the following.

(A) Bed down on the premises; i.e., set up tents, shacks, or any other temporary shelter for the purpose of camping;

(B) Engage in the activity of skateboarding;

(C) Engage in the activity of rollerblading;

(D) Bring a bicycle into the pavilion or engage in bicycling on the handicap ramp;

(E) Be present on the premises from dusk to dawn daily. This section shall not apply to authorized personnel and vehicles, meaning all official state, county, and town personnel and vehicles engaged in police and fire protection and maintenance duties.
(Ord. 95-09, passed 5-1-95)

§ 92.04 PROHIBITION OF TAKING OR DISTURBING PLANTS OR ANIMALS WITHIN PUBLIC PARKS OR OTHER PUBLIC PROPERTY.

No person shall take, or cause to take, trap, net, remove or disturb the plants and animals located within parks or estuaries within the parks or other public property of the Town of Longboat Key. This provision does not prohibit fishing or cast nets thrown from the shore of the town parks into the waters of the bay, pass, or gulf.
(Ord. 97-05, passed 5-5-97)

§ 92.05 RESTRICTED ACTIVITIES IN THE QUICK POINT NATURE PRESERVE AND OVERLOOK PARK

(A) The Quick Point Nature Preserve and Overlook Park shall be closed for public use between the hours of 11:00 p.m. through 5:00 a.m.

(B) No parking of motor vehicles will be allowed in the Quick Point Nature Preserve or Overlook Park between the hours of 11:00 p.m. through 5:00 a.m.

(C) No overnight camping is permitted in the Quick Point Nature Preserve and Overlook Park.

(D) Drinking, consuming or possessing alcoholic beverages is prohibited in the Quick Point Nature Preserve and Overlook Park.

(E) No promotional or commercial activities of any kind may occur within Quick Point Nature Preserve or Overlook Park without first obtaining permission in writing from the Town Manager.

(F) Pets, other than animals utilized for assisting persons with disabilities, are prohibited on the premises of Quick Point Nature Preserve and Overlook Park.

(G) Fires, other than those contained in grills designed for cooking, are prohibited on the premises of Quick Point Nature Preserve and Overlook Park.
(Ord. 98-21, passed 7-6-98)

ACTIVITY ON PUBLIC BEACHES

§ 92.10 TIME RESTRICTIONS.

All persons and vehicles are prohibited from being present on any public access to the beach within the town and on public property known as Beer Can Island from 11:00 p.m. to 5:00 a.m. daily. This section shall not apply to authorized personnel in vehicles, meaning all official, state, county, and town personnel and vehicles engaged in police and fire protection and maintenance duties.
('71 Code, § 4A-1) (Ord. 76-10, passed 5-19-76) Penalty, see § 92.99

§ 92.11 POSSESSION OF ALCOHOLIC BEVERAGES.

It shall be unlawful for any person to have in his possession, beer, wine, whiskey, or any other alcoholic beverage on any public access to the beach within the town and on public property known as Beer Can Island.
('71 Code, § 4A-2) (Ord. 76-11, passed 5-19-76) Penalty, see § 92.99

§ 92.12 PROHIBITED ACTIVITIES.

No person entering on and using the public beach, including public beaches seaward of the mean high-water line and the public beach seaward of the erosion control line, or public beach accesses within the town and public property, including the property known as Beer Can Island, shall do any of the following.

(A) Build fires other than fires for cooking purposes contained in a grill or stove.

(B) Throw, place, or deposit any paper, food, trash, cans, bottles, or other refuse.

(C) Deface, damage, or defile the premises.

(D) Bring or allow pets on the premises.

(E) Dress or undress either by changing from ordinary street clothes into bathing or beach attire, or from beach attire into ordinary street clothes on the public beach.

(F) Bed down on the premises; i.e., after 11:00 p.m. set up tents, shacks, or any other temporary shelter for the purpose of overnight camping.

(G) Use profane or obscene language or conduct themselves in a disorderly manner.

(H) Drink, consume, or possess any bottled, canned, or packaged alcoholic beverages.

(I) Use any portion of the public beach for the purpose of assembling, where over 10 persons are involved, without first obtaining written permission from the Town Commission. Such a request shall be made to the town on forms provided by the Town Clerk.

(J) Make any promotional and commercial activities of any kind whatsoever without first obtaining permission from the Town Manager.

('71 Code, § 4A-3) (Ord. 76-16, passed 5-19-76; Am. Ord. 81-31, passed 10-7-81) Penalty, see § 92.99

Cross reference:
Dogs and cats prohibited on beaches, see § 91.20

REMOVAL OF DEAD FISH

§ 92.20 PURPOSE.

The Town Commissioners find and declare that there is a general need in the town for the measures provided by this subchapter and that this law is enacted in the exercise of the police power for the protection of the health, safety, and welfare of the people of the town.
('71 Code, § 4A-12) (Ord. 76-14, passed 5-19-76)

§ 92.21 WHEN DEAD FISH DEEMED NUISANCE.

Those beaches on which are located dead fish in such numbers as to create a nuisance or unsanitary condition are hereby determined to be detrimental to the health, safety, and welfare of the citizens of the town and further are hereby determined to be a public nuisance.
('71 Code, § 4A-14) (Ord. 76-14, passed 5-19-76)

§ 92.22 DUTY OF BEACH OWNER TO REMOVE.

For the purpose of promoting the health, safety, and welfare of the people of the town, every owner of land is required to remove dead fish from the beaches of the land owned by him. ('71 Code, § 4A-13) (Ord. 76-14, passed 5-19-76) Penalty, see § 92.99

§ 92.23 ABATEMENT OF NUISANCE; NOTICE.

(A) If the Town Manager, or any other official or agent designated by resolution of the Town Commission, shall find any of the conditions described in § 92.21 existing on beach within the incorporated areas of the town, the Town Manager shall give written notice to the owner of record of the beach by certified mail, return receipt requested, at his address as shown on the most recent county tax roll, notifying the owner of the condition and demanding that the condition be abated within seven days from the date of receipt of the letter. On the failure of the property owner to comply within the time prescribed, the Town Manager shall notify the Town Commission of the existence of the condition. ('71 Code, § 4A-15)

(B) On receipt by the Town Commission of notification from the Town Manager of the existence of conditions described in § 92.21 and failure to comply with the notice prescribed in division (A) above, the Commission shall, by resolution, direct the clearing of the beach and assess a lien on behalf of the town against the property for the costs herein described. A certified copy of the 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 more than 20 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 the objections. On determining the invalidity of all objections, or failure to file objection within 20 days, a notice of the lien in the form 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 situated and recorded as other liens are recorded, and in the office of the Town Clerk.

(C) The costs of removing dead fish, and the necessary expenses for preparation of the assessment lien, filing, and recording, and legal expenses, if any, incident thereto, shall be assessed against the land and shall be collected by the Town 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, 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 situated.
('71 Code, § 4A-16) (Ord. 76-14, passed 5-19-76) Penalty, see § 92.99

LONGBOAT KEY BEACH EROSION CONTROL DISTRICT A

Editor's note:

The editor has interpreted Ords. 92-24 and 92-26, creating Erosion Control Districts A and B as superseding Ord. 90-21, passed July 31, 1990, which created the "Longboat Key Beach Erosion Control District."

§ 92.30 AUTHORITY FOR THIS SUBCHAPTER.

This subchapter is enacted pursuant to Article VIII, § 2(b), Florida Constitution of 1968, as amended; Chapter 166, Parts I and II, Florida Statutes (1991); Chapter 170, Florida Statutes (1991); and §§ 189.402(1) and 189.4041, Florida Statutes (1991), as amended; and other applicable provisions of law.
(Ord. 92-24, passed 8-6-92)

§ 92.31 FINDINGS.

The Town Commission hereby finds that it is necessary and proper for the town to establish a dependent special district for beach restoration and maintenance within the town.
(Ord. 92-24, passed 8-6-92)

§ 92.32 CREATION.

There is hereby created and established a dependent special district of the town entitled the "Longboat Key Beach Erosion Control District A."
(Ord. 92-24, passed 8-6-92)

§ 92.33 TERRITORY OF DISTRICT.

The boundaries of the Longboat Key Beach Erosion Control District A are set forth on the large-scale maps of the town which were on display in the Town Hall prior to and during the enactment of Ordinances 92-24 and 92-26 of the Town Commission, enacted on August 6, 1992, which large-scale maps are presently on file in the office of the Town Clerk. Representations of such maps solely for identification and administrative convenience have been prepared and are attached hereto as Exhibit A. Any discrepancy or apparent discrepancy between the actual large-scale maps and the representations attached hereto as Exhibit A shall be resolved in favor of the large-scale maps on file in the office of the Town Clerk.
(Ord. 92-24, passed 8-6-92)

§ 92.34 GOVERNING BODY.

The members of the Town Commission shall serve ex officio as the governing body of the Longboat Key Beach Erosion Control District A.
(Ord. 92-24, passed 8-6-92)

§ 92.35 PURPOSES OF DISTRICT.

The purpose of the Longboat Key Beach Erosion Control District A shall be to provide for the planning, financing, construction, operation and maintenance of gulf beach restoration and gulf beach maintenance projects within the district and other related gulf beach projects.
(Ord. 92-24, passed 8-6-92)

§ 92.36 POWERS OF DISTRICT.

The district shall have all the powers under Florida law which the town has under Florida law, which shall be exercised solely for the purposes of the district as established herein, which powers shall include, but not be limited to, the power to conduct studies and adopt plans related to beach restoration and maintenance, maintain the beach, purchase and sell property, enter into contracts with both public and private entities, issue bonds and other obligations, levy taxes, levy special assessments, and appropriate and spend public funds; provided, however, that the power to issue bonds or other obligations or the levy of special assessments shall require the approval of a majority of the electors of the district voting on the proposed bond issue or special assessment.
(Ord. 92-24, passed 8-6-92)

LONGBOAT KEY BEACH EROSION CONTROL DISTRICT B

§ 92.50 AUTHORITY FOR THIS ORDINANCE.

This subchapter is enacted pursuant to Article VIII, Section 2(b), Florida Constitution of 1968, as amended; Chapter 166, Parts I and II, Florida Statutes (1991); Chapter 170, Florida Statutes (1991); and Sections 189.402(1) and 189.4041, Florida Statutes (1991), as amended; and other applicable provisions of law.
(Ord. 92-26, passed 8-6-92)

§ 92.51 FINDINGS.

The Town Commission hereby finds that it is necessary and proper for the town to establish a dependent special district for beach restoration and maintenance within the town.
(Ord. 92-26, passed 8-6-92)

§ 92.52 CREATION.

There is hereby created and established a dependent special district of the town entitled the "Longboat Key Beach Erosion Control District B."
(Ord. 92-26, passed 8-6-92)

§ 92.53 TERRITORY OF DISTRICT.

The boundaries of the Longboat Key Beach Erosion Control District B are set forth on the large-scale maps of the town which were on display in the Town Hall prior to and during the enactment of subchapters 92-24 and 92-26 of the Town Commission, enacted on August 6, 1992, which large-scale maps are presently on file in the office of the Town Clerk. Represen-

tations of such maps solely for identification and administrative convenience have been prepared and are attached hereto as Exhibit A. Any discrepancy or apparent discrepancy between the actual large-scale maps and the representations attached hereto as Exhibit A shall be resolved in favor of the large-scale maps on file in the Office of the Town Clerk.
(Ord. 92-26, passed 8-6-92)

§ 92.54 GOVERNING BODY.

The members of the Town Commission shall serve ex officio as the governing body of the Longboat Key Beach Erosion Control District B.
(Ord. 92-26, passed 8-6-92)

§ 92.55 PURPOSES OF DISTRICT.

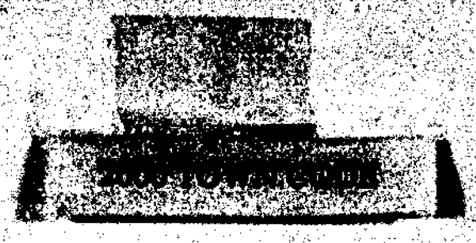
The purpose of the Longboat Key Beach Erosion Control District B shall be to provide for the planning, financing, construction, operation and maintenance of gulf beach restoration and gulf beach maintenance projects on the island of Longboat Key which benefit the area within Longboat Key Beach Erosion Control District B, whether such projects are physically located within or outside the district, and other related gulf beach projects.
(Ord. 92-26, passed 8-6-92)

§ 92.56 POWERS OF DISTRICT.

The district shall have all the powers under Florida law which the town has under Florida law, which shall be exercised solely for the purposes of the district as established herein, which powers shall include, but not be limited to, the power to conduct studies and adopt plans related to beach restoration and maintenance, maintain the beach, purchase and sell property, enter into contracts with both public and private entities, issue bonds and other obligations, levy taxes, levy special assessments and appropriate and spend public funds; provided, however, that the power to issue bonds or other obligations or the levy of special assessments shall require the approval of a majority of the electors of the district voting on the proposed bond issue or special assessment.
(Ord. 92-26, passed 8-6-92)

§ 92.99 PENALTY.

Any person, firm, company, corporation, or association, or the managing agent of any person, firm, company, corporation, or association, who violates any provisions of this chapter shall, upon conviction, be fined in a sum not more than $500 or shall be imprisoned for no more than 60 days, with each day of the violation constituting a separate offense.
('71 Code, § 4A-17) (Ord. 76-10, passed 5-19-76; Ord. 76-11, passed 5-19-76; Ord. 76-14, passed 5-19-76; Ord. 76-16, passed 5-19-76)



Chapter 93: VESSELS, WATERWAYS AND WATER ACTIVITIES

Section

93.01	Purpose and enforcement
93.02	Definitions
93.03	Careful and prudent operation
93.04	Speed not to be greater than what is reasonable under the conditions
93.05	Designation of "areas of restricted water activities"
93.06	Regulations in areas of restricted water activities
93.07	Procedure for designating additional areas of restricted water activities
93.08	Exemptions
93.09	Disturbing the peace from watercraft
93.10	Mooring regulations
93.11	Live-aboards
93.12	Sanitary, health regulation for vessels
93.13	Skiing, skin diving, or swimming
93.14	Vessel equipment; identification numbers
93.15	Placing of obstructions
93.16	Abandonment of vessels
93.17	Compliance with state law
93.20	Gambling vessels
93.99	Penalty
93.100	Maps

§ 93.01 PURPOSE AND ENFORCEMENT.

(A) Purpose. The purpose of this chapter shall be to promote safety for boating, swimming and other water related activities in the waters of the Town of Longboat Key.

(B) Enforcement. The area of enforcement of the provisions of this chapter shall be all public and private navigable waters, creeks, bayous, canals and channels, whether natural or man-made, located within the incorporated areas of the Town of Longboat Key. This section does not, however, apply to the Intracoastal Waterway.
(Ord. 95-22, passed 12-4-95; Amd. Ord. 96-22, passed 12-2-96)

§ 93.02 DEFINITIONS.

For purposes of Chapter 93, the following terms, phrases, words and derivations shall have the meaning given herein. When not inconsistent with the context, the words used in the present tense include the future, words in the plural number include singular number, and the words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

"BATHER." Any person who is swimming, wading or engaged in any other activity in or under the water.

"CONGESTED AREAS." Waterways where, by virtue of their shape, size, or normal traffic levels, hazards may be created to persons or property. ('94 Code, § 93-09)

"IDLE SPEED." The lowest speed at which a vessel can operate and maintain steering control.

"IDLE SPEED-NO WAKE." A restriction or controlled zone which has been established to protect the interest of the public. "Idle Speed-No Wake" means that a vessel cannot proceed at a speed greater than the speed which is necessary to maintain steerageway. ('94 Code, § 93-09)

"LIVE-ABOARD." Refers to the occupancy or use of a watercraft by one or more persons, as a place of habitation, residence, living quarters or for dwelling purposes, temporarily or permanently, continuously or transiently, at any location within the Town. ('94 Code, § 93-04)

"MARINE SANITATION DEVICE." Any equipment for installation on board a watercraft which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage. ('94 Code, § 93-04)

"MOOR." To anchor a watercraft; to tie off a watercraft to any submerged fixed object; or to tie or secure a watercraft to a piling, dock, wharf, seawall, dolphin, or other object or thing located or attached to real property in or adjacent to the waters of the Town. ('94 Code, § 93-04)

"OPERATE." To navigate or otherwise use any vessel in, on or under the water.

"PERSON." Any individual, partnership, firm, corporation, association or other entity.

"RESIDENTIAL COVES AND CANALS." Waters that shall generally be enclosed on two or three sides by land and contain private homes on the land bordering the water. ('94 Code, § 93-09)

"RESUME NORMAL-SAFE OPERATION." The end of a restricted zone. ('94 Code, § 93-09)

"RESTRICTED ZONE." An area which has restrictions greater than normal careful and prudent operation.

"SLOW DOWN-MINIMUM WAKE." A restriction or controlled zone which has been established to protect the interest of the public. "Slow Down-Minimum Wake" means a vessel must not proceed at a speed greater than that speed which is reasonable and prudent under existing circumstances to avoid an excessive wake or dangerous conditions. A vessel in an area designated as a "Slow Down-Minimum Wake" zone:

(1) That is operating on a plane is not proceeding at "Slow Down-Minimum Wake" speed.

(2) That is in the process of coming off plane and settling into the water, which action creates more than no or minimum wake is not proceeding at "Slow Down-Minimum Wake" speed.

(3) That produces no wake or minimum wake is proceeding at "Slow Down-Minimum Wake" speed.

(4) That is completely off a plane and which has settled into the water and is proceeding without wake or with minimum wake is proceeding at "Slow Down-Minimum Wake" speed. ('94 Code, § 93.09(A)(1-4)

"VESSEL." A motor-propelled or artificially-propelled vehicle and every other description of boat, watercraft, barge, jet skis, wet bike, airboat other than a seaplane on the water, used or capable of being used as a means of transportation on water.

"WAKE." Any disturbance of the waters created by vessels or watercraft being propelled on any of the waters within the area of the Town of Longboat Key. ('94 Code, § 93-09(A))

"WATERCRAFT." Any boat, motorboat, sailboat, vessel, houseboat, barge, floating structure, floating home or any contrivance of any nature whatsoever which is waterborne, whether or not the same is capable of moving under its own power or by sail; provided, however, that this definition shall not apply to boats, etc., which are utilized, temporarily, for promotional purposes as part of an event, show, boat show or the like permitted by the Town Commission. ('94 Code, § 93-04(A)).

"WATERS OF THE TOWN." All waters within the corporate limits of the Town of Longboat Key, Florida. ('94 Code, § 93-04(A))
(Ord. 95-22, passed 12-4-95)

§ 93.03 CAREFUL AND PRUDENT OPERATION.

(A) Every person operating any vessel in, on or under any waters within the area of enforcement as set forth herein shall do so in a careful and prudent manner, taking into consideration the weather conditions and range of visibility, water turbulence, proximities to fishermen, bathers, waterskiers, divers and other boats and watercraft, and all other attendant circumstances so as not to endanger the life, limb or property of any person. Failure to operate a vessel in such a careful and prudent manner shall constitute careless boating in violation of this chapter.

(B) No vessel or other watercraft shall be operated on any waters within the town at a rate of speed which causes waves to damage, or cause damage to docks, wharves, seawalls, the shoreline, boats, or personal property contained in boats moored or tied to docks or wharves. ('94 Code, § 93.01) Penalty, see 93.99.
(Ord. 95-22, passed 12-4-95)

§ 93.04 SPEED NOT TO BE GREATER THAN WHAT IS REASONABLE UNDER THE CONDITIONS.

Nothing contained in this chapter shall be construed to authorize or approve any speed greater than is reasonable and proper in consideration of local conditions, water traffic, fishermen, waterskiers or bathers in the area, or other hazards.
(Ord. 95-22, passed 12-4-95)

§ 93.05 DESIGNATION OF "AREAS OF RESTRICTED WATER ACTIVITIES".

(A) The following areas are hereby designated as Areas of Restricted Water Activities:

(1) All waters within 300 feet (100 yards) off shore measured from the Mean High Water Line from all beaches and shorefront bathing areas, whether or not so designated with appropriate signs;

(2) All waters within 300 feet (100 yards) from any marina, dock, pier, mooring, seawalls used as docking facilities, or similar landing facility used primarily for watercraft or water oriented activity such as fishing, whether or not designated for such purpose by appropriate signs;

(3) Any area designated as an official "NO WAKE-IDLE SPEED ONLY" area which is so posted in such a manner and placed that it may be reasonably expected to be seen and read by a person in operation of a vessel within the area;

(4) Any area designated as an official "SLOW-DOWN MINIMUM WAKE" area which is so posted in such a manner and placed that it may be reasonably expected to be seen and be read by a person in operation of a vessel within the area; and

(5) Any other areas that may be so designated by the Town Commission according to the procedure set forth in § 93.07 (A)(1-3) of this chapter.
(Ord. 95-22, passed 12-4-95)

§ 93.06 REGULATIONS IN AREAS OF RESTRICTED WATER ACTIVITIES.

(A) No owner, operator or person in command of any vessel shall permit said vessel to be operated or operate said vessel at a speed greater than, or in excess of, idle speed whenever the vessel is in an Area of Restricted Water Activity as described in § 93.05(A)(1-3) of this chapter.

(B) No owner, operator or person in command of any vessel shall permit said vessel to be operated or operate said vessel at a speed greater than, or in excess of, a speed which is reasonable and prudent under existing circumstances to avoid an excessive wake or dangerous conditions in Areas of Restricted Water Activities designated as "Slow-Down Minimum Wake" as referenced in § 93.05(A)(4) of this Chapter.

(C) Areas designated by signs as Idle Speed-No Wake and Slow Down-Minimum Wake are shown on the map attached to the ordinance codified in this chapter and incorporated into Chapter 93 as § 93.100. ('94 Code, § 93.09(C))
(Ord. 95-22, passed 12-4-95)

§ 93.07 PROCEDURE FOR DESIGNATING ADDITIONAL AREAS OF RESTRICTED WATER ACTIVITIES.

(A) By ordinance, the Town Commission may designate additional specific areas as an "Area

of Restricted Water Activities" as described in § 93.05(A)(1-3) of this chapter. In designating such areas, the Town Commission shall hear all testimony presented and make a finding that the designation is necessary for the safety and/or welfare of the citizens of the Town and shall consider where appropriate the criteria set forth below:

(1) "Idle Speed-No Wake" zones may be established in waterways and residential coves and canals where, by virtue of their shape, size, or normal traffic levels, hazards may be created to persons or property, unless certain limitations are placed upon the operation of boats and vessels. ('94 Code, § 93.09(B)(1))

(2) "Idle Speed-No Wake" zones may be established where it is determined by the town that harm may result to marine and/or aquatic habitat because of the operation of power boats at other than idle speed. ('94 Code, § 93.09(B)(2))

(3) "Slow Down-Minimum Wake" zones may be established in waterways where by virtue of their congestion or normal traffic levels, hazards may be created to persons or property unless certain limitations are placed upon the operators of boats and vessels. ('94 Code, § 93.09(B)(4)).

(B) The establishment of these zones shall not become effective until such time as the zones are approved by the applicable state and federal agencies and until signs designating these zones are lawfully installed by the town. ('94 Code, § 93.09(C), 2nd paragraph)
(Ord. 95-22, passed 12-4-95)

§ 93.08 EXEMPTIONS.

(A) The provisions of this chapter shall not be construed to prohibit a regatta, speed trial, race, or exhibition which has been properly authorized by the appropriate governmental body and which is supervised and adequately patrolled.

(B) Florida Marine Patrol craft, Manatee and Sarasota Counties Sheriffs' patrol craft and craft operating under emergency conditions shall be exempted from the provisions of this chapter while performing their official duties or operating in an emergency.
(Ord. 95-22, passed 12-4-95)

§ 93.09 DISTURBING THE PEACE FROM WATERCRAFT.

No vessel or other watercraft shall be operated within the waters of the Town with an outboard or inboard motor not having a properly muffled exhaust. No vessel 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 vessel or other watercraft shall cause excessive noise. The following acts, among others, are declared to be disturbing to the peace of the town and in violation of this section, but shall not be deemed to be exclusive: the operation between the hours of 11:00 p.m. and 6:00 a.m. of any power-equipped watercraft within any man-made canal, bayou, lagoon, channel, or waterway within the

boundaries of the town, except when leaving a dock or returning to a dock.
('94 Code, § 93.03) Penalty, see § 93.99.
(Ord. 95-22, passed 12-4-95)

§ 93.10 MOORING REGULATIONS.

(A) It is unlawful for any person to moor any watercraft upon the waters of the Town which is not capable of moving under its own mechanical power or by sail. ('94 Code, § 93.04(B)(1))

(B) It is unlawful for any person to moor a watercraft at, to, along or on any dock, seawall, pier or real property owned by the Town, for any period of time, when the dock, seawall, dolphin, piling, pier or property has been posted by the town as "Mooring Prohibited." ('94 Code, § 93.04(B)-(2)

(C) It is unlawful for any person to moor a watercraft at, to, along or on any dock, seawall, dolphin, piling, pier, real property or beaches owned by the town for a period of time in excess of 12 hours when the dock, seawall, dolphin, piling, pier or property has not been posted as "Mooring Prohibited." ('94 Code, § 93-04(B)(3))

The provisions of paragraphs (A), (B), and (C) of this section shall not apply when an emergency situation or occurrence imposes a reasonable threat to the safety or welfare of the occupants of the watercraft. In such event, a watercraft may remain temporarily moored, the prohibitions of the referenced sections notwithstanding, for a period of time not to exceed 72 hours; provided, however, that the owner or occupant of a watercraft moored in violation of the aforementioned sections shall be allowed to moor, pursuant to this section, only for such period of time as is reasonably required to correct the emergency situation and thereupon the watercraft shall be required to conform to those sections. If a disabled watercraft cannot be repaired within 72 hours, it shall be towed or otherwise removed from the waters of the Town or the disabled watercraft shall be moored in conformity with this section. ('94 Code, § 93-04(B)(4))
(Ord. 95-22, passed 12-4-95)

§ 93.11 LIVE-ABOARDS.

(A) It shall be unlawful for any person to moor any live-aboard watercraft at any location or locations upon the waters of the town for any period of time in excess of 72 hours in any 30-day period, except as follows:

(1) The watercraft is moored at a commercial marina, yacht basin or yacht club which lawfully operates pursuant to an occupational license issued by the town, is a lawfully permitted use pursuant to the Zoning Code of the town, and which has sewage pump-out facilities, public toilets, laundry facilities and public showers; or

(2) The watercraft is moored at a dock or facility not meeting the standards set forth in (A)(1) above but is moored upon waters of the town pursuant to the terms of a temporary permit issued to the owner or operator of the watercraft by the Town Manager.

(B) Temporary Permits. The Town Manager shall have the authority to issue a temporary live-aboard permit, which permit shall be limited to 10 days, to the owner or operator of a watercraft to be moored at a dock or facility at which live-aboard activities are not specifically authorized pursuant to (A)(1) above or otherwise anchored upon the waters of the town, upon payment of a permit fee not to exceed $15. As conditions precedent to the issuance of a temporary permit, the owner, operator, or person in charge of the watercraft shall consent to an inspection by the Town Manager or his designee of the watercraft's marine sanitation device and safety equipment; agree that no more persons will reside on the watercraft than it was designed to safely accommodate, and in no instance shall more persons reside thereon than there are permanent accommodating berths; agree not to place, discharge or deposit, or cause or allow to be placed, discharged or deposited, any sewage, trash, garbage, petroleum products, hazardous chemicals or substances, or refuse material of any kind or description into the navigable waters while moored or operating within the town during the period covered by said permit; demonstrate that the written permission of the dock or facility owner to moor the watercraft thereto during the period covered by the temporary permit has been obtained or otherwise designate where the watercraft will be moored; and provide evidence of the availability of toilet facilities for the watercraft's occupants while moored. Not more than three temporary live-aboard permits may be issued to the owners or operators of the same live-aboard watercraft in any 12-month period, and not more than two such permits may be issued in succession for the same watercraft. The permit may be revoked at any time by the Town Manager upon a showing of probable cause that a condition precedent to the issuance of the permit has not been met or has been violated after issuance of the permit; and, upon such a showing, no additional permit shall be issued to the permit holder, or to any person shown to have committed a violation, for a period of one year from the date of the violation. Any permit granted under this Subsection shall be valid only for the place of facility specified upon the permit and shall be conspicuously posted according to the directions of the Town Manager.

(C) It is unlawful for any person to moor a watercraft used for live-aboard purposes to any trees or vegetation on waterfront property adjacent to the waters of the town for any period of time.

(D) It is unlawful for any person to moor a watercraft which is being used for live-aboard purposes within 300 feet of the Mean High-Water Line of waterfront real property which is zoned, developed or used for residential dwelling purposes. ('94 Code, § 93.04(C))
(Ord. 95-22, passed 12-4-95)

§ 93.12 SANITARY, HEALTH REGULATION FOR VESSELS.

(A) All vessels and other watercraft, and the persons thereon, docked, moored, or tied to land, docks, piers, seawalls, or other mooring devices, 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 vessel 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 vessel or other watercraft, or persons thereon, to use any vacant lot or property contrary to the Zoning Code 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 the property. ('94 Code § 93.07(A-C)) Penalty, see Chapter 96.
(Ord. 95-22, passed 12-4-95)

Cross reference:
Health and Sanitation, see Chapter 96.

§ 93.13 SKIING, SKIN DIVING, OR SWIMMING.

(A) 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.

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

(C) It is unlawful for any person skin diving, swimming, or engaging in other water activity to engage in any activity in such a way as to endanger his life or limb, or the property, life, or limb of another person. ('94 Code, 93.08(A-C)) Penalty, see 93.99.
(Ord. 95-22, passed 12-4-95)

§ 93.14 VESSEL EQUIPMENT; IDENTIFICATION NUMBERS.

(A) It shall be unlawful for any vessel 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.

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

(C) No vessel or other watercraft shall be operated within the waters of the town that does not show identification numbers prescribed by law, or appropriate governmental regulation. ('94 Code, § 93.05 (A-C)) Penalty, see § 93.99.
(Ord. 95-22, passed 12-4-95)

Statutory reference:
Boat registration; boat regulations, F.S.A. Ch. 371

§ 93.15 PLACING OF OBSTRUCTIONS.

No net, line, or any obstruction shall be placed within or across any waterway, channel, or canal in such a manner that the net, line, or other obstruction does or may interfere with or

prevent the unhampered and unobstructed operation of vessels and other watercraft therein and thereon. ('94 Code, § 93.041)
(Ord. 95-22, passed 12-4-95)

§ 93.16 ABANDONMENT OF VESSELS.

It is unlawful for any person to abandon any vessel or other watercraft within the waters of the town or to moor any vessel or other watercraft in such a manner that the vessel or other watercraft is or may become a menace to navigation. The presence of an unattended or unmoored vessel or other watercraft within the waters of the town shall be prima facie evidence of a violation hereof by the owner of the vessel or other watercraft. ('94 Code, § 93.06) Penalty, see § 93.99.
(Ord. 95-22, passed 12-4-95)

§ 93.17 COMPLIANCE WITH STATE LAW.

The provisions of this chapter shall be read in pari materia with Chapter 327, Florida Statutes. ('94 Code, § 93.16) Penalty, see § 93.99.
(Ord. 95-22, passed 12-4-95)

§ 93.20 GAMBLING VESSELS.

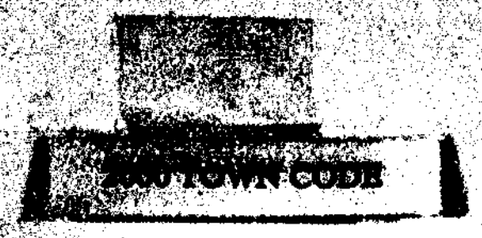
No vessel which provides gaming or gambling activities for its passengers shall be permitted to board or debark any passenger from a location within the town limits or within the waters of the town. No vessel which contains gambling paraphernalia shall be permitted to moor at a location within the town limits or within the waters of the town except to take on fuel or to address an on-board emergency. The words and phrases used herein shall have the definitions ascribed to them in Florida Statutes Chapter 849.
(Ord. 97-07, passed 6-2-97)

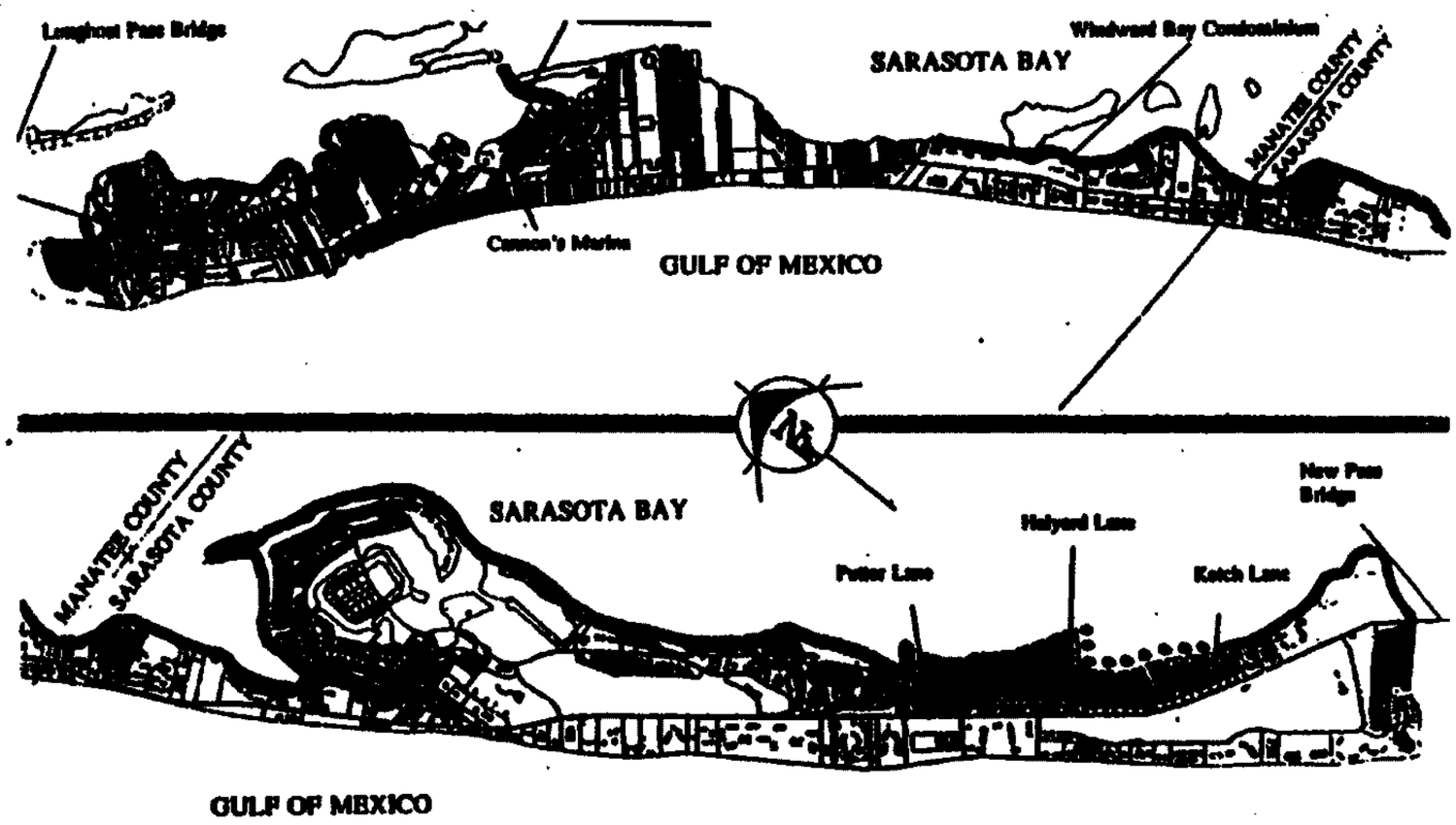
§ 93.99 PENALTY.

Whoever violates any of the provisions of this chapter, unless a lower fine is provided in § 327.73, Florida Statutes, as may be amended, shall be fined not more than $500, imprisoned not more than 60 days, or both, or as provided in Section 10.99 of the Code of Ordinances of the Town of Longboat Key.
(Ord. 95-22, passed 12-4-95; Amd. Ord. 97-07, passed 6-2-97)

§ 93.100 MAP.

Depicts "Idle Speed-No Wake" and "Slow Down-Minimum Wake" zones within restricted areas designated by signage.
(Ord. 95-22, passed 12-4-95; Amd. Ord. 96-26, passed 12-2-96)





LEGAL DESCRIPTIONS OF ZONES ARE ATTACHED HERETO AND MADE A PART HEREOF
TOWN OF LONGBOAT KEY ORDINANCE 96-26

NO WAKE ZONES

1. A 300 foot wide strip of state waters bordered on the westerly side by the mean high water line of Sarasota Bay beginning at the northeast corner of Lot 1, Block N of Country Club Shores Unit 6 and thence running northerly to a point located at the northeast corner of the Longboat Harbor North Condominium at 4888 Gulf of Mexico Drive, Longboat Key, Florida; a distance of approximately five miles.

2. A 300 foot wide strip of state waters bordered on the westerly side by the mean high water line of Sarasota Bay beginning at the northeast corner of lot 25, Sleepy Lagoon Park Number 2, Longboat Key and thence running northerly to a point located at the southeast corner of the Broadway Street Right of Way as it connects to Sarasota Bay, Longboat Key, Florida; a distance of approximately three miles.

3. A 300 foot wide strip of state waters bordered on the southern side by the mean high water line of Longboat Pass beginning at the southwest corner of the Longboat Pass Bridge and thence running westerly and then northeasterly to a point at the eastern most end of Manatee County property known as Greer Island, Longboat Key, Florida; a distance of approximately three-quarters of a mile.

4. A 300 foot wide strip of state waters bordered on the northern side by the mean high water of New Pass beginning at the southeast corner of Lot 8, Lighthouse Point and thence running westerly and then easterly to a point at the northwest corner of the New Pass Bridge, Longboat Key, Florida; a distance of approximately one-half mile.

MINIMUM WAKE ZONE

1. A 300 foot wide strip of state waters bordered on the western side by the mean high water line of Sarasota Bay beginning at the northeast corner of the New Pass Bridge and thence running northerly to a point at the southeast corner of Lot 1, Block A of Country Club Shores Unit 4, Longboat Key, Florida; a distance of approximately one and one-half miles.

CHAPTER 94: FIRE PREVENTION CODE

Section

General Provisions

94.01 Title
94.02 Definitions
94.03 Adoption of National Fire Code
94.04 Application

Administration

94.10 Authority having jurisdiction
94.11 Alternatives to requirements
94.12 Right of entry; implied consent
94.13 Authority to investigate fires and explosions
94.14 Permits, approvals, and certificates
94.15 Violation procedure; authority to abate
94.16 Required records
94.17 Inspection of construction or installation work
94.17.1 Periodic fire inspections; inspection fees
94.18 Approval of plans and installations

Fire Prevention Regulations

94.25 Discovery of unfriendly fire
94.26 Reporting hazardous conditions; maintaining hazard
94.27 Carelessness with fire
94.28 Open sources of ignition
94.29 Unauthorized burning
94.30 False alarms
94.31 Posting fire safety regulations
94.32 Inoperative fire safety equipment
94.33 Required access for fire apparatus
94.34 Key box system
94.35 Fire doors
94.36 Interference with fire protection equipment
94.37 Clearance between heating and lighting equipment
94.38 Fumigation
94.39 Storage on roofs, fire escapes
94.40 Duty to prevent overcrowding
94.41 Obstruction of aisles and passageways
94.42 Failure to vacate
94.43 Combustible decorations
94.44 Marking of occupancies for emergency use
94.45 Automatic detection and fire alarm systems
94.46 Automatic extinguishing systems
94.47 Standpipes required
94.48 Alarm annunciator

94.49 Fire station connections
94.50 Emergency electrical power
94.51 Construction design requirements
94.52 Alternative electric and water supply systems

Emergency Medical Aid Fees

94.55 Definitions
94.56 Schedule
94.99 Penalty

GENERAL PROVISIONS

§ 94.01 TITLE.

The title of this chapter shall be the Fire Prevention Code of The Town of Longboat Key, hereinafter referred to as "this chapter." One or more copies will be on file with the Town Clerk and shall be kept available for public use, inspection, and examination.
(Ord. 81-29, passes 9-2-81)

§ 94.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"APPROVED CONTAINER." An approved container constructed of noncombustible materials, with a cooking surface (i.e., metal type griddle or grill) whose purpose is the preparation of food.
(Ord. 92-08, passed 3-3-92)

"AUTHORITY HAVING JURISDICTION." The Town Manager, through the Fire Chief or Fire Chief's State Certified Inspector.

"MULTIPLE-FAMILY STRUCTURES." Hotels, motels, motor inns, apartment houses, apartment hotels, convents, dormitories, town houses, and other similar buildings.

"SUBSTANTIALLY ALTERED." Any substantial structural alteration in, or addition to, the supporting or structural members of a building such as bearing walls, bearing columns, bearing beams, or bearing girders; however, a substantial alteration shall not include inter alia, repairs to roof, walls, or interior; exterior or interior painting or redecoration; elimination, moving, or construction of new partitions within an existing building; air conditioning or heating system repairs or replacement; modernization of kitchens or bathrooms, including moving, replacement, and the installation of utility lines, gas, water, sewer, and electricity. A structural alteration not increasing the square footage of a building more than 20% shall not be considered a substantial alteration.

"S.O.M." Stories or more.

"STORY." That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A parking area beneath a building is considered a "STORY."

"UNFRIENDLY FIRE." Any fire that is determined to be unauthorized burning of any nature or a fire that is out of control or poses a potential threat to life or property.

"UNIT." A room or group of rooms within a multiple-family structure designed for and occupied for one family only.
(Ord. 81-29, passed 9-2-81)

§ 94.03 ADOPTION OF NATIONAL FIRE CODE.

(A) The purpose of this chapter is to provide for the prevention of fire and explosion through the regulation of conditions which could cause fire or explosion and panic resulting therefrom. It is the intent of this chapter to identify and adopt by reference specific standards and codes.

(B) In furtherance of the intent of division (A) above, the National Fire Codes (1991 Edition), Volumes 1 through 9, and the National Fire Codes 1991 Supplement and the 101 Life Safety Code (1991) promulgated by the National Fire Protection Association are hereby adopted. The more stringent requirement shall take precedence, to be interpreted by the authority having jurisdiction.
(Am. Ord. 92-8, passed 3-3-92) (Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86)

§ 94.04 APPLICATION.

(A) Except as noted, provisions of this chapter shall apply to all buildings, structures, marine vessels, premises, and conditions within the town. With the exception of sprinkler protection, standpipes, and those provisions listed in Figure 1 following § 94.45, which are not specifically required by the Life Safety Code, the provisions of this chapter shall apply equally to existing as well as new buildings, structures, marine vessels, premises, and conditions.

(B) The provisions of this chapter do not apply to one- or two-family dwellings in the normal use or maintenance thereof except where specifically referenced. This chapter shall apply however, whenever the activity or use of such a dwelling creates a distinct fire hazard to life or the property of others based on available data.
(Ord. 81-29, passed 9-2-81)

ADMINISTRATION

§ 94.10 AUTHORITY HAVING JURISDICTION.

This chapter shall be administered and enforced by the authority having jurisdiction or his designee who shall meet those qualifications set forth by the Fire Chief as being necessary to effectively administer this chapter.
(Ord. 81-29, passed 9-2-81)

§ 94.11 ALTERNATIVES TO REQUIREMENTS.

(A) Whenever this chapter requires a particular system, condition, arrangement, material, equipment, or any other particular provision, the authority having jurisdiction may accept alternatives provided the alternatives afford a substantially equivalent level of safety.

(B) Each application for an alternative shall be filed with the authority having jurisdiction and shall be accompanied by any evidence, letters, statement, results of tests, or other supporting information required to justify the request. The authority having jurisdiction shall keep a record of his actions on the applications and a signed copy of his decision shall be provided for the applicant.
(Ord. 81-29, passed 9-2-81)

§ 94.12 RIGHT OF ENTRY; IMPLIES CONSENT.

(A) For the purpose of this section the following definition shall apply unless the context clearly indicates or requires a different meaning.

"EMERGENCY." Those circumstances which the fire official knows, or has reason to believe, exist and which reasonably may constitute immediate danger to life or property.

(B) To the full extent permitted by law, the Town Fire Department personnel engaged in fire prevention and inspection work are authorized at all reasonable times to enter and examine any building, marine vessel, vehicle, or premises for the purpose of making fire safety inspections. Before entering a private building or dwelling, Fire Department personnel shall obtain the consent of the occupant thereof or obtain a court warrant authorizing entry for the purpose of inspection except in those instances where an emergency exists. Persons authorized to enter and inspect buildings, marine vessels, vehicles, and premises as herein set forth, shall be identified by proper credentials issued by the Fire Chief.

(1) It shall be unlawful for any persons to interfere with a fire official carrying out any duties or functions prescribed by this chapter.

(2) It shall be unlawful for any unauthorized person to use an official badge, uniform, or other credentials so as to impersonate a fire official for the purpose of gaining access to any building, marine vessel, vehicle, or premises, or for any other unauthorized purposes in this jurisdiction.

(C) Any application for or acceptance of any permit requested or issued pursuant to this chapter, constitutes agreement and consent by the person making the application or accepting the permit to allow the authority having jurisdiction to enter the premises at any reasonable time to conduct any inspections required by this chapter.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.13 AUTHORITY TO INVESTIGATE FIRES AND EXPLOSIONS.

The authority having jurisdiction shall have the authority to investigate the cause, origin, and circumstances of any fire or

explosion or any willful act creating the potential for injuries to persons or destruction or damage to property. When, in the opinion of the authority having jurisdiction, reasonable cause exists, the authority having jurisdiction shall have the authority to take custody of all physical evidence relating to the cause of the fire or explosion or potential fire or explosion and to continue the investigation to conclusion. Information protected by F.S.A. Chapter 119, shall not be made a part of the public record except as may be directed by a court of law.
(Ord. 81-29, passed 9-2-81)

§ 94.14 PERMITS, APPROVALS, AND CERTIFICATES.

The authority having jurisdiction will review for approval all permits, certificates, notices, approvals, and other orders pertaining to fire control and fire hazards to include but not be limited to site plans, building plans, shop drawings, fire alarm systems, fire sprinkler systems, hood systems, smoke control systems, special extinguishing systems, as provided for in this chapter. The authority having jurisdiction will have the power to recommend the revoking, suspending, denying, or the granting of any permit, approval, or certificate for failure to meet the provisions of this chapter as it relates to fire or life safety for the issuance of the permit, certificate, or approval.
(Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86)

§ 94.15 VIOLATION PROCEDURE; AUTHORITY TO ABATE.

(A) The authority having jurisdiction shall have the authority to summarily abate any condition which is in violation of any provision of this chapter and presents immediate danger to life.

(B) Except as provided in division (A) above, whenever the authority having jurisdiction finds any violation of this chapter, he shall report and discuss the violation with the owner, operator, occupant, or other responsible person to determine a schedule and procedure for corrective action. He shall also issue written notices to confirm the findings and discussions as may be necessary to secure compliance with this chapter. Every notice shall set forth a time limit for compliance. The time limit shall be correlated to the degree of hazard created by the violation and availability of means of abatement.
(Ord. 81-29, passed 9-2-81)

§ 94.16 REQUIRED RECORDS.

(A) The authority having jurisdiction shall keep a record of all fire prevention inspections including the date of the inspections and a summary of any violations found to exist, the date of the services of notices, and a memorandum of the final disposition of all violations. Any records required to be kept by this section shall be maintained until their usefulness has been served, or as otherwise may be required. A record of approvals and exceptions granted shall be

maintained in the office of the authority having jurisdiction and shall be available to the public for inspection during normal business hours.

(B) The authority having jurisdiction shall require that any premises having cause to be inspected shall have on file with the authority having jurisdiction copies of the following: fire alarm maintenance agreement, fire pump maintenance agreement, fire sprinkler system maintenance agreement and special extinguishing systems maintenance agreement. Copies of all required tests or maintenance of the said systems shall also be on file with the authority having jurisdiction.
(Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86)

§ 94.17 INSPECTION OF CONSTRUCTION OR INSTALLATION WORK.

(A) Whenever any installation that is subject to inspection under the terms of this chapter prior to use is covered or concealed without having first been inspected, the authority having jurisdiction may require by written notice that the work be exposed for inspection. The authority having jurisdiction shall be notified when the installation is ready for inspection and shall conduct the inspection within a reasonable period of time.

(B) When any construction or installation work is being performed in violation of the plans and specifications as approved by the authority having jurisdiction, a written notice shall be issued to the responsible party to stop work on that portion of the work which is in violation. The notice shall state the nature of the violation and no work shall be continued on that portion until the violation has been corrected.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.171 PERIODIC FIRE INSPECTIONS; INSPECTION FEES.

(A) Definitions. For the purpose of this section, the following definition(s) shall apply unless the context clearly indicates or requires a different meaning:

"INSPECT, INSPECTION." The official close viewing of a building or premises by a state certified fire inspector for the purpose of determining whether the building or premises are in compliance with the adopted codes and ordinances of the town and the documentation and reporting of the results of the viewing.

"REINSPECT, REINSPECTION." To subsequently "inspect" or to perform a subsequent "inspection" as defined above.

(B) The authority having jurisdiction shall periodically inspect or cause to be inspected, all buildings and premises, excpet the interiors of dwellings, as often as may be necessary, but at least every 18 months, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, endanger life from

fire, or any violations of this chapter or any other law or regulation affecting the fire hazard. The authority having jurisdiction shall reinspect buildings or premises to insure that deficiencies or violations identified in the initial inspection have been corrected.

(C) The town shall collect from the owner of the building or premises inspected or reinspected pursuant to subsection (B) of this section, an inspection or reinspection fee in an amount equal to $20 per hour or fraction thereof of inspection time.
(Ord. 87-23, passed 9-24-87; Am. Ord. 88-15, passed 5-2-88)

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§ 94.18 APPROVAL OF PLANS AND INSTALLATIONS.

The authority having jurisdiction shall examine the submitted plans for evidence of compliance with this chapter. The authority having jurisdiction may require tests or other investigations to be conducted by an agency satisfactory to the jurisdiction when an appliance, device, equipment, or system intended for installation does not specifically meet the requirements of this chapter. The tests or investigations shall be based on nationally accepted test standards or principles. Records of tests shall be submitted as provided for in subsection (B) of § 94.16.
(Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86)

FIRE PREVENTION REGULATIONS

§ 94.25 DISCOVERY OF UNFRIENDLY FIRE.

Whenever an unfriendly fire occurs in any building or on any premises of any kind, the owner, manager, occupant, or any person in control of the building or premises, on discovery of an unfriendly fire, even though it has apparently been extinguished, immediately shall cause notice of the existence of the fire, circumstances of the fire, and the location thereof to be given to the Fire Department. This requirement shall not be construed to forbid the owner, manager, or other person in control of the building or premises from using all diligence necessary to extinguish the fire prior to the arrival of the Fire Department. No person shall make, issue, post, or maintain any regulation or order, written or verbal, that would require any person to take unnecessary delaying action prior to reporting a fire to the Fire Department.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.26 REPORTING HAZARDOUS CONDITIONS; MAINTAINING HAZARD.

(A) Any person, on discovering evidence of spontaneous heating of any merchandise, commodity, cargo, shipment, or other material of any kind in any building, marine vessel, appliance, apparatus, tank, or open stock or pile, or any person on discovering or being apprised of any uncontrolled hazardous leak or hazardous material or combustible or flammable liquid spill, shall immediately notify the Fire Department.

(B) No person shall knowingly maintain a fire hazard.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.27 CARELESSNESS WITH FIRE.

No person shall set fire to or cause the burning of any bedding, furniture, rugs, curtains, drapes, or other combustible material, in a manner so as to endanger the safety of any person or property.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.28 OPEN SOURCES OF IGNITION.

Where conditions exist which make open sources of ignition a fire hazard on any premises, "No Open Sources of Ignition" signs shall be posted as directed by the authority having jurisdiction. "No Open Sources of Ignition" signs shall be of a color, size, lettering, and location approved by the authority having jurisdiction. No person shall remove "No Open Sources of Ignition" signs or lights, or ignite, or otherwise set fire to any open source of ignition or other form of smoldering substance in any place where occasion or action would constitute a fire or life hazard.
(Ord. 81-29, passed 9-2-81; Am. Ord. 92-08, passed 3-3-92) Penalty, see § 94.99

§ 94.29 UNAUTHORIZED BURNING.

The burning of any material except in approved containers by the authority having jurisdiction is prohibited.
(Ord. 81-29, passed 9-2-81; Am. Ord. 92-08, passed 3-3-92) Penalty, see § 94.99

§ 94.30 FALSE ALARMS.

(A) The purpose of this section shall be to regulate and control the malfunctioning, negligence, or unintentional act resulting in false fire alarms and the unnecessary response thereto of emergency vehicles. In the case of false alarms, the authority having jurisdiction shall cause an investigation to be made and keep a record of such alarms on file.

(B) As set forth in subsection (A) of this section, in any given calendar year, the following fees will be assessed and paid to the town:

1st notice	$ 0
2nd notice	0
3rd notice	100
4th notice	150
5th notice	200
6th notice	300
7th notice	350
8th notice	600

Any false alarms beyond eight will be assessed at $600. (Ord. 90-27, passed 10-8-90)

(C) The Fire Chief may waive the assessment of additional warnings or fines as provided in subsection (B) of this section, for false alarms occurring within 24 hours subsequent to an initial false alarm in order to provide a reasonable time for repair of a fire alarm system. Such waiver shall only be granted when the Fire Chief determines that repairs to the system could not have reasonably been made prior to the subsequent false alarm(s).

(D) The Fire Chief may waive the assessment of a warning or fine as provided in subsection (B) of this section if the Fire Chief determines that a false alarm was caused by severe weather conditions.

(E) In the event of excessive false alarms (six or more occurring within a calendar year) and when the responsible party has made a "good faith effort" to correct the problem which has caused the excessive number of false alarms; the authority having jurisdiction may reduce by 50% the total fees due and payable as set forth in subsection (B) of this section. The determination of a "good faith effort" shall be made by the authority having jurisdiction based upon the following criteria:

(1) Submission of a written request for reduction of fees; and

(2) Submission of a written detailed plan of action to address and remedy the problem in the fire alarm systems and approval of such plan by the authority having jurisdiction; and

(3) Documentation that the plan of action submitted has been put into effect and shall continue in the future including but not limited to inspection and maintenance agreements, system repair/replacement agreements, etc.; and

(4) The frequency of false alarms has been reduced.

(F) Fire alarm systems in new buildings and existing fire alarm systems in existing buildings where substantial modification has occurred, may be allowed a 90-day "grace period" whereby no false alarms will be counted for assessment of fees when a "good faith effort," as set forth in subsection (E) above, is being made upon the part of the responsible party to remove "start-up" problems with the system.
(Ord. 81-29, passed 9-2-81; Am. Ord. 83-1, passed 2-2-83; Am. Ord. 87-35, passed 12-7-87; Am. Ord. 89-30, passed 1-2-90) Penalty, see § 94.99

§ 94.31 POSTING FIRE SAFETY REGULATIONS.

Hotels, motels, interval-ownership, time-share-tourism and tourism uses and similar occupancies designed for, intended for, or used by transients shall have an approved copy of fire safety regulations for transients conspicuously posted in the lobby, each occupancy unit, and at any other locations as may be required by the authority having jurisdiction.
(Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86) Penalty, see § 94.99

§ 94.32 INOPERATIVE FIRE SAFETY EQUIPMENT.

Persons owning, controlling, testing, or otherwise having charge of any fixed fire extinguishing or fire warning system or standpipe system shall notify the Fire Department at any time the system or systems are inoperable, tested, or taken out of service. The Fire Department shall also be notified when service is restored.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.33 REQUIRED ACCESS FOR FIRE APPARATUS.

(A) All premises, including existing premises, that the Fire Department may be called on to protect in case of fire and that are not readily accessible from public roads shall be provided with suitable gates, access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus.

(1) Where automatic gate openers are used a minimum of two opening frequencies shall be provided, one dedicated to Fire Department use. This shall be a master frequency whereby the Fire Department shall be able to open any gate within its jurisdiction with one opener. This frequency shall be available and used exclusively by the Fire Department. The remaining frequency(s) shall be for owner use.

(2) Fire lane access shall be provided on a minimum of two sides of a building. This access shall be at least 12 feet wide, no further than 10 feet from the building, free and clear of all obstructions and constructed of a stabilized base to support firefighting apparatus.

(3) Where the installation of speed bumps is determined by the authority having jurisdiction to impede or inhibit the response of emergency vehicles or the safety of emergency personnel or patients, such speed bumps shall be removed by the owner. Existing speed bumps may be modified to meet safety requirements as approved by the authority having jurisdiction.

(B) Whenever it is determined by the authority having jurisdiction that parking of vehicles does or will interfere with ready access by the Fire Department to the property for fighting fires, for access to a fire hydrant installed for protection of the property, or other Fire Department related emergencies, the authority having jurisdiction shall designate a reasonable area or areas leading to and adjacent to the property to be maintained as a fire access lane.

(1) Fire hydrants, fire sprinkler connections and Fire Department standpipe connections shall be visible and free from obstructions in front of and on both sides by a distance of not less than four feet. These obstructions include but are not limited to plants, shrubs, trees, fences, walls, poles, signs, etc. This section shall also apply to one- and two-family dwellings.
(Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86) Penalty, see § 94.99

§ 94.34 KEY BOX SYSTEM.

When access to a structure is unduly difficult because of secured openings, and where immediate access is required for life saving purposes, the authority having jurisdiction may require a key box to be installed in a location determined by the authority having jurisdiction. The key box shall be a type approved by the authority having jurisdiction.
(Ord. 81-29, passed 9-2-81)

§ 94.35 FIRE DOORS.

Fire doors shall be kept closed at all times.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.36 INTERFERENCE WITH FIRE PROTECTION EQUIPMENT.

No person shall render any portable or fixed fire extinguishing system or device or any fire warning system inoperative or inaccessible except as may be necessary during emergencies, maintenance, drills, or prescribed testing.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.37 CLEARANCE BETWEEN HEATING AND LIGHTING EQUIPMENT.

Proper clearances shall be maintained between heating and lighting equipment and ordinary combustibles, in accordance with this chapter and manufacturers' recommendations.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.38 FUMIGATION.

The Fire Department shall be notified of fumigation operations in accordance with the provisions of "Standards for Fumigation," National Fire Code.
(Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86) Penalty, see § 94.99

§ 94.39 STORAGE ON ROOFS, FIRE ESCAPES.

No person shall place or maintain on any roof or fire escape balcony any material or objects which may interfere with egress or Fire Department operations.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.40 DUTY TO PREVENT OVERCROWDING.

The manager or person in charge of the premises shall be responsible for preventing overcrowding as specified by the authority having jurisdiction.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.41 OBSTRUCTION OF AISLES AND PASSAGEWAYS.

No person shall block, impede, or obstruct any aisle, passageway, hallway, lobby, foyer, or stairway leading to or from any entrance or exit required by law which will prevent, delay, hinder, or interfere with the free use of the passageway by any person. Special security devices which affect the exiting shall be subject to approval of the authority having jurisdiction.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.42 FAILURE TO VACATE.

No person shall fail to leave any premise that is overcrowded when told to do so by the management of the premises or any authorized enforcement officer.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.43 COMBUSTIBLE DECORATIONS.

No person shall install, maintain, or use vegetation, bunting, cotton batting, plastic cloth, textile, excelsior, paper, or other combustible material for the purpose of decoration in any building, premises, vehicle, or marine vessel to which the public is admitted or invited unless the decorative materials have been made flame resistant with an approved flame retardant material or process. Textiles or paper adhered to walls or ceilings (not free hanging), are considered interior finishes and shall be subject to the flame spread limitations for interior finishes, unless authorized by the authority having jurisdiction.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

§ 94.44 MARKING OF OCCUPANCIES FOR EMERGENCY USE.

(A) All occupancies, including single-family residences and existing occupancies, shall be numbered and marked in a manner and size as to be easily identified by responding emergency vehicles from the public roadway. The size of lettering and numbers will be determined by occupancy.

(1) Single-family dwelling. Minimum of four-inch numbers.

(2) Other residential and commercial. Minimum of six-inch numbers.

(B) Individual units and common area doors within a building or complex, including existing buildings, shall have a minimum of two-inch lettering or numbers visible from the access way which specifies the unit number or room use (function) as is appropriate.
(Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86) Penalty, see § 94.99

§ 94.45 AUTOMATIC DETECTION AND ALARM SYSTEMS.

(A) Fire detection and alarm systems.

(1) Fire detection and alarm systems shall be installed in all buildings as required by Figure 1 following this section.

(2) If the space in a Group "B" or Group "M" occupancy is undivided or otherwise equipped with non-permanent partitions, a unit shall be considered as 800 square feet of floor space or any part thereof.

(3) Each person in a dormitory or lodging house shall be considered as one unit for the interpretation of Figure 1.

(4) Fire protection and alarm systems shall be installed according to N.F.P.A. requirements, except as specifically modified by this section or as called for in Figure 1.

(5) For the purpose of this section, the occupant content of any structure shall be determined according to the N.F.P.A. Life Safety Code.

(B) Automatic detection and alarm.

(1) Automatic detection devices shall be considered as those that detect dangerous levels of heat, smoke, or toxic gases when they are present, and turn in an alarm without requiring human observance.

(2) Automatic detection equipment shall include but not be limited to heat detectors, rate-of-rise heat detectors, photo cell smoke detectors, ionization smoke detectors, combination-type detectors, water flow switches, and tamper switches. Nothing in this chapter shall prohibit the authority having jurisdiction from requiring a specific type of detection device for a specific application.

(3) Automatic detection devices shall be permanently wired to an AC primary source of electrical power. All detection devices shall have an emergency power source.

(4) All single-family dwellings constructed or substantially altered shall be provided with one automatic detection device in each sleeping area installed as set forth in subparagraph (a) of this subdivision. Every other dwelling unit, except single-family dwellings, constructed or substantially altered shall be provided with automatic detection devices installed as follows:

(a) In all sleeping areas there shall be an approved smoke detector on the ceiling and as close to the center of the room as possible. The location shall be approved by the authority having jurisdiction. Detectors shall not be installed closer than 36 inches to an overhead fan and 12 inches in front of or on the side of an HVAC vent. They also shall not be installed closer than 12 inches to a heat lamp.

(b) In areas where the air-conditioner and heating equipment receives its return or make-up air flow, a smoke detector shall be installed that shall automatically shut down the air-handling equipment on its activation. This detector shall not cause the building fire alarm system to be activated; however, it shall be connected as specified in division (5) below. The location shall be approved by the authority having jurisdiction.

(5) Those detectors that are required in division (4) above shall sound an alarm within the dwelling unit that is sufficiently audible to awaken a sleeping person in any area, room, or part of the unit without regard to any intervening mediums, or sources of noise that may or may not be present. A test of audibility shall be conducted with all household equipment that may be in operation when in the opinion of the authority having jurisdiction, the level of

audibility is questionable. The decibel reading shall be at least 15 decibels higher than ambient levels inside each unit at the furthermost point.

(6) All occupancies which are required as set forth in Figure 1 to install fire alarm systems shall use a detection device within all living units of the following type: The detector shall be a combination smoke and heat type detector. Upon activation of the smoke detector a local alarm shall sound within the specific unit only. Upon activation of the heat detector the building alarm system shall be activated. These systems shall also be supervised and connected to emergency power through the building fire alarm system.

(7) Existing one- and two-family dwellings and all multi-family dwellings shall be required to install a minimum of one battery operated smoke detector in all sleeping areas.

(8) Automatic alarm systems shall have a sufficient number of sounding devices so that they will be audible in any normally habitable area of a building and shall have at least one device located on the outside facing the street of each building. The audibility shall be determined by the authority having jurisdiction. The decibel reading shall be at least 15 decibels higher than ambient levels inside each unit at the furthermost point.

(9) Alarm inspection: All fire alarm systems shall be inspected and serviced at least once every six months. The inspections shall include the testing of all smoke detectors, heat detectors, flow switches, tamper switches, pull stations, city connection, fire alarm panel, emergency power source and/or any other devices which may be essential to the proper operation of the system. A copy of the inspection report shall be sent to the authority having jurisdiction and the property owner no more than thirty days after the inspection.
(Ord. 81-29, passed 9-2-81; Am. Ord. 82-17, passed 9-15-82; Am. Ord. 86-7, passed 4-7-86; Am. Ord. 88-13, passed 5-2-88; Am. Ord. 89-04, passed 3-6-89) Penalty, see § 94.99

§ 94.46 AUTOMATIC EXTINGUISHING SYSTEMS.

(A) After the adoption of this chapter all occupancies, except single-family dwellings, constructed or substantially altered shall be provided with total automatic sprinkler protection. All automatic sprinkler equipment shall meet the requirements of current N.F.P.A. standards adopted herewith and as amendments are subsequently adopted by the town. Hydraulic calculations shall be required on all NFPA-13 systems when required by this code.

(1) Where fire sprinkler systems are required, the use of quick-acting sprinkler heads shall be utilized in all living areas, common assembly areas and enclosed corridors. All other areas shall be covered by standard type heads.

FIGURE 1 FOR ALL BUILDINGS CONSTRUCTED OR SUBSTANTIALLY ALTERED

Occupancy	Con-struction	Occupancy Type	Fire Det. & Alarm Sys. (see §94.45(A)	Alarm Annunciator (see §94.48)	Fire Stn. Conn. (see §94.49)	Emergency Power (see §94.50)
Group R Resident	All types	All	All	Over 10 units 4 S.O.M.	Over 10 units 4 S.O.M.	Over 10 units or 4 S.O.M.
Group B Bus Offc.	All types	All	All	3 S.O.M.	3 S.O.M.	3 S.O.M.
		Restaurant & other food service fac.	All	Over 50,000 s.f. or 3 S.O.M.	All	All
Group M Bus. Mer.	All types	Bowl. alleys	All	All	All	All
		All other M occupancies		3 S.O.M. or 50,000 s.f.	Over 20,000 s.f. or 3 S.O.M.	Over 5,000 s.f. or 3 S.O.M.
Group E School	All types	All	All	Over 10,000 s.f. or 3 S.O.M.	2 classrooms or more	2 classrooms or more
Group I Restrained Inst.	All types	All	All	Over 30 inmates or 3 S.O.M.	All	All
Group I Unrestrained (hospital, etc.)	All types	All	All	Over 30 beds or 3 S.O.M.	All	All
Group A	Types 1 and 2	Large assembly wkg. & nonwkg. stage	All	Over 50,000 s.f. or 3 S.O.M.	All	All

FIGURE 1 FOR ALL BUILDINGS CONSTRUCTED OR SUBSTANTIALLY ALTERED (Cont.)

Occupancy	Con-struction	Occupancy Type	Fire Det. & Alarm Sys. (see §94.45(A)	Alarm Annunciator (see §94.48)	Fire Stn. Conn. (see §94.49)	Emergency Power (see §94.50)
Large assembly	Types 3, 4, 5 & 6	Large assembly nonwkg. stage	All	Over 25,000 s.f.	All	All
Group A Assembly	All types	All	All	Over 50,000 s.f. or 3 S.O.M.	All	All
Group S	All types	Pub. Gar.	All	3 S.O.M.	3 S.O.M.	3 S.O.M.
Storage	All types	All other S occupancies	All	3 S.O.M.	Over 150,000 c.f.	Over 22,500 s.f.
Group F Indust.	All types	All	All	Over 50,000 s.f. or 3 S.O.M.	Over 20,000 s.f. or 3 S.O.M.	Over 7,500 s.f. or 3 S.O.M.
Group H Hazardous	All types	All	All	Any time bldg. is divided by fire walls	All	Over 7,500 s.f. or 3 S.O.M.

(B) Other automatic extinguishing systems shall be required in occupancies where the use of water sprinklers may be hazardous. These areas shall be defined but not limited to electrical equipment rooms, meter rooms where electrical switch gear is used, elevator equipment rooms or any other areas determined to be hazardous by the authority having jurisdiction. Such systems shall be approved by the authority having jurisdiction.

(C) Buildings equipped with automatic extinguishing systems (i.e., fire sprinkler systems, Halon systems, dry chemical systems, etc.) shall have a maintenance agreement with a certified contractor and shall have performed an annual test of these systems to include fire pumps where provided. Copies of the maintenance agreement and annual tests shall be on file with the authority having jurisdiction.

(1) Existing automatic extinguishing systems shall also be included under these agreements.
(Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86; Am. Ord. 89-04, passed 3-6-89) Penalty, see § 94.99

§ 94.47 STANDPIPES REQUIRED.

(A) New and existing buildings with three stories or more and any other structures that in the opinion of the authority having jurisdiction are inaccessible to firefighting equipment, shall be equipped with standpipes and 2-1/2-inch valved Fire Department hose connections at each floor level, in accordance with NFPA-14 except as modified by paragraph (1) of this subsection.

(1) Existing buildings required by this section to install standpipes, shall install the dry pipe type system and shall not be required to install fire pumps unless fire sprinkler systems are also required by other sections of this code.

(B) All 2-1/2-inch valved Fire Department hose connections with or without hoses shall be located in the exit access within ten feet of the exit door. Valves without hoses shall be installed not less than three feet or more than five feet above the floor as directed by the authority having jurisdiction.

(C) Both standpipe and sprinkler systems shall be provided with individual siamese Fire Department pumper connections. Where individual systems are present, Fire Department connections will be marked as to system.

(D) Combination standpipe and sprinkler system risers as allowed by this chapter will be permitted under the following conditions.

(1) Each take-off from the riser to the sprinkler system shall be provided with a supervised shut-off valve as directed but not more than seven feet above the floor.

(2) Buildings 10 stories or more in height shall be provided with an auxiliary Class I standpipe in parallel with the fire sprinkler riser. This standpipe shall be provided with a 2½-inch valved Fire Department hose connection at each floor next to those required by division (B) of this section, and shall be clearly labeled "auxiliary system." Each auxiliary standpipe shall be provided with a Fire Department pumper connection and shall be pressurized from the main system through a one-inch, properly checked, pipe connection.

(E) The water supply for standpipes or sprinkler systems shall meet the requirements of the N.F.P.A. for minimum acceptable flow and residual pressure; however, the authority having jurisdiction may increase these minimum requirements if the factors in the N.F.P.A. warrant.

(F) All electrically driven or started pumps required to ensure adequate flow and pressure in the standpipe and sprinkler system shall be connected to the emergency power system as described in § 94.50.

(G) All fire pumps shall bear the seal of a nationally recognized independent testing agency. Where two or more standpipes or combination risers are installed in the same building, they shall be interconnected "full size" at the bottom and at the tenth floor. Additional interconnections shall be provided above the tenth floor at a minimum of five and a maximum of every 10 floors. Auxiliary standpipes need not be interconnected. All interconnections shall be valved at each standpipe.

(H) Where fire pumps are required, a single-function pressure maintenance pump shall be installed to maintain pressure on the fire sprinkler and standpipe system only.

(1) Existing buildings equipped with fire pumps shall also comply with this section.

(I) Buildings required under this section to have standpipe systems shall have a maintenance agreement with a certified contractor who shall be required to perform an annual test of these systems. Copies of the maintenance agreement and tests shall be on file with the authority having jurisdiction.

(J) Compliance timetable: Existing buildings required to comply with this section shall do so by April 7, 1989.
(Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86; Am. Ord. 88-13, passed 5-2-88) Penalty, see § 94.99

§ 94.48 ALARM ANNUNCIATOR.

(A) The fire alarm annunciator panel shall be located at the main entrance to the building at a position approved by the authority having jurisdiction. In cases where the main building entrance is not an adequate entrance for firefighting equipment, the annunciator shall be located as directed by the authority having jurisdiction.

(B) The annunciator shall consist of pilot lights or drop flags and be equipped with a permanent engraved directory. The wording and information of the directory shall be approved by the authority having jurisdiction.

(C) The annunciator shall be connected to individual apartments and all common areas or as otherwise directed by the authority having jurisdiction.

(D) All structures required by this code to install alarm annunciators shall install for Fire Department use a public address system in all common areas with transmitting capabilities at the annunciator panel. The system shall be capable of silencing alarm-sounding devices when transmitting.

(Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86; Ord. 89-04, 3-6-89) Penalty, see § 94.99

§ 94.49 FIRE STATION CONNECTIONS.

Fire station connections shall be such as to automatically notify the Fire Department at the same time the automatic alarm system is activated. The method of notifying the Fire Department shall be through a V.L. Central Station approved by the authority having jurisdiction.

(Ord. 81-29, passed 9-2-81; Am. Ord. 92-08, passed 3-3-92) Penalty, see § 94.99

§ 94.50 EMERGENCY ELECTRICAL POWER.

(A) Emergency electrical power shall be so arranged as to provide the required power for lighting and emergency equipment automatically in the event of failure of the normal power. Emergency electrical power shall be either continuously in operation, or shall be capable of repeated automatic operation without manual intervention, for a period of not less than 90 minutes.

(B) Emergency electrical power subject to the approval of the authority having jurisdiction may be provided by any method or combination of methods as follows:

(1) Two separate electrical systems, each adequate alone to provide the necessary power, one supplied from an outside source such as a public utility service, and the other from an electric generator on the premises driven by an independent energy source, shall be in regular simultaneous operation whenever the building is occupied.

(2) An electrical circuit or circuits used only for emergency power with two independent electric energy sources so arranged that on the failure of one, the other will come automatically and immediately into operation. One such independent source shall be a connection from a public utility or similar outside power source, and the other shall be one of the following:

(a) An approved storage battery with suitable provisions to keep it automatically charged. The battery shall also be provided with automatic controls so that after the battery comes into operation due to turning off the primary electrical power source, it will be shut off after its period of operation and will be ready for further service when the primary electrical power is again turned on.

1. Emergency power required in these provisions for elevators and fire pumps shall not be provided by battery storage systems. See Section 94.52.

(b) The other power source may be an electrical generator set provided and maintained according to the provisions of Article 700 of the National Electrical Code adopted by the town (see § 94.03.) When emergency generators are required, no less than two generators shall be used for a development. No emergency generator can service more than one building without a backup generator.

NOTE: These generators shall be interconnected and sized for the entire development.

(c) Unit devices with approved individual batteries providing for the same functions as specified above, except that the battery-supplied light may be operated on a separate circuit at a voltage different from that of the primary light, provided the unit battery-powered devices are installed and maintained according to Underwriter's Laboratories listing.

(d) The primary source of electrical power for exit lighting, exit signs, and exit access lighting shall be connected ahead of the main building disconnect switch.

(1)

(1)

(1)

(e) An emergency source of electrical power is not required for internally illuminated exit signs provided the exit sign is externally illuminated by one of the approved methods listed in this chapter and the sign's readability meets the requirements of the Standard Building Code.

(f) Emergency electrical power is required for all exit and exit access lighting by one or more of the approved methods listed in this section.

(g) All emergency generators shall be equipped with an automatic timer to test said generators on a weekly basis as per manufacturer's recommendation.

1. This shall also apply to all existing buildings equipped with emergency generators.

(Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86) Penalty, see § 94.99

§ 94.51 CONSTRUCTION DESIGN REQUIREMENTS.

(A) One elevator in each bank shall be electrically wired in order to provide the Fire Department with complete control. Directions detailing operation shall be installed within the elevator car.

(B) All buildings with elevator accommodations shall also have an automatic emergency power source to provide electrical power in order to operate elevators and all emergency equipment.

(1) In developments where emergency generators are required because of elevators, the number of elevators to operate simultaneously shall be determined by the authority having jurisdiction, after considering the size of the development.

(C) Enclosed stairwells connected to enclosed corridors or vestibules shall be pressurized according to the requirments of the Standard Building Code. Pressurization systems, smoke and vapor removal systems, and command control centers shall be required to have a certified test prior to a certificate of occupancy being issued. Copies of certified tests are to be on file with the authority having jurisdiction.

(D) Single-family structures and duplexes with parking facilities below the structure shall have a minimum of one hour fire protection as defined by the current Standard Building Code between the parking facility and the first floor of the structure.

(E) This section does not apply to elevets that are used exclusively for private individual use unless specifically required by the authority having jurisdiction.

(Ord. 81-29, passed 9-2-81; Am. Ord. 86-7, passed 4-7-86) Penalty, see § 94.99

Cross-reference:
Adoption of the Standard Building Code, see § 150.01

§ 94.52 ALTERNATIVE ELECTRIC AND WATER SUPPLY SYSTEMS.

Where more than one building is located in an area that can be adequately serviced by a single emergency power system or water supply system, then the authority having jurisdiction shall have the right to waive the foregoing requirements of an individual power and water supply system for each building and may permit, in lieu thereof, a water supply or electrical power system shown to be capable of adequately servicing several buildings.
(Ord. 81-29, passed 9-2-81) Penalty, see § 94.99

EMERGENCY MEDICAL AID FEES

§ 94.55 DEFINITIONS.

For the purpose of § 94.56, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(A) "EMERGENCY NON-TRANSPORT." Means emergency aid and resuscitation of a sick or injured person at the scene of an accident or medical emergency without transportation or removal to a hospital.

(B) "EMERGENCY TRANSPORT." Means emergency aid and resuscitation of a sick or injured person at the scene of an accident or medical emergency and subsequent transportation under emergency vehicle procedures where it appears that the physical condition of the person is such as to require immediate and expeditious removal to a hospital. The transporting of an expectant mother, when it is evident that birth is imminent, shall also be considered an emergency transport.

(C) "LOADED MILE." Means a mile of ambulance operation when the ambulance is actually occupied by the patient.

(D) "PATIENT." Means an individual who is ill, sick, injured, wounded or otherwise appears incapacitated or helpless.

(E) "RESIDENT." Means one who is a domicilary of the town of Longboat Key. Proof of domicile may be established only by the production of a Florida driver's license, voter's registration card, or recorded declaration of domicile showing Longboat Key as the permanent address of the person declaring domicile. (Ord. 87-27, passed 9-24-87)

§ 94.56 SCHEDULE.

The following schedule of fees is adopted as the schedule of fees to be charged for emergency medical services, supplies and emergency

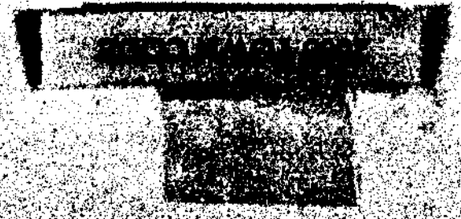
transport furnished to patients by the Fire Department of the Town. Treatment shall be rendered regardless of the patient's ability to pay. The Town Manager may waive the fees set forth herein if the patient clearly establishes his inability to pay.

DESCRIPTION OF CHARGE	FEES
Emergency Transport	
Basic life support treatment and transportation within Manatee or Sarasota County	$135.00 plus 4.00 per loaded mile
Advanced life support treatment and transportation within Manatee or Sarasota County	$215.00 plus 4.00 per loaded mile
Oxygen administration	25.00 in addition to above emergency transport charges

(Ord. 87-27, passed 9-24-87; Am. Ord. 90-27, passed 10-8-90; Am. Ord. 92-08, passed 3-3-92)

§ 94.99 PENALTY.

Any person who shall violate any of the provisions of this chapter for which another penalty is not provided, or shall fail to comply therewith; or shall violate or fail to comply with any order made thereunder; or shall build in violation of any details, statements, specifications, or plans submitted or approved thereunder; or shall operate not in accordance with the provisions of any certificate, permit, or approval issued thereunder, and from which no appeal has been taken; or who shall fail to comply with such an order as affirmed or modified by the authority having jurisdiction or by a court of competent jurisdiction within the time fixed herein shall severally for each and every violation and noncompliance, respectively be punished by a fine of not more than $500 or by imprisonment for not more than 60 days with each day of the violation constituting a separate offense. The imposition of a penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue. All persons shall be required to correct or remedy the violations or defects within a reasonable time and when not otherwise specified, the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.
(Ord. 81-29, passed 9-2-81; Am. Ord. 83-1, passed 2-2-83)



Chapter 95: GARBAGE, RUBBISH, JUNK AND RECYCLING

Section

Collection Regulations

95.01 Definitions
95.02 Garbage and trash receptacles
95.03 Duty to provide refuse containers
95.04 Location, inspection of refuse containers
95.05 Garbage to be collected by town; exceptions
95.06 Preparation of refuse for collection
95.07 Collection times
95.08 Fees, billing for town refuse service

Garbage, Ashes, and Filth

95.15 Policy
95.16 Unlawful deposits
95.17 Throwing, spilling refuse from vehicles
95.18 Burning or burying rubbish

Junk, Discarded Materials, and Containers

95.25 Accumulations prohibited; exceptions
95.26 Resolution authorizing removal
95.27 Removal notice
95.28 Failure to obey notice; hearing and abatement
95.29 Removal by town; proposed assessment hearing
95.30 Assessment to become property lien
95.31 Interest on assessment lien
95.32 Delinquent assessment lien
95.33 Right to appeal lien
95.34 Statute of limitations

Recycling

95.41 Mandatory recycling definitions
95.42 Mandatory recycling
95.43 Combining recyclable materials, yard trash and solid waste prohibited
95.44 Recycling of yard trash
95.45 Hazardous and special wastes
95.46 Ownership of containers
95.47 Ownership of recyclable materials
95.48 Unauthorized removal of recyclable materials
95.49 Fees for removal of recyclable materials
95.50 Billing of recyclable collection service charges to customers

95.51 Rules and regulation relating to separation and curbside collection and collection fees of recyclable materials
95.52 Promotion of recycling
95.53 Procurement of recycled product
95.54 Penalties and enforcement
95.55 Conflict with other laws

Cross reference
Health and Sanitation regulations, see Ch. 96.

COLLECTION REGULATIONS

§ 95.01 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"DIVISION OF REFUSE COLLECTION AND DISPOSAL." That part of the Department of Public Works that is responsible for the collection and disposal of waste and refuse.

"FOOD AND INDUSTRIAL PROCESSING WASTES." The waste products of canneries, slaughterhouses, packing plants, large quantities of condemned food products, industrial wastes from brick, concrete block, roofing shingle, or tile plants, debris and wastes accumulated from land clearing, building, rebuilding, and altering or buildings, structures, roads, streets, sidewalks, parkways, excavating by an owner, contractor, or work performed by purchase and hire of labor and materials.

"GARBAGE." Every refuse accumulation of animal, fruit, or vegetable matter that attends the preparation, use, cooking, and 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 or offensive gases 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, or other containers which, due to their ability to retain water, may serve as breeding places for mosquitoes or other waterbreeding insects.

"GARBAGE CAN." A galvanized iron or plastic can of the type commonly sold as a garbage can of a capacity not to exceed 32 gallons. The can shall have two handles on the sides of the can, or bail by which it may be lifted, and shall have a tight-fitting top.

"GARDEN TRASH." All accumulations of grass or shrubbery cuttings, and other refuse attending the care of lawns, shrubbery, vines, trees, and tree limbs.

"MULTIPLE DWELLINGS." All places of abode other than single-family residences, including garage apartments, duplex residences, apartment houses, rooming or boardinghouses, sanitariums, rest homes, resident schools, hotels, motor courts, guesthouses, tourist homes, trailer courts and trailer camps, and other similar or like places.

"NONCOMBUSTIBLE REFUSE." Refuse materials that are unburnable at ordinary incinerator temperature (800°F. to 1800°F.) such as metals, mineral matter, large quantities of glass or crockery, metal furniture, auto bodies or parts, and other similar materials or refuse not usual to housekeeping or to operation of stores or offices.

"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 defined above which are usual to housekeeping and to the operation of stores, offices, and other business places; and materials such as metals, mineral mater, 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.
('71 Code, § 10-1) (Ord. 129, passed 8-8-67; Am. Ord. 139, passed 7-9-68)

"TRASH." Refuse accumulations of paper, exelsior, rags, wooden or paper boxes or containers, sweepings, and all other accummulations of a nature other than garbage, which are usual to housekeeping and to the operations of stores, offices, and other business places. "TRASH" shall not include "noncombustible refuse," nor "garden trash", as defined above.

"TRASH CONTAINER." The same as defined above as "garbage can"; provided, however, that by a special permit issued by the Director of Public Works, a "TRASH CONTAINER" may be of different specifications or design.
(Ord. 80-7, passed 9-15-80)

§ 95.02 GARBAGE AND TRASH RECEPTACLES.

All residents or occupants of any single-family dwelling, and the owner, manager, or occupant of any multiple dwelling or of any place of business or commercial establishment within the town are hereby required to provide a garbage can and trash can, as defined in § 95.01; however, no garbage can or trash can shall be over the capacity of 32 gallons, except upon permit of the Director of Public Works. The owner or manager of any multiple dwelling shall furnish or see that the multiple dwelling is furnished or supplied with a sufficient number of garbage and trash cans to comply with this section, or multiple family and commercial establishments may use a bulk container as authorized by the town's franchised refuse disposal organization. No receptacle used for the storage of refuse, except mechanically dumped containers, may exceed a capacity of 32 gallons.
(Ord. 80-7, passed 9-15-80) Penalty, see § 95.99

§ 95.03 DUTY TO PROVIDE REFUSE CONTAINERS.

It shall be unlawful for any person who is responsible to provide refuse containers to fail to provide and maintain them in sufficient numbers and in serviceable condition for disposal of refuse accumulations for disposal services on a basis of two times each week. Where provision for disposal of garbage and trash has been made on a basis providing for disposal more frequently than two times each week, then it shall be unlawful for any person responsible to provide refuse containers, to fail to provide them in sufficient numbers for disposal of garbage and trash accumulations for the period between the regularly-scheduled collections.
(Ord. 80-7, passed 9-15-80) Penalty, see § 95.99

§ 95.04 LOCATION, INSPECTION OF REFUSE CONTAINERS.

(A) All privately-owned refuse containers shall be kept in a clean and sanitary condition by the owner, and maintained in a place readily accessible to the employees of the Division of Refuse Collection and Disposal. The refuse containers shall be placed in the alley adjacent to the premises served by the alley; and where premises are not served by an alley, the refuse containers shall be kept on the property in the ownership or tenancy of the person

responsible for refuse accumulation at locations approved by the Director of Public Works who is authorized to designate places where refuse containers will be placed.

(B) All refuse containers shall be subject to inspection and approval or condemnation by the Director or his authorized inspectors. It shall be unlawful for any person to deposit any garbage or trash in any containers which will not permit the lid of the container to tightly fit into place.
(Ord. 80-7, passed 9-15-80) Penalty, see § 95.99

§ 95.05 GARBAGE TO BE COLLECTED BY TOWN; EXCEPTIONS.

(A) It shall be unlawful for any garbage or trash to be removed by or disposed of by persons other than the town's franchised refuse disposal organization, unless a permit therefor has been obtained from the Director of Public Works to permit removal of garbage or trash by a special permittee of the town. An application for a permit must specify the type of vehicle in which it is to be transported, and the location and manner of the ultimate disposition of the garbage or trash. The type of vehicle in which it is to be transported, and the location and manner of the ultimate disposition of the garbage or trash, must comply with the provisions of this subchapter.

(B) It shall be the responsibility of the owners, operators, contractors, and custodians to remove or cause to be removed food and industrial wastes as defined in § 95.01, large tree stumps, spent oils and grease, unburnable metals, mineral matter, large quantities of glass or crockery, metal furniture, auto bodies or parts, and other similar materials in accordance with the provisions of this subchapter wherever and to the extent that any persons cause these wastes to accumulate.
(Ord. 80-7, passed 9-15-80) Penalty, see § 95.99

§ 95.06 PREPARATION OF REFUSE FOR COLLECTION.

(A) Highly inflammable or explosive materials shall not be placed in containers for regular collections but shall be disposed of as directed by the Director of Public Works. Human and animal wastes shall not be placed in refuse containers intended for collection by city refuse collection personnel.

(B) All occupants of abode and all owners, managers, or custodians of businesses and institutions shall deposit or cause to be deposited all garbage and trash in accordance with the methods prescribed in this subchapter in containers complying with provisions of § 95.02. All garbage shall first be drained of all liquids and shall be deposited daily in refuse containers, with wet garbage being placed in paper, plastic, or polyethylene bags or securely wrapped in paper before being placed in the containers. Hotels and restaurants and other eating establishments shall be required to wrap wet garbage unless exempted by the Director. Pasteboard boxes shall be collapsed prior to being placed in refuse

containers. Refuse containers shall be kept tightly covered at all times except when uncovered for purposes of depositing refuse.

(C) Unless arrangements have been made with the town's franchised refuse collection organization, no removal of refuse, except garden trash containerized or bundled and placed at the curb of the premises, shall be made by the Division of Refuse Collection and Disposal from any premises unless the refuse is deposited in proper refuse containers and proper fees have been paid therefor in accordance with the provisions of this subchapter.
(Ord. 80-7, passed 9-15-80) Penalty, see § 95.99

§ 95.07 COLLECTION TIMES.

All refuse containers shall be emptied at least twice each week in residential and business districts, and more frequently in business districts where the service is requested or required and fees paid for in accordance with § 95.08. Where deemed necessary in the interest of public health, the Director of Public Works shall have authority to require that businesses and institutions have their refuse emptied more frequently than twice a week.
(Ord. 80-7, passed 9-15-80)

§ 95.08 FEES, BILLLING FOR TOWN REFUSE SERVICE.

Franchisee is hereby authorized to charge the maximum rates set forth below, for which the property owner is responsible.

(A) Rate schedule.

(1) Single-family homes - $7.50 per month.

(2) Duplexes - $7.50 per month per unit.

(3) Condominiums, cooperatives, and other multi-unit complexes having three or more living units for twice-a-week pickup from containers at a rate of $3.71 per pickup per cubic yard; except that all complexes using other than containerized dumpster service shall be billed at the rate of $7.50 per month per unit.

(4) Commercial establishments yardage rate - $3.71 per cubic yard.

(5) Trailer parks not using containerized dumpster service - $7.50 per unit per month per unit. All others shall be billed at the commercial rate of $3.71 per pickup per cubic yard.

(6) Public schools, churches, and municipal buildings - no charge.

(7) Vacation credit - If any single-family residence, duplex, or complex of three multi-units or more remains unoccupied for

a period of three consecutive months or more, a credit of 50% of the monthly bill for each month shall be given to the residences. Ir order to receive the credit, the home owner must apply to the town prior to the vacancy period. The town shall be responsible for all administration of the vacation credit action.

(8) Whitney Beach and Spanish Main - $6.40 per month.

(B) Optional service.

(1) Residential - rear door service on residential accounts $39.73 per year, payable yearly in advance.

(2) Commercial - casters - $2.20 per month per container.

(3) Rollout - short, easy rollout or enclosures - $11.00 per month, one time per week. Add $11 for each additional pickup.

(4) Long or difficult rollout - $22.00 per month, one time per week. Add $22.00 for each additional pickup per week.

(5) Compacted rates - $6.75 per cubic yard. Uncompacted rates - $3.71 per cubic yard. Rolloff - $5.82 per cubic yard.

(C) The front-end monthly rate schedule of service and maintenance shall be as follows.

Container Size (Cubic yards)	Monthly Maintenance	Pickups per week					
		1X	2X	3X	4X	5X	6X
2	$25.74	$ 57.96	$ 90.19	$122.41	$154.63	$186.86	$219.08
3	25.74	74.07	122.41	170.74	219.08	267.41	315.74
4	25.74	90.19	154.63	219.08	283.51	347.96	386.67
6	25.74	122.41	219.08	315.74	412.41	509.08	605.75
8	25.74	154.63	283.51	412.41	541.30	670.19	799.04

(D) The rolloff monthly rate schedule of service and maintenance shall be as follows. The County dumping fee shall be $12 per ton.

Container Size (Cubic yards)	Monthly Maintenance	Per Pull	
		Uncompacted	Compacted
15	$33.00	$ 87.28	$101.31
20	44.00	116.38	135.08
25	55.00	145.47	168.85
30	66.00	174.57	202.62

(E) The following shall apply to customer-owned containers.

Container Size (Cubic yards)	No Maintenance	Pickups per week					
		1X	2X	3X	4X	5X	6X
2		$ 32.22	$ 64.45	$ 96.67	$128.89	$161.12	$193.34
3		48.33	96.67	145.00	193.34	241.67	290.00
4		64.45	128.89	193.34	257.77	322.22	360.93
6		96.67	193.34	290.00	386.67	483.34	580.01
8		128.89	257.77	386.67	515.56	644.45	773.30

(F) All payments for removal of refuse shall be on a current basis. Bills for regularly scheduled collections of containerized refuse will be rendered by the utilities office of the town, or the town's franchised refuse collection organization. Where the town is responsible for billing, and the customer is also a town water customer, the charge for the service shall be billed on the same bill as that containing the statement for water and sewer charges. Receipts for refuse collection service shall be issued by the office or department originating the billing and receiving the payment for the services. The receipts shall be in the form that shall be prescribed by the Finance Director.
(Ord. 80-7, passed 9-15-80; Am. Res. 81-29, passed 10-7-81; Am. Res. 83-10, passed 3-2-83; Am. Res. 88-35, passed 10-3-88)
Penalty, see § 95.99

GARBAGE, ASHES, AND FILTH

§ 95.15 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 of 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 subchapter is for the purpose of controlling and reducing atmospheric pollution and the pollution of the land and its adjacent waters.
('71 Code, § 10-2) (Ord. 129, passed 8-8-67)

Cross-reference:
Pollution control, see §§ 96.45 and 96.46

§ 95.16 UNLAWFUL DEPOSITS.

It shall be unlawful for any person to place or deposit garbage, garden trash, brush, or rubbish on the premises of another, whether the premises are improved or vacant, or on 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.
('71 Code, § 10-3) (Ord. 129, passed 8-8-67) Penalty, see § 95.99

Cross-reference:
Disposal of garbage from boats, see § 93.16

§ 95.17 THROWING, SPILLING REFUSE FROM VEHICLES.

(A) 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 subchapter. ('71 Code, § 10-4) (Ord. 129, passed 8-8-67)

(B) It shall be unlawful for any person to transport on any public roads within the town, garbage, refuse, trash, rubbish, sand, soil, gravel, shell, rock, marl, limestone, or asphalt in a vehicle which is not completely covered or otherwise secured in such a manner as to prevent the spilling of its contents on public roads. It shall be unlawful for any person to transport on any public roads within the town material or supplies other than those enumerated herein 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. ('71 Code, § 10-7) (Ord. 178, passed 9-16-70) Penalty, see § 95.99

§ 95.18 BURNING OR BURYING RUBBISH.

The burning or burying of garbage or rubbish is prohibited.
('71 Code, § 10-5) (Ord. 129, passed 8-8-67; Am. Ord. 73-1, passed 1-10-73) Penalty, see § 95.99

JUNK, DISCARDED MATERIALS, AND CONTAINERS

§ 95.25 ACCUMULATIONS PROHIBITED; EXCEPTIONS.

(A) For the purpose of this section the following definition shall apply unless the context clearly indicates or requires a different meaning.

"JUNK." Wrecked or abandoned cars, abandoned equipment, wastepaper, rags, abandoned mattresses, abandoned iceboxes or refrigerators, abandoned stoves, abandoned beds and bed springs, and abandoned obsolescent machinery or metal objects, singularly or collectively, in whole or part. ('71 Code, § 14-16)

(B) It shall be unlawful to accumulate, park, store, or allow the accumulation, parking, or storing of any junk, as junk is herein defined, within the town, unless authorized in conjunction with a business properly operated pursuant to the zoning ordinances of the town.

(C) It shall be unlawful to park, openly store, or allow the accumulation of boats, boat trailers, cars, trucks, motorcycles, motor scooters or tractors not displaying a current license plate and not having a current state registration, or lawn mowers, machinery or appliances that are visible from a street unless authorized in conjunction with a business properly operated pursuant to the zoning ordinances of the town.

(D) Boats, boat trailers, cars, truck, motorcycles, motor scooters or tractors having current license plates and state registration can be parked or stored in compliance with Section 158.128 of the Town of Long Boat Key Zoning Code or other applicable provision of the Town Code.

(E) All containers for junk, solid waste, yard waste and recycling, placed within the public right-of-way or within five feet of the public right-of-way, shall be removed or otherwise effaced from public view within 48 hours of placement.

('71 Code, § 14-17) (Ord. 227, passed 8-23-72; Amd. Ord. 88-17, passed 4-19-88; Amd. Ord. 96-27, passed 1-6-97)

§ 95.26 RESOLUTION AUTHORIZING REMOVAL.

Whenever it shall become apparent to the Town Commission that there are properties in the town on which there is junk as defined in § 95.25 (A), it may adopt a resolution instructing the Town Manager to forthwith proceed with the removal, clearing away, elimination, and disposal of the junk in the manner specified herein. ('71 Code, § 14-18) (Ord. 227, passed 8-23-72)

§ 95.27 REMOVAL NOTICE.

(A) The Town Manager, promptly after the adoption of the resolution, shall give written notice to the owners and any known agents, custodians, lessees, or occupants of any property on which there is junk as defined in § 95.25 (A), to remove, clear away, eliminate, and dispose of the junk in not more than 15 days from the receipt of the notice. The notice shall describe the property affected and state the name of the owner of the real estate on which the junk is situated, or the person in which the real estate was last assessed, as this appears from the tax records of the town, and shall state that if the owner or person last assessed or someone in his behalf shall not proceed to remove the junk from the property within the time specified in the notice, the town may proceed to do the work and to assess the cost thereof against the real property from which the junk was removed.

(B) The notice shall be given in the first instance either by registered or certified mail, with return receipt requested, or by personal delivery of the notice. Personal delivery may be made by any person of the age of 21 years or more, with proof of delivery thereof being made by a sworn affidavit. In the event the Town Manager is unable, after reasonable diligence, to give the notice, then it may be given by publishing the notice at least one time in a daily newspaper of general circulation in the town. In the event a notice is first attempted to be given by mail, as aforesaid and the receipt of delivery is not returned showing delivery within ten days after the mailing thereof, the Town Manager shall be deemed to have exercised reasonable diligence and shall thereafter be directed to proceed by publication as herein provided.
('71 Code, § 14-19) (Ord. 227, passed 8-23-72)

§ 95.28 FAILURE TO OBEY NOTICE; HEARING AND ABATEMENT.

(A) If, after the expiration date specified in the notice for the removal of the junk, the junk remains on the property, road right-of-way, or the waters of the town, the Town Manager shall forthwith report the fact to the Town Commission. The Town Commission shall cause notice of public hearing to be held before the Town Commission for the purpose of determining that the violation complained of does or does not, in fact, exist; and if, in fact, it does exist, why the violation should not be remedied by the owner, or if the owner fails to remedy the same, why it should not be remedied by the town at the expense of the owner. The Town Commission shall cause notice to the owner to be given as provided in § 95.27.

(B) The hearing shall be held as soon as possible, and the person to whom the notices are directed shall be advised of the time and place of the hearing at least 15 days in advance thereof. If, at the hearing, the Town Commission determines that no violation of this subchapter exists, then the matter shall be terminated at that time. If the Commission finds that a violation does exist, it shall give the owner thereof reasonable time to remedy the violation, not to exceed 30 days from the date of the hearing. If the owner fails to remedy the violation, then and in such event the Town Manager shall forthwith cause the violation to be remedied by the town at the expense of the owner of the real property where the junk is located.
('71 Code, § 14-20) (Ord. 227, passed 8-23-72)

§ 95.29 REMOVAL BY TOWN; PROPOSED ASSESSMENT HEARING.

(A) On the completion of the work, the Town Manager shall determine the costs of removing, carrying away, and disposing of the junk and shall cause a preliminary assessment roll to be made up containing a complete list of the property, road right-of-way, or the waters of the town cleared of junk under the provisions of this subchapter, together with the name of the owner as it appears from the town tax records. The records shall be known as the "preliminary assessment roll for junk clearing", and it shall be submitted to the Town Commission immediately upon completion. Thereupon, the Town Commission shall fix a date for a public hearing on the assessments appearing in the preliminary assessment roll.
('71 Code, § 14-21)

(B) Immediately on the determination by the Town Commission of a date for public hearing on the proposed assessments referred to in division (A) above, the Town Manager shall give notice of the hearing, setting out the date thereof, the properties affected, the amount of the proposed assessments, and the name of the owners thereof or persons to whom the properties were last assessed as they appear in the preliminary assessment roll. The notice shall be given in the manner set out in § 95.28. The notice shall be mailed, delivered, or published not less than ten days before the date of the public hearing. ('71 Code, § 14-22)
(Ord. 227, passed 8-23-72)

§ 95.30 ASSESSMENT TO BECOME PROPERTY LIEN.

(A) The Town Commission shall, pursuant to the notice so published, meet at the time and place specified in the notice and proceed to hear any and all complaints from any person affected by any proposed assessment and shall proceed to correct any and all mistakes or errors then and there appearing on the preliminary assessment roll. On the approval by the Town Commission of the preliminary assessment roll as submitted, or as corrected, it shall be final. The amounts so then and there determined, assessed against the respective properties, shall from the date of the

approval be and constitute a lien against the properties of equal dignity with the town and county taxes; however, the taxes shall not take priority over a recorded lien, mechanic's lien, or statutory lien existing on the effective date of this subchapter, and shall remain a lien against the respective properties until paid.

(B) The assessment roll, as finally approved, shall immediately be set out by the Town Clerk. It shall be a public record and the entry therein of any assessments shall be and constitute a notice to the public of the lien against the land so assessed. No other record of notice thereof shall be necessary to any person or corporation for that purpose. No error, omission, or mistake in regard to the name of the owner of any property shall be held to invalidate any assessment against the property.
('71 Code, § 14-23) (Ord. 227, passed 8-23-72)

§ 95.31 INTEREST ON ASSESSMENT LIEN.

The principal amount of all assessment liens levied and assessed under this subchapter shall bear interest at the rate of 10% per year, commencing 30 days after final approval of the assessment roll by the Town Commission. The interest shall also constitute a lien against the property assessed, of equal dignity with the lien for the principal amount due. Any lien may be paid in full at any time after it is finally assessed, and interest shall be charged only to the date of payment.
('71 Code, § 14-24) (Ord. 227, passed 8-23-72)

§ 95.32 DELINQUENT ASSESSMENT LIEN.

(A) All special assessment liens and accrued interest levied and assessed under the provisions of this subchapter shall be deemed to be delinquent and past due as of the first day of April first occurring 60 days or more after the final assessment and levy of the liens by the Town Commission. If the liens shall not have been paid by that date, the same may be enforced in the manner herein provided. ('71 Code, § 14-25)

(B) The liens created by this subchapter, when delinquent, shall be enforced and collected in the same manner and by the same methods provided for the enforcement and collection of delinquent ad valorem taxes for the town, and may be enforced and collected in an independent suit or in any suit or proceeding brought for the purpose of enforcing and collecting any such ad valorem taxes. In the alternative, the same may be enforced and collected in the same manner as provided by state law for the enforcement and collection of mechanic's liens. ('71 Code, § 14-26)

Statutory reference:
Mechanic's liens, see F.S. § 713.01 et seq.

§ 95.33 RIGHT TO APPEAL LIEN.

For the period of 30 days after the date on which liens entered into the assessment roll have been finally assessed and levied under this subchapter, any person aggrieved shall have the right to contest the legality thereof by suit, action, writ, or special proceeding, after which

time, no suit, action, writ, or special proceeding in any manner questioning the legality of the lien shall lie for any cause whatsoever.
('71 Code, § 14-27) (Ord. 227, passed 8-23-72)

§ 95.34 STATUTE OF LIMITATIONS.

The statute of limitations against the enforcement of liens assessed under the authority of this subchapter is 20 years from the date of final assessment and levy thereof. The Town Clerk is directed to note the date of final assessment in the assessment roll where the liens are set out, but his failure to do so shall not affect the validity or priority of the lien.
('71 Code, § 14-28) (Ord. 227, passed 8-23-72)

RECYCLING

§ 95.41 MANDATORY RECYCLING DEFINITIONS.

As used in this subchapter, the following words and phrases shall have the following meanings, unless the context clearly indicates otherwise:

"APPROVED COLLECTOR." Persons approved by the Department to collect recyclable materials or yard trash.

"BIOHAZARDOUS WASTE." Waste as defined by F.S. § 403.703(39), as may be amended.

"BIOLOGICAL WASTE." Waste as defined by F.S. § 403.703(41), as may be amended.

"COMMISSION." Town Commission of Longboat Key, Florida.

"COMMERCIAL USER." Any person, including, but not limited to, owners, lessees, and sublessees utilizing a property for the exchange of goods, commodities or services, including, but not limited to, hotels, motels, recreational vehicle parks, marinas, offices, governmental, churches, and not-for-profit corporations.

"COMPOSTING." The controlled biological decomposition of organic solid waste carried out under controlled conditions which stabilizes the organic fraction of waste into a material which can easily and safely be stored, handled and used in an environmentally acceptable manner for soil, growing medium, or other similar uses. Simple exposure of solid waste under uncontrolled adversely affecting the environment or public are not composting, composting activities shall not violate the provisions of other state or local laws, ordinances, rules, regulations, or orders.

"CONSTRUCTION AND DEMOLITION DEBRIS." Demolition debris as defined in F.S. § 403.703(17), as may be amended.

"CURB." The border of a way, either private or public.

"DEPARTMENT." The Longboat Key Public Works Department, or any other department as may be designated by the Town Manager to administer and enforce this subchapter.

"DIRECTOR." The Director of the Department.

"HAZARDOUS WASTE." A hazardous waste as identified by the State of Florida Department of Environmental Regulation in Florida Administrative Code 17-730, as may be amended, or the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. and implementing regulations, as may be amended.

"NONRECYCLABLE SOLID WASTE." Solid waste which is not a recyclable material.

"PERSON." Any and all persons, natural or artificial, including any individual, firm or association; any municipal or private corporation organized or existing under the laws of this state or any other state as defined in F.S. § 403.703(4) as may be amended.

"RECYCLABLE MATERIALS." Those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste and includes the following list of materials, as defined, and which may be amended to add or delete materials by the Commission at any time:

(1) "ALUMINUM CANS." Any beverage container constructed entirely of aluminum.

(2) "GLASS." Any food or beverage container constructed of glass of any color.

(3) "NEWSPAPER." Dry newsprint including advertising inserts delivered in the newspaper, but excluding aged, yellowed or sunburned paper.

(4) "RECYCLABLE CONSTRUCTION AND DEMOLITION DEBRIS." Construction and demolition debris from commercial users which is capable of being recycled, including wood pallets, wood construction materials, land-clearing debris such as branches, trees, scrap metal and concrete, brick, or asphalt which can be effectively processed for recycling;

(5) "RECYCLABLE PLASTICS." The following plastic bottles (as coded and labeled on the item by number placed inside a triangle and letters placed below the triangle pursuant to F.S. § 403.708(9)), as may be amended from time to time:

(a) High Density Polyethlene (coded and labeled HDPE, 2) bottles;

(b) Polyethlene Terephthalate (coded and labeled PET, 1) bottles.

(6) "STEEL CANS." Food or beverage containers which consist primarily of ferrous metals, commonly called tin cans.

"RECYCLING." Any process, including composting, by which solid waste, or materials which would otherwise become solid waste, are collected, separated, processed and reused or returned to use in the form of raw materials or products.

"RECYCLING CONTAINER." Any container authorized and approved by resolution of the Commission for the collection of recyclable materials.

"RESIDENTIAL USER." A person, including, but not limited to, owners, lessees, and sublessees utilizing a building, a portion thereof, specifically designed for and used for occupancy of that person.

"SOLID WASTE." Solid waste as defined in F.S. § 403.703(13), as may be amended.

"SPECIAL WASTE." Solid wastes that can require special handling and management, including but not limited to, incinerator ash, biohazardous waste, biological waste, lead-acid batteries, whole tires, used oil, and white goods.

"TOWN RESIDENTIAL CONTRACT RECYCLING COLLECTOR." That person(s) with whom the town has contracted to provided collection of recyclable materials or yard trash for residential users.

"WHITE GOODS." Inoperative or discarded refrigerators, ranges, washers, water heaters, freezers or other domestic or commercial large appliances.

"WHOLE TIRES." Whole tires as defined by the State of Florida Department of Environmental Regulation in Florida Administrative Code 17-711, as may be amended.

"YARD TRASH." Vegetative matter resulting from landscaping maintenance or land clearing, including but not limited to, seaweed, shrub trimmings, tree trimmings, grass clippings, and palm fronds.
(Ord. 91-15, passed 9-5-91)

§ 95.42 MANDATORY RECYCLING.

(A) Residential Users. All residential users shall handle recyclable materials for recycling as follows:

(1) Residential users approved by the Department for solid waste "can service" shall place recyclable materials at the curb in a location and container authorized by the Town for collection.

(2) Residential users (multifamily) authorized for solid waste bulk collection shall place recyclable materials in containers authorized for collection.

(3) Mobile home parks shall use centralized containers or curbside collection as authorized by the Department.

(4) Yard trash shall be separated and handled pursuant to § 95.44 of this subchapter.

(5) Residential users may deliver recyclable construction and demolition debris through independent delivery to a facility or facilities for recycling through an agreement with persons approved by the Town of Longboat Key Public Works Department. Alternatively, residential users may utilize the town's contractual arrangements, if available, for the collection of recyclable construction and demolition debris that services that area of the town.

(6) Rates for collections for residential users delivering recyclable construction and demolition debris through independent delivery may be approved by the Town Commission by resolution.

(7) A residential user delivering recyclable construction and demolition debris through independent delivery shall, upon request, furnish the town proof that it is recycling materials as defined above.

(8) All persons delivering recyclable construction and demolition debris to a facility or facilities for recycling shall obtain and maintain, at their sole cost and expense, not less than the insurance coverage required of the town's recycling collection services contractor.

(B) Commercial Users.

(1) All commercial users shall recycle the recyclable materials as defined above and yard trash pursuant to § 95.44; however, commercial users may deliver recyclable materials or yard trash through independent delivery to a facility or facilities for recycling through an agreement with persons approved by the Town of Longboat Key Public Works Department. Alternatively, commercial users may utilize the town contractual arrangements, if available, for the collection of recyclable materials that service that area of town.

(2) Rates for collections for commercial users may be approved by the Town Commission by resolution.

(3) Commercial users shall comply with the requirements of this subchapter, including separation of recyclable materials and yard trash as described therein.

(4) A commercial user shall, upon request, furnish the town proof that it is recycling materials as defined above.

(5) All persons delivering recyclable materials to a facility or facilities for recycling shall obtain and maintain, at their sole cost and expense, not less than the insurance coverage required of the town's recycling collection services contractor.
(Ord. 91-15, passed 9-5-91; Amd. Ord. 98-03, passed 3-2-98)

§ 95.43 COMBINING RECYCLABLE MATERIALS, YARD TRASH AND SOLID WASTE PROHIBITED.

(A) Notwithstanding any other provision of law to the contrary, it shall be unlawful and a violation of this subchapter for any person to combine recyclable materials or yard trash with nonrecyclable solid waste in any combination or amount other than that approved by the town or to dispose of recyclable materials or yard trash in any manner other than recycling or composting.

(B) Any collector who unknowingly collects or transports recyclable materials or yard trash with nonrecyclable solid waste for disposal shall not be in violation of this subchapter.

(C) If the town has approved the collection of unseparated solid waste containing recyclable materials for transport to a processing facility for recycling, it shall not be a violation of this subchapter to combine recyclable materials or yard trash with nonrecyclable solid waste. (Ord. 91-15, passed 9-5-91)

§ 95.44 RECYCLING OF YARD TRASH.

All Residential or Commercial users shall handle yard trash by one of the following methods:

(A) Yard trash may be delivered to a location to receive and collect yard trash for recycling.

(B) Yard trash may be disposed of by mulching and composting, provided that such mulching and composting shall be confined to the user's property and properly screened from neighboring property.

(C) Canned, bagged, or bundled yard trash may be placed at the curb or other location authorized for collection of yard trash for delivery to a recycling facility.
(Ord. 91-15, passed 9-5-91)

§ 95.45 HAZARDOUS AND SPECIAL WASTES.

(A) No person shall place the following materials or items for collection and disposal in a municipal solid waste landfill or municipal solid waste incinerator: hazardous waste, incinerator ash (excluding ash from human and animal cremation), biohazardous or biological waste, lead-acid batteries, whole tires, used oil, yard trash, white goods.

These hazardous and special wastes shall be recycled, except incinerator ash, or placed in special management areas for storage, collection or disposal in accordance with applicable federal, state, and local permits and requirements.

(B) Residential users may dispose of household wastes with hazardous components at times and locations designated by the county pursuant to the Sarasota County Household Hazardous Waste or Manatee County Collection Day Program ("Amnesty Days") or pursuant to disposal methods authorized or recommended by the Department in rules, regulations or educational programs for the safe disposal of household wastes with hazardous components. Household wastes with hazardous components shall be stored out of reach of small children until disposed of safely.

(C) Notwithstanding any other provision of law to the contrary, it shall be unlawful and a violation of this subchapter for any residential or commercial user to combine hazardous waste with any recyclable materials, yard trash, or any other solid waste for collection or disposal.

(D) Commercial users shall contract with the "Amnesty Days" contractor or other licensed and permitted hazardous waste transportation and treatment, storage or disposal facility for disposal or recycling of hazardous waste.
(Ord. 91-15, passed 9-5-91)

§ 95.46 OWNERSHIP OF CONTAINERS.

Containers for residential recycling which may be provided to users shall be and remain the sole property of the town or collection contractor. It shall be unlawful and a violation of this subchapter for any person to use such containers for any other purpose than storing recyclable materials for collection, to intentionally damage or destroy such containers, or to fail to return such containers to Longboat Key or the collection contractor when no longer used for such purposes.
(Ord. 91-15, passed 9-5-91)

§ 95.47 OWNERSHIP OF RECYCLABLE MATERIALS.

Prior to the time of placement of recyclable materials at the curb or location specified for collection, this subchapter shall not limit the right of, or prohibit, any person from donating, selling, or otherwise lawfully recycling recyclable materials. The person delivering the recycling material shall state Longboat Key as the source of the material; and the amount of recyclable materials donated, sold or recycled shall be reported to the Department by any person accepting or collecting recyclable materials. From the time of placement of residential recyclable materials at the curb, or other authorized, centralized location specified for collection, such recyclable materials shall become and be the sole property of Longboat Key or its authorized agent.
(Ord. 91-15, passed 9-5-91)

§ 95.48 UNAUTHORIZED REMOVAL OF RECYCLABLE MATERIALS.

It shall be unlawful and a violation of this subchapter for any person, without approval from the Department, to collect, pick up, remove, or cause to be collected, picked up, or removed, any recyclable material from the curb or authorized, centralized location. The collection, pickup, or removal of each recyclable item shall constitute a separate offense and violation of this subchapter.
(Ord. 91-15, passed 9-5-91)

§ 95.49 FEES FOR REMOVAL OF RECYCLABLE MATERIALS.

A franchisee is hereby authorized to charge for the removal of recyclable materials for which the property owner is responsible.
(Ord. 91-15, passed 9-5-91)

§ 95.50 BILLING OF RECYCLABLE COLLECTION SERVICE CHARGES TO CUSTOMERS.

All payments for removal of recyclable materials shall be on a current basis. Bills for regularly scheduled collections will be rendered by the utilities office of the town, or the town's franchisee.
(Ord. 91-15, passed 9-5-91)

§ 95.51 RULES AND REGULATION RELATING TO SEPARATION AND CURBSIDE COLLECTION AND COLLECTION FEES OF RECYCLABLE MATERIALS.

(A) The Commission may establish and adopt by resolution, after a public hearing, rules and regulations as shall be necessary to implement the provisions of this subchapter, including, but not limited to:

(1) Cost-effective separation and collection of recyclable materials and yard trash in Longboat Key;

(2) The frequency and location of collection of recyclable materials and yard trash;

(3) The type of containers for recyclable materials;

(4) Approval of collectors of recyclable materials and yard trash;

(5) Additions or deletions to the lists of recyclable materials at any time;

(6) Additions or deletions to the lists of wastes with hazardous components which are not suitable for landfills or digestion composting; or

(7) Collection fees.

(B) Any violation of the rules and regulations established under this subchapter shall be deemed a violation of this subchapter and shall be enforced in the same manner.
(Ord. 91-15, passed 9-5-91)

§ 95.52 PROMOTION OF RECYCLING.

Programs shall be implemented for the purpose of educating the citizens of Longboat Key concerning mandatory recycling requirements, promoting recycling among the citizens, reducing the amount of hazardous waste generated by households and commercial uses, and proper collection and handling of recyclable materials, yard trash, household waste with hazardous components and nonrecyclable solid waste. Appropriations and expenditures for educational and promotional purposes pursuant to this section is declared to be for lawful public purposes.
(Ord. 91-15, passed 9-5-91)

§ 95.53 PROCUREMENT OF RECYCLED PRODUCT.

The town shall purchase products or materials with recycled content when they are available within 10% of the price of the lowest bidder and within a reasonable period of time and meet the performance standards of applicable specifications or standards of the town.
(Ord. 91-15, passed 9-5-91)

§ 95.54 PENALTIES AND ENFORCEMENT.

(A) Inspection. Inspectors of the Department and sworn Police Officers of the town are authorized to inspect any container, bag or can and any collection, processing, recycling, composting, transporting or disposal facility at any time for compliance with this subchapter.

(B) Enforcement. Inspectors of the Department or any sworn Police Officers of the town are authorized and directed to strictly enforce this subchapter pursuant to F.S. § 162.21. Copies of this subchapter, and any amendments or resolutions adopted pursuant to this subchapter, shall be distributed to each Inspector and Police Officer. Inspectors and Police Officers shall become familiar with this subchapter and shall cite all violators according to the penalty provisions of this subchapter.

An Inspector or Police Officer shall issue a citation to a person when, based upon personal investigation, the Inspector or Police Officer has reasonable cause to believe that the person has committed a civil infraction in violation of this subchapter. For a first offense and prior to issuing a citation, an Inspector or Police Officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a time period of seven days within which the person must correct the violation. If, upon personal investigation, an Inspector or Police Officer finds that the person has not corrected the violation within seven days, an Inspector or Police Officer shall issue a citation to the person who has committed the violation indicating the dollar amount of the civil penalty and notice of the right to contest the citation in county court within 30 days pursuant to F.S. § 162.21.

(1) If the person elects not to contest the citation, the person shall pay the applicable civil penalty to the Clerk of the Circuit Court within 30 days after issuance of the citation.

(2) If the person elects to contest the citation, the person shall request a hearing through the Clerk of the Circuit Court within 30 days after the issuance of the citation. The

Clerk shall schedule a hearing in the County Court and shall provide written notice of the hearing to the person and the Inspector or Police Officer. Citations contested in the County Court shall be subject to court costs and a civil penalty not to exceed $500.

(3) If the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his right to contest the citation; and, in such case, judgment may be entered against the person for an amount up to $500.

(4) Any person who willfully refuses to sign and accept a citation issued by an Inspector or Police Officer shall be guilty of a misdemeanor of the second degree, punishable as provided by F.S. § 775.082, § 775.083, or § 775.084.

(C) Penalties. A violation of the provisions of this subchapter, other than §§ 95.45 and 95.48, by any person shall be punishable by civil penalties in a dollar amount as set forth in the attached schedule for a first offense and second or third offenses within one year of the first. Violations of § 95.45 (Hazardous and Special Wastes) or § 95.48 (Unauthorized Removal of Recyclable Materials) by any person shall be prosecuted in the same manner as a misdemeanor, and punished by a fine not to exceed $500 or by imprisonment in the county jail not to exceed 60 days or by both fine and imprisonment.
(Ord. 91-15, passed 9-5-91)

§ 95.55 CONFLICT WITH OTHER LAWS.

In the event of a direct conflict between the provisions of this subchapter and F.S. Chapter 403, or implementing regulations, the provisions of F.S. Chapter 403, or implementing regulations, shall prevail if stricter or more stringent than this subchapter. In the event of a conflict between the provisions of this subchapter and a federal statute or regulation, the federal statute or regulation shall prevail.
(Ord. 91-15, passed 9-5-91)

SCHEDULE: 95.54(c) ORDINANCE 91-15
CRIMINAL AND CIVIL PENALTIES
Possible range from: Warning to $500

Ordinance Section	*Description of Violation*	*Offenses First*	*Second*	*Third/More (Within 1 Year)*
95.42(a); 95.43	Failure to separate recyclable materials or yard trash for recycling by residential user	warning 7 days to comply	warning	$ 50

SCHEDULE: 95.54(c) ORDINANCE 91-15
CRIMINAL AND CIVIL PENALTIES
Possible range from: Warning to $500

Ordinance Section	*Description of Violation*	*Offenses First*	*Second*	*Third (Within 12 Months)*
95.42(b); 95.43	Failure to separate recyclable materials or yard trash for recycling by commercial user	warning 7 days to comply	warning	$100
95.44	Knowing failure to recycle recyclable materials or yard trash	warning 7 days to comply	$50	$100
95.45	Hazardous and special waste collection	criminal		
95.48	Unauthorized removal of recyclable materials	criminal		

§ 95.99 PENALTY.

Any person who violates any provision of this chapter for which another penalty is not provided, shall, upon conviction thereof, be punished by a fine of not more than $500 or by imprisonment for not more than 60 days.

Chapter 96: HEALTH AND SANITATION

Section

Maintenance of Premises

96.01 Responsibility of property owners
96.02 Failure to maintain deemed public nuisance; notice to abate
96.03 Correction of violations by town
96.04 Mosquito breeding sites

Overgrowth of Vegetation

96.10 Policy
96.11 Accumulation of brush prohibited
96.12 Duty to keep premises cleared
96.13 Failure to clear deemed public nuisance; notice to abate
96.14 Abatement by town; cost

Food and Drink Establishments

96.30 Definitions
96.31 Permits required; inspection and fee
96.32 Permits nontransferable
96.33 Construction or alteration of premises
96.34 Training requirements for management
96.35 Work card for all employees
96.36 Inspections; violations
96.37 Authority to close establishments
96.38 Enforcement

Pollution Control

96.45 Policy
96.46 Prohibited acts; exceptions
96.99 Penalty

Cross reference

Garbage, rubbish, and junk, see Ch. 95
Sanitary regulations for boats, see § 93.07

Statutory reference:

Health and Sanitation, see F.S.A. Chs. 381 through 406
Supervision and regulation of municipal sanitation by State Division of Health enforcement of state sanitary code by local officials, see F.S.A. § 381.311

MAINTENANCE OF PREMISES

§ 96.01 RESPONSIBILITY OF PROPERTY OWNERS.

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 50 feet of any dwelling, house, or place of business, or vacant land which has been previously mowed located in a residential area is required to keep the land cleared of all underbrush and debris; weeds or grass in excess of 12 inches in height from the ground; noxious material of any kind which tends to be a breeding place for mosquitoes, or tends to be a breeding place or haven for snakes and vermin of all kinds and character; or noxious material 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.
('71 Code, § 10-8) (Ord. 193, passed 3-3-71; Amd. Ord. 96-25, passed 1-6-97) Penalty, see § 96.99

Cross reference

Collections of water or debris creating breeding places for mosquitoes declared nuisance, see § 96.04

§ 96.02 FAILURE TO MAINTAIN DEEMED PUBLIC NUISANCE; NOTICE TO ABATE.

(A) (1) Vacant land within a residential area that has been previously mowed or that portion of every lot or parcel of land lying within 50 feet of any dwelling, house, or place of business on which are located underbrush and debris, or weeds or grass in excess of 12 inches in height from the ground, or noxious material of any kind which tends to be a breeding place for mosquitoes, 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 and is prohibited.

(2) Every lot or parcel of land in whole or in part which has been denuded, stripped or otherwise had vegetation upon it removed, or fill placed upon such lot or portion thereof, and which causes the lot or portion thereof to be without vegetation resulting in dust or erosion is hereby determined to be detrimental to the health, safety and welfare of the citizens of the town, a public nuisance and is prohibited. ('71 Code, § 10-9)
(Ord. 193, passed 3-3-71; Amd. Ord. 91-20, passed 11-4-91; Amd. Ord. 96-25, passed 1-6-97; Amd. Ord. 97-10, passed 6-2-97) Penalty, see § 96.99

Cross reference

Abatement procedure for collections of water or debris creating mosquito breeding places, see § 96.04

§ 96.03 CORRECTION OF VIOLATIONS BY TOWN.

(A) Upon a finding by the Code Enforcement Board that the property owner has failed to maintain his property pursuant to §§ 96.01 and 96.02, the Code Enforcement Board may, in addition to imposing a lien as described by law, request the Town Commission to direct the Town Manager to clear the land, the planting of vegetation, or to take any other reasonable action to afford a means to eliminate the nuisance as found by the Code Enforcement Board.

(B) Upon affirmative vote of the Town Commission, the Town Manager may direct the clearing of the land, and the planting of vegetation or other reasonable means to eliminate the nuisance and assess a lien on behalf of the town against the land for 125% of the costs as described herein. The Town Manager shall give written notice to the owner of record of the land by certified mail, return receipt requested, at its address as shown on the most recent county tax roll, notifying the owner of the condition and demanding that the condition be abated within seven days from the date of receipt of the letter, or the town will enter the property and correct the abatement at the expense of the property owner as described herein. Alternatively, the Town Manager may cause the property to be posted with a notice notifying the owner of the condition and demanding that the condition be abated or the town will correct and charge same within seven days of the date of posting.

(C) After corrective action is taken by the town, a copy of the proposed assessment of lien shall be mailed to the property owner of record by certified mail, return receipt requested, together with a notice that the owner shall have not more than 20 days from receipt of the proposed assessment of lien to pay same. If an objection is filed within the 20-day period, the Town Commission shall hear and determine the validity of the objection.

(D) Upon failure to file an objection within 20 days, or failure to pay the amount of the proposed assessment, a notice of lien shall be filed in the office of the Clerk of Circuit Court in which the lot or parcel of land is situated and recorded as other liens are recorded, and in the office of the Town Clerk. The costs of the lot clearing, cleaning, or removing of debris, and the necessary expenses for preparation of the assessment lien, filing, and recording the lien, together with legal expenses, if any, incident thereto shall be assessed against the land and shall be collected in the manner prescribed by law.

(E) The procedure for correction of a violation as described in this section shall not be deemed exclusive. The lien assessed by the town and the actions taken by the town may be concurrent to those taken by the Code Enforcement Board.
(Ord. 193, passed 3-3-71; Amd. Ord. 91-20, passed 11-4-91; Amd. Ord. 96-25, passed 1-6-97; Amd. Ord. 97-10, passed 6-2-97)

§ 96.04 MOSQUITO BREEDING SITES.

(A) It shall be unlawful for any person to create, keep, maintain, or permit a collection of water or debris in which mosquitos may breed or multiply and the maintenance, creation, keeping, or permitting of the water or debris is hereby declared to be a public nuisance. ('71 Code, § 11-8)

(B) Water in which live mosquito larvae are found shall be prima facie evidence of a violation of division (A) above. ('71 Code, § 11-9)

(C) Responsibility for the enforcement of the provisions of division (A) above within the boundaries of the town is hereby vested in the Town Manager. The Town Manager may request the assistance of and act through the Mosquito Control Commission. ('71 Code, § 11-10)

(D) When any person has been found guilty of a violation of division (A) above and the violation continues for a period of five days after the conviction, the Town Manager may alleviate and cure the condition causing the nuisance and the cost thereof shall be a lien on the property, enforceable in the same manner as tax liens in the town are enforceable.
('71 Code, § 11-11) Penalty, see § 96.99

Cross reference

Abatement procedure, see §§ 96.02 and 96.03

Accumulation of noxious materials and the like, which tends to become breeding place for mosquitoes prohibited, see § 96.01

Statutory reference:

Mosquito control, see F.S.A. Ch. 388

OVERGROWTH OF VEGETATION

§ 96.10 POLICY.

The Town Commissioners find and declare that there is a general need in the town for the measures provided by this subchapter and that this subchapter is enacted in the exercise of the police power for the protection of the health, safety, and welfare of the people of the town.
('71 Code, § 10-12) (Ord. 213, passed 2-16-72)

§ 96.11 ACCUMULATION OF BRUSH PROHIBITED.

(A) For the purpose of this section the following definition shall apply unless the context clearly indicates or requires a different meaning.

"BRUSH." All vegetation detached from the land resulting from land-clearing operations or other causes. ('71 Code, § 10-1)

(B) All accumulations of brush, brush piles and containers, within the public right-of-ways or within five feet of the public right-of-ways, shall be removed or otherwise effaced from the public view within 48 hours 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.
('71 Code, § 10-6) (Ord. 129, passed 8-8-67; Amd. Ord. 139, passed 7-9-68; Amd. Ord. 77-15, passed 6-15-77; Amd. Ord. 96-27, passed 1-6-97) Penalty, see § 96.99

2000 TOWN CODE

§ 96.12 DUTY TO KEEP PREMISES CLEARED.

(A) 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 the land cleared of all overgrowth of trees and shrubs which interfere with vehicular traffic or boat navigation, create a hazard to vehicular traffic or boat navigation and endanger the lives and property of the citizens of the town, or which tend to create a nuisance or other unsightly condition.

(B) Trees (including mangroves) may be trimmed only in accordance with the procedure described in § 98.09. If determined by the Town Manager or his designee that trimming of mangroves must be in excess of the limits allowed by Chapter 98 or removal of mangroves is required, then a permit must be obtained form the appropriate state agencies and the town in accordance with § 98.09(A)(1), (3), (4).

('71 Code, § 10-13) (Ord. 213, passed 2-16-72; Amd. Ord. 90-33, passed 2-4-91) Penalty, see § 96.99

Cross reference

Tree trimming, see § 98.04

Trimming or removal of plant life important to shore line ecology, see § 96.05

[redacted]

[redacted]

[redacted]

§ 96.13 FAILURE TO CLEAR DEEMED PUBLIC NUISANCE; NOTICE TO ABATE.

(A) 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 is 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 established to be a public nuisance. ('71 Code, § 10-14)

(B) 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 subdivision (A) above to exist on any land within the incorporated areas of the town, the Town Manager shall give written notice to the owner of record of the land by certified mail, return receipt requested, at his address as shown on the most recent county tax roll, notifying the owner of the condition and demanding that the condition be abated within seven days from the date of receipt of the letter. Upon the failure of the property owner to comply within the time prescribed, the Town Manager shall notify the Town Commission of the existence of the condition. ('71 Code, § 10-15)
(Ord. 213, passed 2-16-72) Penalty, see § 96.99

§ 96.14 ABATEMENT BY TOWN; COST.

(A) Upon receipt by the Town Commission of notification from the Town Manager of the existence of conditions described in § 96.13(A), the Commission shall, by resolution, direct the clearing of the trees and shrubs and assess a lien on behalf of the town against the land for the costs herein described. A certified copy of the 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 more than 20 days from receipt of the resolution to file written objections as to the reasonableness of the assessed costs with the Town Commission.

(B) Thereafter the Commission shall hear and determine the validity of the objections. Upon determining the invalidity of all objections, or failure to file objection within 20 days, a notice of lien in a form the Commission shall determine shall be filed in the office of the Clerk of the Circuit Court in which the lot or parcel of land is situated and recorded as other liens are recorded, and in the office of the Town Clerk. The costs of the lot clearing, removing of the trees and shrubs, and the necessary expenses for preparation of the assessment lien, filing and recording the lien, and legal expenses, if any, incident thereto, shall be assessed against the land and shall be collected by the Finance Director 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 situated.
('71 Code, § 10-16) (Ord. 213, passed 2-16-72)

2000 TOWN CODE

FOOD AND DRINK ESTABLISHMENTS

§ 96.30 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"DIRECTOR." The Director of the Sarasota County Health Department and the Director of the Manatee County Health Department or their duly-authorized representatives, and shall be the same authority as described in the Florida Administrative Code, §§ 10D-13.02(15), 10D-14.02(11), and 10D-15.02(14) as the health authority.

"HEALTH DEPARTMENT." The Sarasota County Health Department in Sarasota County and the Manatee County Health Department in Manatee County.

"MANAGEMENT." Includes anyone who conducts, directs the affairs, and carries on the business of food establishments, either for his own interest or that of an owner, and includes those responsible for operation and supervision.
(1971 Code, § 11-27) (Ord. 74-8, passed 4-17-74)

§ 96.31 PERMIT REQUIRED; INSPECTION AND FEE.

No person, firm, or corporation shall operate a food or drink establishment within the town without first obtaining and maintaining a valid permit or written approval from the Health Department. The permit shall be issued only after inspection of the premises of the establishment by the Director has revealed compliance with minimum requirements established by applicable law, and the payment of any fees as may be authorized and required by the Director. The permits shall expire on September 30 of each year.
('71 Code, § 11-28) (Ord. 74-8, passed 4-17-74) Penalty, see § 96.99

§ 96.32 PERMITS NONTRANSFERABLE.

Food or drink establishment permits shall not be transferable

from one person, firm, or corporation to another, or from one physical location to another physical location.
('71 Code, § 11-29) (Ord. 74-8, passed 4-17-74) Penalty, see § 96.99

§ 96.33 CONSTRUCTION OR ALTERATION OF PREMISES.

No construction, extension, or alteration of a food or drink service establishment, food outlet, or food processing plant take place before the complete plan for the establishment showing existing and proposed facilities has received written approval by the Health Department.
('71 Code, § 11-30) (Ord. 74-8, passed 4-17-74) Penalty, see § 96.99

§ 96.34 TRAINING REQUIREMENTS FOR MANAGEMENT.

(A) In order to insure that management or supervisors are qualified to institute and maintain acceptable sanitary procedures in the operation of a food preparation and food processing business, and to minimize the possibility of a foodborne disease outbreak, all management and supervisors shall be required to complete a minimum six-hour course of instruction and training conducted or approved by the Health Department in basic food hygiene, and relating to the proper storage, preparation, and service of foods.

(B) The Health Department shall administer a written examination following the completion of the course, and if the trainee successfully passes the written examination, the Director shall issue to the trainee a food handler's training card, which shall be valid for a two-year period. Compliance with this section shall be mandatory, commencing one year from the effective date of this subchapter. Upon the expiration of the two-year effective period of the food handler's training card, each holder thereof shall be required to complete a six-hour refresher course. Upon the completion of the refresher course, a new food handler's training card shall be issued for a succeeding two-year period.
('71 Code, § 11-31) (Ord. 74-8, passed 4-17-74) Penalty, see § 96.99

§ 96.35 WORK CARD FOR ALL EMPLOYEES.

All employees of food and drink establishments are required to obtain a food handler's work card from the Health Department prior to commencing employment in food and drink establishments. Each employee shall be required to procure a tuberculin test and any other health test required by the Director. The card shall be valid for one year from the date of issuance, and each employee shall obtain a new food handler's work card annually thereafter.
('71 Code, § 11-32) (Ord. 74-8, passed 4-17-74) Penalty, see § 96.99

§ 96.36 INSPECTIONS; VIOLATIONS.

The Health Department shall inspect all food and drink establishments within the town, and if a violation of any provision of this

subchapter is determined to exist, the Director shall give the operator of the food or drink establishment a reasonable time following the receipt of written notice thereof within which to correct the violation. Should the violation continue beyond the time specified for correction by the official notice, the food or drink establishment permit shall be revoked by the Director. Notice

shall be given by delivery or by certified or registered mail, addressed to the management of the food or drink establishment, at the street address of the establishment.
('71 Code, § 11-34) (Ord. 74-8, passed 4-17-74)

§ 96.37 AUTHORITY TO CLOSE ESTABLISHMENTS.

If, in the opinion of the Director, conditions of a food or drink establishment represent an immediate threat to the life or health of the patrons or employees, the establishment shall be ordered closed by the Director until the dangerous condition has been removed, and the establishment fully complies with all of the provisions of this subchapter.
('71 Code, § 11-35) (Ord. 74-8, passed 4-17-74)

§ 96.38 ENFORCEMENT.

It shall be the responsibility of the Director to enforce the provisions of this subchapter within the town.
('71 Code, § 11-33) (Ord. 74-8, passed 4-17-74)

POLLUTION CONTROL

§ 96.45 POLICY.

(A) F.S.A. § 403.182 authorizes each municipality to administer and establish local pollution control programs in compliance with F.S.A. Ch. 403, and provides among other things that the local pollution control programs must provide by ordinance requirements compatible with or stricter than those imposed by F.S.A. Ch. 403, and the regulations issued thereunder.

(B) Florida Laws, Special Acts of 1971, Ch. 71-913 authorized the Board of County Commissioners to promulgate and adopt by county ordinance an air pollution code and provides that any county ordinance adopted pursuant to that act shall be applicable and in force throughout the entire area of the county adopting the code.

(C) It is declared to be the public policy of the town and the purpose of this subchapter to achieve and maintain the levels of air quality that will protect human health and safety, to the greatest degree practicable prevent injury to plant and animal life, foster and protect the comfort and convenience of the people, promote the economic and social development of the community, and facilitate the enjoyment of the natural attributes of this community.
('71 Code, § 17A-1) (Ord. 73-1, passed 1-10-73)

§ 96.46 PROHIBITED ACTS; EXCEPTIONS.

No person shall ignite, cause to be ignited, permit to be ignited, or maintain any open fire except as follows:

(A) Open fires for the cooking of food for human consumption on other than commercial premises.

(B) Fires to abate a fire hazard, providing the hazard is so declared by the Fire Department.

(C) Fires for the prevention or control of disease or pests.

(D) Fires for training personnel in the methods of fighting fires.

(E) Fires for the disposal of dangerous materials, where there is no alternate method of disposal and burning is approved by the Town Manager.
('71 Code, § 17A-2) (Ord. 73-1, passed 1-10-73) Penalty, see § 96.99

Cross-reference:
Burning of garbage and refuse, see § 95.18
Fire prevention, see Ch. 94

§ 96.99 PENALTY.

(A) Any person, firm, company, corporation, or association, or the managing agent of any person, firm, company, corporation, or association who violates any provision of this chapter for which another penalty is not provided, shall upon conviction thereof, be fined in a sum of not more than $500, or shall be imprisoned for not more than 60 days, with each day of the violation constituting a separate offense.

(B) Any person, firm, company, corporation, or association, or the managing agent of any person, firm, company, corporation, or association who violates § 96.12 shall, upon conviction thereof, be fined in a sum of not more than $100 or shall be imprisoned for not more than ten days, with each day of the violation constituting a separate offense. ('71 Code, § 10-13) (Ord. 213, passed 2-16-72)

Section

Construction and Improvements

97.01 Drainage culvert construction permit; fee
97.02 Removal of illegally constructed culverts
97.03 Inspection of improvements; fee

Closing Streets

97.10 Motion of Town Commission; petition of interested party
97.11 Action by Town Commission
97.12 Ordinance to be recorded
97.13 Deposits to cover expenses

Offers of Dedication

97.14 Acceptance or rejection
97.15 Standards
97.16 Deed

CONSTRUCTION AND IMPROVEMENTS

§ 97.01 DRAINAGE CULVERT CONSTRUCTION PERMIT; FEE.

(A) No drainage culvert shall be constructed within any right-of-way easements dedicated 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 the culvert. ('71 Code, § 19-1)

(B) Application for a permit under division (A) above shall be made to the Town Manager, shall be in a form acceptable to the Town Manager, and shall be in conformity with the town's master plan for drainage facilities. ('71 Code, § 19-2)

(C) An application fee of $12.50 shall accompany an application under division (B) above, to partially offset the processing and inspection costs. ('71 Code § 19-3)
(Ord. 93-25, passed 2-7-94)

§ 97.02 REMOVAL OF ILLEGALLY CONSTRUCTED CULVERTS.

Any noncompliance with § 97.01 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 30 days of the order.
('71 Code § 19-4)

§ 97.03 INSPECTION OF IMPROVEMENTS; FEE.

(A) "Improvements" shall include streets, roads, bridges, alleys, parking areas, and appurtenances; curbs, sidewalks, bike paths, signs, filling, dredging, clearing of land, tree removal, and landscaping; storm sewer systems, water distribution systems, wastewater systems, and appurtenances.

(B) For the purpose of defraying the expenses of inspecting improvements, an inspection fee shall be paid as determined by the Director of Public Works equivalent to the cost of the inspection made by the town, plus 10%. However, the inspection fee shall not be less than $18.75 per hour or fraction thereof. The town may employ a full-time inspector, require a professional engineer or the use of specific equipment, and any and all tests shall be at the cost of the developer when conducted by an engineer or testing laboratory selected by the town.
(Ord. 93-25, passed 2-7-94)
('71 Code § 19-4.1) (Ord. 76-25, passed 7-21-76)

Cross reference:
Inspection costs relative to drainage culvert construction permit, see § 97.01(C)
Inspection fees for users of the waste water system, see § 51.21(B)
Inspections relative to construction of water distribution systems, see § 53.12
Inspections relative to tree removal, see § 98.03

CLOSING STREETS

§ 97.10 MOTION OF TOWN COMMISSION; PETITION OF INTERESTED PARTY.

(A) The Town Commission may on its own motion, or on the petition of an interested party, close and discontinue any street or easement within the Town ('71 Code § 19-5)

(B) Any interested party may sign and file with the Town Clerk a petition praying for the closing and discontinuing of any street or easement located within the town. The petition shall state the interest of petitioner, fully and legally describe the road or easement sought to be closed and discontinued, and shall set forth the names of all abutting property owners, the legal description of each individual parcel, and the owner thereof, abutting on the street. The petition shall state fully petitioner's reasons for desiring the road or easement to be closed and discontinued. The facts set forth in the petition shall be sworn to by the petitioner. ('71 Code § 19-6)
(Ord. 98-15, passed 5-4-98)

§ 97.11 ACTION BY TOWN COMMISSION.

On petition being filed as provided in § 97.10(B), or by action of the Town Commission acting on its own motion, the Town Commission may, based upon competent, substantial evidence of record, by ordinance, close and discontinue the street or easement if the Commission finds that the street has not been used as a street; a prior use has been abandoned; the street is of no benefit to the town and the public; or that the closing and discontinuing of the street or easement is in the best interest of the public.
(Ord. 98-15, passed 5-4-98)



§ 97.12 ORDINANCE TO BE RECORDED.

Upon the adoption of any ordinance closing and vacating and discontinuing any street, a copy of the ordinance, duly certified or acknowledged by the Town Clerk, shall be recorded in the public records in the office of the Clerk of the Circuit Court of the county in which the street is located.

§ 97.13 DEPOSITS TO COVER EXPENSES.

Accompanying each petition filed, as provided in this subchapter, shall be a deposit of $35 to pay expenses including publication and recording connected with action on the petition.

OFFERS OF DEDICATION

§ 97.14 ACCEPTANCE OR REJECTION.

The Town Commission, upon receipt of an offer to dedicate a private street to public use, may accept, reject or accept with conditions the street dedication. If the Town Commission accepts with conditions, the owner of the private street may withdraw the offer if the conditions are deemed unacceptable.
(Ord. 86-22, passed 10-6-86)

§ 97.15 STANDARDS.

Streets offered for dedication to the public shall, prior to acceptance of dedication by the Town Commission, conform to the criteria set forth in Sections 157.46, 157.58 and 157.59 of the Subdivision Code, as amended from time to time.
(Ord. 86-22, passed 10-6-86)

§ 97.16 DEED.

The deed of dedication and acceptance by the town shall be in a form approved by the Town Attorney and shall be recorded in the public records of the county in which the street is located.
(Ord. 86-22, passed 10-6-86)

CHAPTER 98: TREES

Section

98.01 Definitions
98.02 Permit required and exemptions
98.03 Requirements for removal, application procedures
98.04 Investigation of application; fee
98.05 Issuance of permits
98.06 Relocation or replacement
98.07 Protection of trees
98.08 Prohibited plantings
98.09 Trimming
98.10 Removal of Casuarina for hazard reduction
98.11 Petition for review
98.12 Penalty

Prior history:

'71 Code, §§ 17C-16, 17C-18--17C-21; and Ords. 74-21 and 76-21.

§ 98.01 DEFINITIONS.

(A) "TREE." Any self-supporting woody plant having a diameter of four inches or more measured four and one-half feet above ground level in the environs of the town and which provides shade or is capable of providing shade at maturity. Trees having trunks that divide into two trunks or more at less than four and one-half feet above ground level shall be measured at the point of the fork. For the purpose of this chapter, all species of Mangrove, including the Red Mangrove (Rhizophora mangle), White Mangrove (Laguncularia racemosa), Black Mangrove (Avicennia germinans) and Buttonwood Mangrove (Conocarpus erecta), are hereby declared to be trees, and are hereby protected by the provisions of this chapter, regardless of size. In addition, all palms are declared to be trees and are protected by the provisions of this chapter.

(B) "REMOVE A TREE." To relocate, cut down, damage, or poison or in any other manner destroy or cause to be destroyed a tree as defined in this chapter.

(C) "DRIP LINE." The peripheral limits of horizontal crown spread projected vertically to the ground.

(D) "IMPROVED SINGLE-FAMILY PARCEL." Parcel containing one dwelling.
(Am. Ord. 84-12, passed 7-23-84)

§ 98.02 PERMIT REQUIRED AND EXEMPTIONS.

(A) No person, corporation or agent shall cut down, destroy, remove, relocate or destructively damage or cause to be cut down, destroyed, removed, relocated or destructively damaged any tree, as defined in § 98.01(A), without first obtaining a permit from the town as provided in this chapter, except that the following types of trees shall be exempt from the provisions of this chapter unless otherwise stated in this chapter:

(1) Schinus terebinthifolius (Brazilian Pepper Tree).

(2) Melaleuca quinquenervia (Punk Tree).

(3) Enterolobium cyclocarpum (Ear Tree).

(4) Melia azedarach (Chinaberry Tree).

(5) Ficus retusa (Cuban Laurel).

(6) Grevillea robusta (Silk Oak).

(7) All Eucaluptus, except E. cinera (Silver Dollar Tree).

(8) Ficus aurea (Strangler Fig).

(9) Dalbergia sissoo (India Rosewood).

(B) Any tree, other than an oak tree (Quercus species), and other than mangroves as provided for in this chapter, located on a parcel of improved single-family residential land, provided such tree is located on the premises of an individual resident owner, and further provided such property is not being prepared for the development of a subdivision or other non-single-family residential use, is specifically exempt from the requirements of this chapter.

(C) Florida Department of Transportation, municipal utilities, and franchised utilities may remove without permit, trees which endanger public safety and welfare and are located within utility easements and public rights-of-way or are interfering with utility service, provided such utilities cooperate with the town to preserve such trees by relocation or replacement in the same vicinity or as determined by the town for the best public benefit. Under emergency conditions such utilities and companies may effect removal without permit and without prior written notice as may be necessary to restore or prevent interrupted service.

(D) The removal or pruning, within a 30-day period, of five or fewer trees in the genus Casuarina (Australian Pine) by any person, corporation or agent is specifically exempt from the requirements of this chapter, except if such trees are located westerly of Gulf of Mexico Drive.
(Am. Ord. 84-12, passed 7-23-84)

§ 98.03 REQUIREMENTS FOR REMOVAL, APPLICATION PROCEDURES.

(A) Tree Removal, Other Than Mangroves. It is unlawful for any person, corporation or agent to remove any tree as defined in this chapter until a request has been submitted to the Town Manager or his designee, in writing on a form provided by the town, and accompanied with the following information, and a permit is issued:

(1) An overall site plan including the approximate shape and dimensions of the lot or parcel of land, together with existing and proposed driveways, structures, and improvements. Plan to indicate location of trees, proposed removal, proposed relocation, proposed new trees, and proposed trees to be trimmed; also identify type, species and size.

(2) A statement as to why the trees are to be removed, relocated or trimmed.

(3) A statement explaining how any standing tree or trees to be relocated as part of a development project are to be protected during and after the construction of the development, and how the root system will be protected when raising the elevation of the area is necessary.

(4) Any other material or information deemed necessary by town officials in reviewing the criteria set out in § 98.04.

(B) Mangrove Removal. Mangroves shall only be removed with a permit from the appropriate state agencies and in accordance with the provisions of § 96.12.
(Am. Ord. 84-12, passed 7-23-84; Am. Ord. 90-33, passed 2-4-91)

§ 98.04 INVESTIGATION OF APPLICATION; FEE.

(A) After an application for removal of trees or the trimming of mangroves has been filed, the application shall be checked by the Town Manager or his designee who will review and may consider the following criteria in addition to the conditions set forth in § 98.05 in determining whether or not a permit required by this chapter shall be issued and under what conditions such permit should be issued:

(1) The condition of the tree with respect to disease, insect attack, danger of falling, proximity to existing or proposed structures and interference with utility services.

(2) The necessity of removing a tree to construct proposed improvements in order to allow reasonable economic use of the property.

(3) The relief of the land where the tree is located and the effect removal of the same would have on erosion, soil moisture retention, diversion, or increased or decreased flow of surface waters.

(4) The number and density of trees existing in the neighborhood on improved or unimproved property; the town officials shall also be guided by the effect removal of a tree would have on property values in the neighborhood where the applicant's property is located and on other existing vegetation in the neighborhood.

(5) Impact upon the urban and natural environment, including:

(a) Groundwater and surface water stabilization: Whether the removal of trees will substantially and adversely alter the water table regarding water assimilation by vegetation, transportation, and the interception of solar radiation as it affects the evaporation potential of associated soils and bodies of water.

(b) Water quality and aquifer recharge: Whether the removal of trees will greatly lessen the ability for the natural assimilation of nutrients, chemical pollutants, heavy metals and other noxious substances from groundwaters and surface waters during the infiltration, percolation and other movements of such waters toward an aquifer or natural stream.

(c) Ecological impacts: Whether the removal of trees will have an adverse impact upon existing biological and ecological systems, micro-climatic conditions which directly affect

these systems, or whether such removals will create conditions which may adversely affect the dynamic equilibrium of associated systems.

(d) Noise pollution: Whether the removal of trees will significantly increase ambient or point-source noise levels to the degree that a public nuisance is anticipated to occur.

(e) Air movement: Whether the removal of trees will significantly reduce the ability of the existing vegetation to reduce wind velocities to the degree that a nuisance is anticipated to occur.

(f) Air quality: Whether the removal of trees will significantly affect the natural cleansing of the atmosphere by vegetation through particulate matter interception, the ingestion of noxious and poisonous gases, or the net production of oxygen released to the atmosphere as a byproduct of photosynthesis.

(g) Wildlife habitat: Whether the removal of trees will significantly reduce available habitat for wildlife existence and reproduction or result in the emigration of wildlife from adjacent or associated systems.

(h) Method of protection and nourishment: During construction, after construction, during relocation and after relocation.

(6) The ease with which the applicant can alter or revise the proposed development or improvement to accommodate existing trees, including the tree or trees proposed to be removed.

(7) Application for tree removal and trimming of mangroves as outlined in § 98.03 filed with the Town Manager or his designee shall be accompanied by a fee of $6.25, plus cost of inspector, plus cost of consultant, plus cost of materials. (Ord. 93-25, passed 2-7-94) (Am. Ord. 84-12, passed 7-23-84)

§ 98.05 ISSUANCE OF PERMITS.

After considering the criteria set out in § 98.04, the Town Manager or his designee shall approve or disapprove the permit. No permit shall be issued for tree removal unless one of the following conditions as determined by the town, exists:

(1) A site plan submitted by the applicant shows that a proposed structure, permissible under all applicable laws and regulations, can be situated on the subject parcel only if specific trees are removed or relocated.

(2) The tree is located in such proximity to existing or proposed structures that the utility or structural integrity of such structures is materially impaired.

(3) The tree materially interferes with the location, servicing or functioning of public utility lines or service.

(4) The tree obstructs views of oncoming traffic or otherwise creates a substantial traffic hazard.

(5) The tree is an Australian Pine (all species, Casuarina spp.), a Brazilian Pepper Tree (Schinus terebinthifolius) and/or a Punk Tree (Melaleuca quinquenervia).

(6) The tree is dead or diseased to an extent that recovery is unlikely or so structurally unsound that it poses a substantial threat of damage to persons or property.
(Am. Ord. 84-12, passed 7-23-84)

§ 98.06 RELOCATION OR REPLACEMENT.

(A) As a condition to granting a permit, the Town Manager or his designee shall require the applicant to relocate or replace a tree being removed at the applicant's expense, either within the site, or with the concurrence of the Town Manager, on public land within reasonable proximity of the site. If replacement trees cannot be planted on the applicant's land or on public land within reasonable proximity to the site, a fee of $100 per replacement tree, based on the ratio provided herein, shall be paid to the town. These funds shall be kept in an account and used only for the designated replacement or planting of trees on public property. The ratio of replacement, when reasonably possible, shall be on a two-for-one basis if replacement trees are smaller than the trees to be removed. If the replacement trees are approximately the same size as the trees to be removed, a one-for-one ratio may be permitted. The Town Manager or his designee should consider the site and the size and species of tree to be removed when fixing the required ratio. The reasons for any deviation from the ratios set forth herein shall be clearly stated and documented by staff. Photographs shall be taken by staff both before issuance of the permit and after the completion of the removal and replacement.

(B) A replacement tree shall be of a type and species having shade potential and other values, at least equal to that of the tree being removed, and shall be a minimum of six feet in height when planted. The planted tree shall not be of the nuisance type listed in § 98.02(A). The following are specifically recommended as replacement trees:

(1) Mahogany (Swietenia mahogani).

(2) Sea Grape (Coccoloba uvifera).

(3) Live Oak (Quercus virginiana).

(4) Gumbo Limbo (Bursera simaruba).

(5) Seaside Mahoe (Thespesia populnea).

(6) Red Bay (Persea borbonia).

(7) Silver Buttonwood (Conocarpus erectus).

(8) Wax Myrtle (Myrica cerifera).

(9) Southern Red Cedar (Juniperus silicicola).

(10) Black Olive (Bucida buceras).

Other trees may also be acceptable as replacements and, therefore, the above list is not all-inclusive.
(Am. Ord. 84-12, passed 7-23-84; Am. Ord. 89-18, passed 2-10-89; Am. Ord. 89-32, passed 2-5-90)

§ 98.07 PROTECTION OF TREES.

(A) During and/or prior to the land clearing stage of development, the owner, builder or developer shall clearly mark all trees for which a tree removal permit has not been issued and shall erect barriers for the protection of the trees to be preserved no closer than 10 feet from any tree (as defined in this chapter). To protect the root systems of all trees to be saved, clearing of vegetation within the barriers will be accomplished by the use of hand tools. The owner or developer shall not cause or permit the movement of equipment or the storage of equipment, material, debris or fill to be placed within the required protective barrier. Barriers shall consist of three rows of survey ribbon on 1" × 2" × 4' stakes. Silt screens shall be required where mangroves or wetlands could be affected by construction or runoff from construction.
(Am. Ord. 90-33, passed 2-4-91)

(B) During the construction stage of development, the owner or developer shall not cause or permit the cleaning of equipment or material within the outside perimeter of the crown ("drip line") of any tree or group of trees which are to be preserved. Within the outside perimeter of the crown ("drip line") of any tree, the owner or developer shall not cause or permit storage or disposal of waste materials such as paints, oils, solvents, asphalt, concrete, mortar or any other material harmful to the life of a tree. No attachment, wires (other than supportive wires for a tree), signs or permits may be fastened to any tree protected by this chapter.

(C) Representatives of the town shall conduct periodic inspections of the site during the land clearing and construction in order to ensure compliance with this chapter. In addition, a performance bond may be required from the owner or developer to be used for the restoration of any trees on the site which have been adversely affected, as determined by the town.

(D) The standards and requirements of this section shall be applicable to all land development projects, even if a tree removal permit is not required.
(Am. Ord. 84-12, passed 7-23-84)

§ 98.08 PROHIBITED PLANTINGS.

(A) It is unlawful for any person, corporation or their agent to plant, transplant or grow from seed or cause to be planted, transplanted or grown from seed any of the following tree species: Brazilian Pepper Tree (Schinus terebinthifolius), Punk Tree (Melaleuca quinquenervia), and Australian Pine, all species (Casuarina spp.); within the limits of the town.

(B) It is unlawful for any person, corporation or their agent to plant, transplant or grow from seed or cause to be planted, transplanted or grown from seed, a tree from the following

species: the Cuban Laurel (Ficus retusa), except by permit obtained from the town which will be granted if the following conditions exist:

(1) The tree will not materially impair the utility or structural integrity of public utility lines or service, or roads, sidewalks and bike paths or materially interfere with the location, servicing or functioning of same;

(2) The tree will not obstruct views of oncoming traffic or otherwise create a substantial traffic hazard; and

(3) The tree will not create adverse biological or ecological impacts.
(Amd. Ord. 84-12, passed 7-23-84)

§ 98.09 TRIMMING.

(A) Mangrove Trimming. Mangrove trimming shall be in accordance with the laws of the State of Florida.

(B) Trimming Other Than Mangroves. Subject to the provisions of § 96.12 relating to the clearing of overgrowth, it is unlawful for any person, corporation or agent in the trimming of any tree as normal maintenance or otherwise to so trim a tree as to cause mutilation of the tree to the extent that its health or function are significantly impaired or to remove more than 50% of the leaves, limbs, and foliage of the trees in any three-year period.
(Amd. Ord. 84-12, passed 7-23-84; Amd. Ord. 90-33, passed 2-4-91; Amd. Ord. 97-01, passed 2-3-97)

§ 98.10 REMOVAL OF CASUARINA FOR HAZARD REDUCTION.

The Town Commission shall encourage the removal or pruning of all trees in the genus Casuarina (Australian Pine) from all real property within the town limits or property subsequently annexed to the town adjacent to Gulf of Mexico Drive for a distance sufficient that should a tree fall, it would not reach any unpaved portion of the roadway. Compliance with § 339.25, Florida Statutes (1981), shall be required prior to any pruning or removal as set out in this section.
(Amd. Ord. 84-12, passed 7-23-84)

§ 98.11 PETITION FOR REVIEW.

Any person who feels aggrieved by the strict enforcement of this chapter by any administrative official may file, within five days after the said aggrievement, a petition to have his case reviewed and acted upon by the Zoning Board of Adjustment, whose decisions on all matters shall be final.
(Amd. Ord. 84-12, passed 7-23-84)

§ 98.12 PENALTY.

Any person found guilty of violating any provisions of this chapter or any order issued pursuant thereto shall upon conviction thereof be punished by a fine not exceeding $500 or by imprisonment for a term not exceeding 60 days. In a prosecution under this chapter, each tree removed, damaged or destroyed will constitute a separate offense.
(Amd. Ord. 84-12, passed 7-23-84)

CHAPTER 99: ABANDONED AND SEIZED PROPERTY

Section

99.01	Definitions
99.02	Procedure for abandoned or lost property
99.03	Designation to administer lost or abandoned property
99.04	Seizure by police

Prior history:
Ord. 86-5, passed 4-7-86

§ 99.01 DEFINITIONS.

For the purpose of this chapter, the definitions afforded in F.S. § 705.101 will apply unless a different meaning is clearly required.
(Ord. 92-19, passed 6-18-92)

§ 99.02 PROCEDURE FOR ABANDONED OR LOST PROPERTY.

The procedure for notice, redemption, and disposal of lost or abandoned property shall be governed by the provisions of F.S. Ch. 705, as may be amended. All property which is forfeited shall be governed by applicable Florida law.
(Ord. 92-19, passed 6-18-92)

§ 99.03 DESIGNATION TO ADMINISTER LOST OR ABANDONED PROPERTY.

The Code Enforcement Officer(s) and the Police Department are hereby designated by the town to administer the provisions of this chapter as it pertains to lost or abandoned property, as well as F.S. 705.
(Ord. 92-19, passed 6-18-92)

§ 99.04 SEIZURE BY POLICE.

The Police Department is authorized and directed to seize and reduce to its possession any lost, captured, abandoned, stolen or wrecked property, or property which has been left unattended by virtue of the owner's or operator's being taken into custody or where such property may cause a hazard if left in its locations.
(Ord. 92-19, passed 6-18-92)

CHAPTER 100: SEA TURTLES

Section

100.01	Definitions
100.02	Purpose of provisions
100.03	New development; requirements; prohibitions
100.04	New development; exemptions
100.05	Existing development
100.06	Publicly owned lighting
100.07	Enforcement and penalty

§ 100.01 DEFINITIONS.

For the purpose of this chapter, the following terms shall have the meaning set forth in this section:

(A) "ARTIFICIAL LIGHT." Any source of light emanating from a manmade device, including, but not limited to, incandescent mercury vapor, metal halide, or sodium lamps, flashlights, spotlights, street lights, vehicular lights, construction or security lights.

(B) "BEACH." That area of unconsolidated material that extends landward from the mean low waterline to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation (usually the effective limit of storm waves).

(C) "COASTAL CONSTRUCTION CONTROL LINE (CCCL)." The State Coastal Construction Control Line for Manatee County and the original proposed State Coastal Construction Setback Line for Sarasota County on file in Town Hall.

(D) "DIRECT ILLUMINATION OF THE BEACH." Light from a point source which is sufficiently strong to cast a detectable shadow on the beach on a dark, moonless night.
(Am. Ord. 92-32, passed 1-4-93)

(E) "LOW PROFILE LUMINAIRE." Light fixture set on a base which raises the source of the light no higher than 48 inches off the ground, and designed in such a way that light is directed downward from a hooded light source.

(F) "NEW DEVELOPMENT." Shall include new construction and remodeling of existing structures when such remodeling includes alteration of exterior lighting.

(G) "PERSON." Any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, group, or unit or federal, state, county or municipal government.

(H) "POLE LIGHTING." Light fixture set on a base or pole which raises the source of the light higher than 48 inches off the ground.
(Ord. 87-16, passed 6-1-87)

§ 100.02 PURPOSE OF PROVISIONS.

The purpose of this chapter is to protect the threatened and endangered sea turtles which nest along the Gulf beaches of the town by safeguarding the hatchlings from sources of artificial light.
Ord. 87-16, passed 6-1-87)

§ 100.03 NEW DEVELOPMENT; REQUIREMENTS; PROHIBITIONS.

It is the policy of the Town Commission that no artificial light illuminate any area of the Gulf beaches of the town. To meet this intent, building and electrical plans for construction of single-family or multifamily dwellings, commercial or other structures, including electrical plans associated with parking lots, dune walkovers or other outdoor lighting for real property if lighting associated with such construction or development can be seen from the beach, shall be in compliance with the following:

(A) Direct illumination of the beach shall be prohibited. Wall-mounted light fixtures shall be fitted with hoods so that no light illuminates the beach.
(Am. Ord. 92-32, passed 1-4-93)

(B) Pole lighting shall be shielded in such a way that light will be contained within an arc of 3 to 73 degrees on the seaward side of the pole. Outdoor lighting shall be held to the minimum necessary for security and convenience.

(C) Low-profile luminaries shall be used in parking lots, and such lighting shall be positioned sot that no light illuminates the beach.

(D) Dune crosswalks shall utilize low-profile shielded luminaries.

(E) Lights on balconies shall be fitted with hoods or shades so that lights will not illuminate the beach.

(F) Temporary security lights at construction sites shall not be mounted more than 15 feet above the ground. Illumination from the lights shall not spread beyond the boundary of the property being developed, and in no case shall those lights illuminate the beach.
(Ord. 87-16, passed 6-1-87)

§ 100.04 NEW DEVELOPMENT; EXEMPTIONS.

The provisions of § 100.03 of this chapter shall not apply to any structure for which a building permit has been issued by the Building Department prior to the effective date of this chapter.
(Ord. 87-16, passed 6-1-87)

§ 100.05 EXISTING DEVELOPMENT.

It is the policy of the Town Commission that no artificial light illuminate any area of the Gulf beaches of the town. To meet this intent, lighting of existing structures which can be seen from the beach shall be in compliance with the following within six months of the effective date of the ordinance codified in this chapter:

(A) Lights illuminating buildings or associated grounds for decorative or recreational purposes shall be shielded or screened such that they do not illuminate the beach, or turned off or dimmed from sunset to sunrise during the period of May 1 to October 31 of each year.

(B) Lights illuminating dune crosswalks of any areas seaward of the dune line shall be turned off or dimmed from sunset to sunrise during the period of May 1 to October 31 of each year.

(C) Security lighting shall be permitted throughout the night so long as low-profile luminaries are used and are screened to prevent direct illumination of the beach.
(Ord. 87-16, passed 6-1-87; Am. Ord. 92-25, passed 8-6-92; Am. Ord. 92-32, passed 1-4-93)

§ 100.06 PUBLICLY OWNED LIGHTING.

Street lights and lighting at parks and other publicly owned beach access areas shall be subject to the following:

(A) Whenever possible, street lights shall be located so that the bulk of their illumination will travel away from the beach.

(B) Lights at parks or other public beach access points shall be shielded or shaded or shall not be utilized during the period May 1 to October 31 of each year.
(Ord. 87-16, passed 6-1-87)

§ 100.07 ENFORCEMENT AND PENALTY.

This chapter shall be enforced by the Code Enforcement Board in accordance with the provisions of Chapter 33, §§ 33.01 through 33.12 of this code.
(Ord. 87-16, passed 6-1-87)

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CHAPTER 101: BURGLAR ALARM SYSTEMS

Section

101.01	Definitions
101.02	Notice of existence of burglar alarm system
101.03	Responsibility for burglar alarm activation, owner response, burglar alarm malfunction and corrective action
101.04	Fee charges; multiple burglar alarm malfunctions or false burglar alarms
101.05	Disconnection of alarm system
101.06	Appeal
101.07	Failure to disconnect or unauthorized reconnection of alarm system
101.08	Reconnection of alarm systems
101.09	Automatic telephone dialing alarm device or digital alarm communicator system
101.10	Newly installed alarm systems
101.11	Alarm system operations

Prior history:
Ord. 22-28, passed 11-7-88

§ 101.01 DEFINITIONS.

For the purposes of this chapter, the following terms will apply:

(A) "BURGLAR ALARM MALFUNCTION." The activation of any alarm which results in the response of the Police Department caused by mechanical failure, malfunction, improper installation or lack of proper maintenance, or any other response for which the Police Department personnel are unable to gain access to the premises for any reason, or are unable to determine the apparent cause of the alarm activation.

(B) "BURGLAR ALARM SYSTEM." Any mechanical, electrical or radio-controlled device which is designed to be used for the detection of any unauthorized entry into a building, structure or facility, or for alerting others of the commission of an unlawful act within a building, structure or facility, or both, which emits a sound or transmits a signal or message when activated. Without limiting the generality of the foregoing, alarm systems shall be deemed to include audible alarms at the site of the installation of the detection device, proprietor alarms and automatic telephone direct dial devices or digital alarm communicator systems.

(C) "BURGLAR ALARM TECHNICIAN." Any person who inspects, installs, repairs or performs maintenance on burglar alarm systems and is licensed by the State of Florida or works under a state-licensed alarm contractor.

(D) "FALSE BURGLAR ALARM." The activation of any alarm which results in the response of the Police Department caused by the negligence or intentional misuse of the system by the owner or his employees, servants or agents or any other activation not caused by forced entry, attempted forced entry or robbery exclusive of burglar alarm malfunction as

(C) After the fourth burglar alarm malfunction has occurred at a premises within 30 calendar days, the owner shall appear at the next scheduled meeting of the Code Enforcement Board after he has received notice to appear. The owner shall also be responsible for any legal fees or costs incurred by the town in enforcement of this chapter.
(Ord. 92-27, passed 10-22-92)

§ 101.05 DISCONNECTION OF ALARM SYSTEM.

(A) The Police Department or enforcement officials are authorized to order the disconnecting or deactivation of any alarm system, by written notice to the owner of premises wherein an alarm system is installed, for any of the following reasons:

(1) Failure to meet all requirements or pay the fees provided for in this chapter within 15 days of the charging of the fee.

(2) Failure of the owner to provide a written "Affidavit of Service/Repair" required by this chapter.

(3) A false alarm or alarm malfunction at premises for which a fee is charged pursuant to this chapter is the result of the failure of the owner to take corrective action to eliminate the cause of the fire alarm.

(4) The failure of a person notified pursuant to this chapter to appear within 45 minutes after being notified to respond, if such failure to timely appear occurs four or more times within a calendar year.

(B) The written notice to disconnect or deactivate shall be mailed to the owner and shall specify the date on which the owner shall be required to disconnect or deactivate the alarm system, which date shall be at least 15 days following the date of the notice. The owner may appeal the order of the enforcement official pursuant to § 101.06.
(Ord. 92-27, passed 10-22-92)

§ 101.06 APPEAL.

An owner to whom a notice to disconnect or deactivate an alarm system was mailed, pursuant to § 101.05, shall be entitled to appeal the order of the enforcement official to the Town Manager or his designee. An appeal must be in writing, stating the reasons why the order to disconnect or deactivate should be withdrawn, and shall be made within 15 days of the date of the notice to disconnect. The Town Manager or his designee shall review the facts and circumstances and shall determine whether the owner has shown good cause why the order should be withdrawn. The Town Manager or his designee shall notify the owner of the decision in writing. If the Town Manager or his designee affirms the order to disconnect or deactivate an alarm system, the owner shall have five days following mailing of the written decision of the Town Manager or his designee within which to comply with the order. The appeal of an order to disconnect or deactivate shall suspend the effective date of the order until the appeal has been acted upon by the Town Manager or his designee.
(Ord. 92-27, passed 10-22-92)

§ 101.07 FAILURE TO DISCONNECT OR UNAUTHORIZED RECONNECTION OF ALARM SYSTEM.

It shall be unlawful for any person to fail to disconnect or deactivate an alarm system which has been ordered disconnected or deactivated pursuant to § 101.05, including those situations in which the Town Manager or his designee affirmed the order to disconnect or deactivate; and it shall be unlawful for any person to reconnect an alarm system which has been disconnected or deactivated pursuant to the order of the enforcement official unless reconnection of the alarm system is authorized pursuant to § 101.08. Any person violating the provisions of this section shall be subject to penalties provided for in § 101.06, the penalty being cumulative to other administrative remedies provided for in this chapter.
(Ord. 92-27, passed 10-22-92)

§ 101.08 RECONNECTION OF ALARM SYSTEMS.

Any order to disconnect or deactivate an alarm system may be rescinded by the Police Department enforcement official upon a finding by said enforcement official that the owner of the premises has taken corrective action which it is reasonable to conclude will remedy the cause of the false alarms or alarm malfunctions at the premises. In making a request for such a rescission, the owner shall have the burden to show that corrective action has been taken and that same is sufficient to support a finding that the cause of the false alarms or alarm malfunctions has been remedied. The enforcement official shall have the right to inspect the alarm system and test same prior to rescinding the order to disconnect or deactivate. Before any reconnection of an alarm system, after the order to disconnect said system, a reconnection fee of $25 shall be assessed. The enforcement official shall not rescind an order to disconnect or deactivate if the owner has failed to pay any fee charged the owner pursuant to this chapter.
(Ord. 92-27, passed 10-22-92)

§ 101.09 AUTOMATIC TELEPHONE DIALING ALARM DEVICE OR DIGITAL ALARM COMMUNICATOR SYSTEM.

(A) It shall be unlawful for any person to install, maintain, operate or use any automatic telephone dialing alarm device or digital alarm communicator system within the town, if the system requires connection to the emergency communications center of the Police Department.

(B) It shall be unlawful for any person to install, maintain, operate or use any automatic telephone dialing alarm device or digital alarm communicator system within the town unless such system is currently approved by the Underwriters' Laboratories, Inc., or its subsidiary laboratories, and has been approved by the enforcement official.

(C) Any person who violates the provisions of this section shall be punished as provided for in § 101.06.
(Ord. 92-27, passed 10-22-92)

§ 101.10 NEWLY INSTALLED ALARM SYSTEMS.

The provisions of this chapter shall not apply to any newly installed alarm system for a period of 60 days from the date of the installation of that alarm system, but shall apply from and after the expiration of the initial 60-day period following installation. The time limit provided for in this section shall be measured from the date shown on the notice required by § 101.02. The exemption set forth in this section shall not apply to any person who has failed to comply with § 101.02.
(Ord. 92-27, passed 10-22-92)

§ 101.11 ALARM SYSTEM OPERATIONS.

The town, its officers, employees and agents, shall not assume any duty or responsibility for the installation, maintenance, operation, repair or effectiveness of any privately owned alarm system, those duties or responsibilities being solely those of the owner of the premises. Additionally, it shall be the responsibility of the owner of the premises to silence an activated alarm and thereafter reset same. All burglar alarm systems shall automatically reset/silence the audible alarm within 10 minutes of activation. The town shall not provide nor make available the services of the Police Department emergency communications centers for use by owners as a central location for alarm system receiving equipment.
(Ord. 92-27, passed 10-22-92)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. ALCOHOLIC BEVERAGES

111. OCCUPATIONAL LICENSES

112. PEDDLERS

113. FILM INDUSTRY

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

110.01 Hours of sale

§ 110.01 HOURS OF SALE.

(A) 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 for the sale of alcoholic or intoxicating beverages, except between and during the following hours.

(1) 7:00 a.m. on Monday to 2:00 a.m. on Tuesday.

(2) 7:00 a.m. on Tuesday to 2:00 a.m. on Wednesday.

(3) 7:00 a.m. on Wednesday to 2:00 a.m. on Thursday.

(4) 7:00 a.m. on Thursday to 2:00 a.m. on Friday.

(5) 7:00 a.m. on Friday to 2:00 a.m. on Saturday.

(6) 7:00 a.m. on Saturday to 2:00 a.m. on Sunday.

(7) 12:00 noon on Sunday to 2:00 a.m. on Monday; however, beer. ale, and wine may be sold or served from 7:00 a.m. on Sunday to 2:00 a.m. cn Monday.

(8) 7:00 a.m. on December 31 of any year, unless the day falls on a Sunday, in which case the hours shall be from the hour set forth in division (7) to 4:00 a.m. of January 1 of any year.

(B) It shall be unlawful to keep open for business, admit the public, allow the public to remain, or permit the consumption of alcoholic or intoxicating beverages in or on the premises in which alcoholic or intoxicating beverages are sold at retail during the hours within which the sale of these alcoholic or intoxicating beverages are prohibited. However, in case these establishments are open for business during these hours, bars, tables and counters shall be cleared of all alcoholic or intoxicating beverages and no alcoholic or intoxicating beverages may be consumed by the public during these hours.
('71 Code, § 3-3) (Ord. 75-6, passed 6-4-75) Penalty, see § 10.99

Statutory reference:
Hours of sale, authority of town to regulate, see F.S.A. §§ 562.14, 562.45

Chapter 111: OCCUPATIONAL LICENSES

Section

111.01 Occupational tax levied
111.02 Conduct of business, profession or occupation defined
111.03 Religious, charitable and educational institutions exemptions; waivers
111.04 Collection remedies
111.05 Application procedures; proration of fees
111.06 Registration prior to licensing
111.07 Due date; penalty for late payment
111.08 Transfer
111.09 Refund
111.10 Contents of license
111.11 Town rights preserved
111.12 Appeals
111.13 License schedule

Prior history:

'71 Code, §§ 12-1 - 12-10; Amd. Ords. 228, 76-12, 85-22 and 87-05

Cross-reference:

Cost of giving notice for permit application, see § 35.01

§ 111.01 OCCUPATIONAL TAX LEVIED.

(A) Occupational license taxes in the amounts specified in § 111.15 are levied on:

(1) Any person who maintains a permanent business location or branch office within the town for the privilege of engaging in or managing any business within the town.

(2) Any person who maintains a permanent business location or branch office within the town for the privilege of engaging in or managing any profession or occupation within the town.

(3) Any person who does not qualify under the provisions of paragraph (1) or (2) and who transacts any business or engages in any occupation or profession in interstate commerce, if such license tax is not prohibited by Section 8 of Article I of the United States Constitution.

(B) It is unlawful for any person to conduct any business, profession or occupation upon which is levied an occupational license tax without paying such tax to the town.

(C) A separate occupational license shall be obtained for each branch establishment or location where a separate business is conducted; provided, that warehouse and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments. Each rental real property shall be deemed a branch establishment or separate place of business for the purposes of this chapter when there is a representative of the owner or the owner's agent on the premises who is authorized to transact business for such owner or owner's agent or there is a regular employee of the owner or owner's agent working on the premises.

(D) A person engaged in two or more businesses at the same location shall be issued one license of the highest amount payable for any one of the businesses and shall be charged a fee equal to one-half of the fee required for each additional business; such additional businesses shall be specified on the face of the license.

(E) When two or more business at the same location are under separate ownership, each owner shall pay the amount(s) payable for his business(es).
(Ord. 89-10, passed 7-28-89)

Cross reference:
Alcoholic beverages tax, see § 110.01

§ 111.02 CONDUCT OF BUSINESS, PROFESSION OR OCCUPATION DEFINED.

Business. For the purpose of this chapter any person holding himself out to the public, at a given location, by sign, printed matter, classified section, telephone directory, or city directory, or otherwise as being engaged in business, or as offering services or property to the public, regardless of whether such person actually transacts any business, or practices a profession, shall be considered as engaging in business and shall be liable for an occupational license therefor.

(A) Any person shall be deemed to be conducting a business, profession or occupation, and is subject to the requirements of Section 111.01 of this chapter, when he does any act of:

(1) Selling any goods or services;

(2) Soliciting business or offering goods or services for sale or hire;

(3) Renting any real property for residential purposes or advertising any real property for such rental; or

(4) Acquiring or using any premises in the town for business purposes.

(B) The agents or other representatives of nonresidents who are doing business in this town shall be personally responsible for the compliance with this article by their principals and the businesses they represent.

(C) Each owner of rental property on a lot within the town shall pay a license tax as set forth in § 111.13 based on the rental units owned by that owner and located on that lot. Each rental real property lot shall be deemed a branch establishment or separate place of business for the purposes of this chapter.

(D) No license shall be required of any person for any mere delivery in the town of any property purchased or acquired in good faith from such person at his regular place of business outside the town or for advertising in this town any business conducted entirely outside of the town, where no intent by such person is shown to exist to evade the provisions of this chapter.

(E) Employees are in no case required to obtain a license or to pay a license tax under this chapter. An "employee" means every person engaged in any business, profession or occupation

on a full or part-time basis under any appointment, agency, contract of hire, or apprenticeship, express or implied, oral or written.

(F) Each day that any person conducts a business, or performs any other act, for which a license is required by this chapter, without having obtained the license hereby required, shall constitute a separate and distinct violation of this chapter.
(Ord. 89-10, passed 7-28-89)

§ 111.03 RELIGIOUS, CHARITABLE AND EDUCATIONAL INSTITUTIONS EXEMPTIONS; WAIVERS.

(A) Religious Tenets; Exemption. Nothing in this chapter shall be construed to require a license for practicing the religious tenets of any church.

(B) Charitable, etc., Organizations; Occasional Sales, Fund Raising; Exemption. No occupational license shall be required of any charitable, religious, fraternal, youth, civic, service or other such organization when the organization makes occasional sales or engages in fund-raising projects when the projects are performed exclusively by the members thereof and when the proceeds derived from the activities are used primarily in the charitable, religious, fraternal, youth, civic and service activities of the organization.

(C) Waiver. Upon written application on a form to be provided by the town, charitable, educational, religious, literary, scientific or other similar organizations, persons or groups and those claiming exemptions pursuant to F.S. Ch. 205, may obtain a waiver as to the necessity of obtaining an occupational license which would otherwise be required by this chapter. (Ord. 89-10, passed 7-28-89; Amd. Ord. 90-20, passed 7-19-90)

§ 111.04 COLLECTION REMEDIES.

Any unpaid fee required by the provisions of this chapter constitutes a debt due to the town.

(A) The Town Attorney shall, at the direction of the town, institute civil suit in the name of the town to recover any such unpaid fee. Any person who engages in any business, occupation, or profession covered by this chapter, who does not pay the required occupational license tax within 150 days after the initial notice of tax due, and who does not obtain the required occupational license is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to $250.

(B) As an alternative to filing a civil suit, the town may prosecute an action before the Code Enforcement Board. Any person owing delinquent license fees referred to the Code Enforcement Board for collection shall be required to pay any such delinquent license fees and a minimum administrative cost of $25 before being issued a license. This administrative cost is in addition to the penalties imposed pursuant to Section 111.07 of this code.

(C) No civil judgment, or any act by the Town Attorney, the town or the violator shall bar or prevent a prosecution for each and every violation of this chapter.
(Ord. 89-10, passed 7-28-89; Amd. Ord. 92-12, passed 4-6-92; Amd. Ord. 93-16, passed 7-22-93; Amd. Ord. 96-10, passed 6-3-96)

§ 111.05 APPLICATION PROCEDURES; PRORATION OF FEES.

(A) Every person required to procure an occupational license under the provisions of this chapter shall submit an application to the town. The application shall:

(1) Be a written statement upon forms provided by the town; such forms shall include an affidavit to be sworn to by the applicant.

(2) Require the disclosure of all information necessary for compliance with the application form and of any other information which the town finds to be reasonably necessary to the fair administration of this chapter.

(3) Be accompanied by the full amount of fee chargeable for such license, if the applicant starts his business on or after the first day of October of the year of application and prior to the first day of April of the next succeeding year. If the applicant starts his business on or after the first day of April of the year of application and prior to the first day of October next succeeding, the applicant shall be required to pay only one-half of the annual fee and shall receive a license for the balance of the taxable year.

(B) Whenever a license cannot be issued at the time the application for it is made, the town shall issue a receipt to the applicant for the money paid in advance; provided, however, that such receipt shall not be construed as the approval of the town for the issuance of a license, and it shall not entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter.
(Ord. 89-10, passed 7-28-89)

§ 111.06 REGISTRATION PRIOR TO LICENSING.

(A) No occupational license shall be issued unless the Federal Employer Identification Number or Social Security Number is obtained from the person to be licensed.

(B) No occupational license shall be issued by the town to any person required by the laws of the state to be registered and issued a certificate to practice any profession or engage in any business unless such person in applying for the license submits proof of having been duly qualified to practice the profession or engage in the business under the laws of the state.
(Ord. 89-10, passed 7-28-89; Amd. Ord. 93-16, passed 7-22-93)

§ 111.07 DUE DATE; PENALTY FOR LATE PAYMENT.

(A) All licenses shall be sold by the town beginning of August 1 each year and are due and payable on or before September 30 of each year and expire on September 30 of the succeeding year. In the event September 30 falls on a weekend or holiday, the tax is due and payable on or before the first working day following September 30. Those licenses not renewed when due and payable shall be considered delinquent and subject to a delinquency penalty of 10% for the month of October, plus an additional 5% for each subsequent month of delinquency until paid. However, the total delinquency penalty may not exceed 25% of the occupational license fee for the delinquent business.

(B) Any person conducting any business, occupation or profession without first obtaining a local occupational license, if required under this chapter, shall be subject to a penalty of 25% of the license, in addition to any other penalty provided by law or ordinance.
(Ord. 89-10, passed 7-28-89; Amd. Ord. 93-16, passed 7-22-93)

§ 111.08 TRANSFER.

Any occupational license may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee of 10% of the annual license tax but not less than $3.00, nor more than $25 and presentation of the original license. Any occupational license may be transferred from one location in the town to another location in the town upon a payment of a transfer fee of 10% of the annual license tax but not less than $3.00, nor more than $25.
(Ord. 89-10, passed 7-28-89; Amd. Ord. 93-16, passed 7-22-93)

§ 111.09 REFUND.

No rebate or refund of any occupational license fee, or part thereof, shall be made by reason of the nonuse of such license or by reason of a change of location or business rendering the use of such license ineffective. A rebate or refund of the license fee may be made only if the license fee was collected through error. Proof of grounds for rebate shall be submitted to the town in the form of an affidavit, and the decision of the town shall be final.
(Ord. 89-10, passed 7-28-89)

§ 111.10 CONTENTS OF LICENSE.

Every occupational license shall state upon its face the following:

(A) The name of the licensee and any other name under which such business is to be conducted, along with the Federal Employer Identification Number or Social Security Number of the licensee.

(B) The kind and address of each business so licensed.

(C) The amount of license fee therefor.

(D) The dates of issuance and expiration thereof.

(E) Such other information and expiration thereof.

(Ord. 89-10, passed 7-28-89; Amd. Ord. 93-16, passed 7-22-93)

§ 111.11 TOWN RIGHTS PRESERVED.

The adoption of the ordinance codified in this chapter and schedule of license taxes shall not abridge the right of the Town Commission to increase or decrease taxes or change, alter or revoke any of the license taxes or fees provided for herein at any time; or to pass other license assessments whether pertaining to any of the subjects contained or provided for in this chapter or not, and the same shall not affect any of the matters or provisions of this chapter unless specifically so stated.
(Ord. 89-10, passed 7-28-89)

§ 111.12 APPEALS.

(A) Any person who believes they are aggrieved by the provisions of this chapter as applied may petition the Town Manager for review of this chapter as applied to that person. The petitioner shall set forth the grounds for appeal. The Town Manager shall consider said petition within 30 days of the date of its submittal. The Town Manager may approve, approve with modifications, or deny the petition. The Town Manager's failure to act will be deemed a denial. The Town Manager shall consider the provisions of this chapter and Florida law together with the equities as set forth in the petition.

(B) Any person who feels aggrieved by the determination of the Town Manager in (A) above may petition the Town Commission for review of the chapter as applied to the person. The petition shall briefly set forth the grounds for review, and the Town Commission shall consider the petition at the next regular Town Commission meeting following receipt of the petition. The Town Commission shall approve, approve with modifications, deny, or continue the petition for a period not to exceed 30 days. In making its determination, the Town Commission shall consider the provisions of this chapter and Florida law.
(Ord. 89-10, passed 7-28-89; Amd. Ord. 92-12, passed 4-6-92)

§ 111.13 LICENSE SCHEDULE.

The assessment of license taxes, per annum, are hereby specified:

Fee Amount

(A) (1) Commercial/professional:

Number of Employee/Staff

1 - 15	$ 75.00
16 - 30	94.00
31 - 60	140.00
61 - 100	186.00
101 - 200	370.00
201 +	555.00
(2) Real estate office/brokers of record	75.00
(3) Real estate salesman	30.00

(B) Financial (Commercial banks, savings and loans, mortgage companies)

Flat fee	278.00

(C) Developers:

Number of Employees/Staff

1 - 10	296.00
11 - 25	445.00
26 +	592.00

(D) Accommodations/leasing-rentals:

(1) Hotels, motels, and tourism units:

Number of Units

1 - 3	78.00
4 - 50	94.00
51 - 100	140.00
101 - 200	186.00
201 +	232.00

(2) Residential apartments and homes:

Per unit	30.00

(E) Restaurants:

Number of Seats

1 - 50	$ 94.00
51 - 100	140.00
101 - 200	186.00
201 +	232.00

(F) Permitted home occupations: 75.00

(G) Insurance companies:

Each insurance company writing any class of insurance upon any person or property residing within the Town 105.00

(H) Any business, profession, or occupation not listed in subsections (A) through (G) of this section: 94.00

(Ord. 89-10, passed 7-28-89; Amd. Ord. 90-20, passed 7-19-90; Amd, Ord. 91-09, passed 6-3-91; Amd. Ord. 94-19, passed 7-11-94; Amd. Ord. 96-10, passed 6-3-96; Amd. Ord. 98-14, passed 5-4-98)

CHAPTER 112: PEDDLERS

Section

112.01 Permit and license required
112.02 Definitions
112.03 Application
112.04 Investigation and issuance
112.05 Transfer
112.06 Loud noises and speaking devices
112.07 Use of streets
112.08 Exhibition of license
112.09 Duty of police to enforce
112.10 Revocation of license
112.11 Appeal
112.13 Penalty.

Prior history:
'71 Code, §§ 15-1 - 1508; Am. Ords. 138 and 77-6

§ 112.01 PERMIT AND LICENSE REQUIRED.

(A) It is unlawful for any person to engage in the business of peddler as defined in Section 112.02 of this chapter within the corporate limits of the town without first obtaining a permit and license therefor as provided in this chapter.

(B) Notwithstanding any provision in this chapter to the contrary, the practice of going in and upon private residences in the town by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited to do so by the owner or owners, occupant or occupants of the private residence for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the same is declared to be a nuisance and punishable as set forth in Section 112.13 and no license shall be issued for such activity.
(Am. Ord. 85-21, passed 1-6-86)

§ 112.02 DEFINITIONS.

As used in this chapter:

(A) "PERSON." Includes the singular and the plural and also means and includes any person, firm or corporation, association, club, copartnership or society, or any other organization.

(B) "PEDDLER." Includes any person, whether a resident of the town or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales to purchasers, or who, without traveling from place to place, sells or offers the same for sale from a wagon, automotive vehicle, or other vehicle

or conveyance, shall be deemed a peddler subject to the provisions of this chapter. "Peddler" includes "hawker" and "huckster." (Am. Ord. 85-21, passed 1-6-86)

§ 112.03 APPLICATION.

Persons applying for a permit and license under this chapter must file with the Police Department a sworn application in writing (in duplicate) on a form to be furnished by the Police Department, which shall give the following information:

(A) Name and address of the applicant;

(B) Date of birth; social security number and drivers license number;

(C) A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, whether produced or grown by the applicant;

(D) If employed, the name and address of the employer, together with credentials establishing the exact relationship;

(E) The length of time for which the right to do business is desired;

(F) If a vehicle is to be used, a description of the vehicle, together with the license number or other means of identification;

(G) The names of at least two reliable property owners of Sarasota and/or Manatee Counties, Florida, who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

(H) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;

(I) At the time of filing the application, a fee of $25 shall be paid to the Police Department to cover the cost of investigation. (Am. Ord. 85-21, passed 1-6-86)

§ 112.04 INVESTIGATION AND ISSUANCE.

(A) Upon receipt of such application, the Chief of Police shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.

(B) If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and notify the applicant that his application is disapproved and that no permit and license will be issued.

(C) If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of the licensee and the date of issuance. The Police Department shall keep a permanent record of all licenses issued and fingerprints of all licensed persons.
(Am. Ord. 85-21, passed 1-6-86)

§ 112.05 TRANSFER.

No license issued under the provisions of this chapter shall be used or worn at any time by any person other than the one to whom it was issued.
(Am. Ord. 85-21, passed 1-6-86)

§ 112.06 LOUD NOISES AND SPEAKING DEVICES.

No peddler, nor any person in his behalf, shall shout, make any cryout, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the town or upon any private premises in the town where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.
(Am. Ord. 85-21, passed 1-6-86)

§ 112.07 USE OF STREETS.

No peddler shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
(Am. Ord. 85-21, passed 1-6-86)

§ 112.08 EXHIBITION OF LICENSE.

Peddlers are required to exhibit their licenses at the request of any citizen.
(Am. Ord. 85-21, passed 1-6-86)

§ 112.09 DUTY OF POLICE TO ENFORCE.

It is the duty of any police officer of the town to require any person seen peddling, and who is not known by the officer to be duly licensed, to produce his peddler's license and to enforce the provisions of this chapter against any person found to be violating them.
(Am. Ord. 85-21, passed 1-6-86)

§ 112.10 REVOCATION OF LICENSE.

(A) Permits and licenses issued under the provisions of this chapter may be revoked by the Town Manager after notice and hearing, for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license;

(2) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler;

(3) Any violation of this chapter;

(4) Conviction of any crime or misdemeanor involving moral turpitude while a valid licensee;

(5) Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(B) Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.
(Am. Ord. 85-21, passed 1-6-86)

§ 112.11 APPEAL.

Any person aggrieved by the action of the Chief of Police in the denial of an application for permit or license as provided in Section 112.04, or in the decision with reference to the revocation of a license as provided in Section 112.10, shall have the right of appeal to the Town Commission. Such appeal shall be taken by filing with the Commission, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Commission

shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in Section 112.10 for notice of hearing on revocation. The decision and order of the Town Commission on such appeal shall be final and conclusive.
(Am. Ord. 85-21, passed 1-6-86)

§ 112.13 PENALTY.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not to exceed $100 or by imprisonment not to exceed 60 days or both such fine or and imprisonment.
(Am. Ord. 85-21, passed 1-6-86)

CHAPTER 113: FILM INDUSTRY

Section

113.01 Purpose.
113.02 Definitions.
113.03 Permitting authority.
113.04 Permit required; violation and penalty.
113.05 Application for permit.
113.06 Motion picture production permit application approval criteria.
113.07 Denial of film production permits; term of permits; and revocation/suspension of permits.
113.08 Notice of hearing and grounds for suspension or revocation.
113.09 Emergency temporary suspension of permit.
113.10 Conduct of hearing on suspension or revocation.
113.11 Decision after hearing on suspension or revocation, right to appeal.
113.12 Motion picture filming requirements.
113.13 Cost for services.
113.14 Fees.
113.15 Suspension of certain town code requirements.

§ 113.01 PURPOSE.

The purpose of this chapter is to establish a permitting process for motion and still photography production endeavors within the jurisdiction of the Town of Longboat Key; to provide exemptions from certain town code requirements in recognition of the economic impact of the motion picture and television industry.
(Ord. 90-07, passed 4-2-90)

§ 113.02 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context clearly requires otherwise.

"FILM PRODUCTION" is the commercial taking or making of a motion picture, television, videotape, commercial still photography or film production whether or not town equipment or town facilities are utilized. This term shall include productions on public or private property and not at a studio, including productions requiring the erection of tents or other temporary structures.

"PRODUCTION PERMIT" is the permit required by this chapter for film productions.

"TOWN EQUIPMENT" is any tangible property, other than real property, purchased by public funds and utilized in the normal course and scope of providing service to the Town of Longboat Key.

"TOWN FACILITY" is any public street, sidewalk, place or building owned or controlled by or under the jurisdiction of the Town of Longboat Key.
(Ord. 90-07, passed 4-2-90)

§ 113.03 PERMITTING AUTHORITY.

The Town Manger is hereby authorized to act as the permitting authority for the Town of Longboat Key in the receipt and the processing of applications for production permits. After reviewing the application and finding that it meets the requirements of this chapter, the Town Manager shall issue the permit.
(Ord. 90-07, passed 4-2-90)

§ 113.04 PERMIT REQUIRED; VIOLATION AND PENALTY.

(A) No person shall advertise, engage in, participate in, or start any film production until a production permit has been issued by the Town Manager.

(B) It shall be unlawful to continue any film production in violation of the suspension or revocation of a permit, and such violation shall be punishable as provided in § 10.99 of this code. A citation for violation of this chapter shall not preclude the town from seeking other relief such as injunctive or declaratory relief to enforce the provisions of this chapter.
(Ord. 90-07, passed 4-2-90)

§ 113.05 APPLICATION FOR PERMIT.

(A) Any person seeking the issuance of a production permit shall file an application with the required fee, on forms provided by the Town Manager. The application shall be filed not more than 60 days before, and not less than five working days before the commencement of production. The application shall be signed, under oath, by an authorized representative of the applicant.

(B) Applications for production permits shall contain the following specific information:

(1) Location(s) of the production described by a street address or, if necessary, property description.

(2) Production dates, including estimates and projections as to the possibility of delays and postponements.

(3) The hours of filming, which must be consistent with the permit requirements listed below.

(4) The type of production.

(5) Proposed use of temporary structures, including a description of each temporary structure, its proposed use and placement, and the dates and duration of each proposed placement. The town may require on-site inspection of the temporary structure during construction and/or use.

(6) Number and type of vehicles and/or equipment as well as the number of personnel to be on location with production.

(7) Proposed plan for dealing with sanitation, including disposal of waste and refuse as well as placement of port-o-let units.

(8) Necessity for closures of public streets or sidewalks and the proposed dates and necessary duration of such proposed closures.

(9) If required by the Town Manager, neighborhood consents signed by the proprietors/authorized representatives of any business and/or signature of the residents and/or occupants of any property located within 500 feet circumference of each filming/production site as well as a signed consent from each neighboring resident/business on the immediate right, left and rear of the production site.

(10) Application for a production permit shall constitute an agreement by the applicant to pay for extraordinary services provided by the town, including any repairs, renovations and/or landscaping and turf restorations or replacement which is necessitated by virtue of this production. The town manager may require the posting of a bond sufficient to insure restoration.

(11) Proposed utilization of town equipment.

(12) Hold-harmless agreement. The applicant shall execute a hold-harmless agreement in favor of the Town of Longboat Key saving, defending and holding harmless the Town of Longboat Key, its agents, employees and representatives, from any claim which arises as a result of the activities of the applicant, its agents, representatives or employees, within the town. Said agreement shall be executed by an individual(s) and/or entity capable financially and otherwise of honoring the terms thereof, and the agreement shall be in a manner and form acceptable to the town and deemed to provide the protection necessary to the town as intended by this section.

(13) Application for a filming permit shall constitute a covenant between the applicant and the town, specifying that the applicant will halt or interrupt filming upon instruction from a uniformed officer of the town's police department. The town covenants not to instruct that such production be halted or interrupted unless in its discretion it perceives that the filming shall cause unreasonable interference with traffic movement, violate the law, or constitute a threat to the public peace, health, safety or welfare.

(14) Certificate of insurance. The applicant shall provide a certificate of insurance naming the Town of Longboat Key as a named insured under said insurance policy for an amount sufficient to cover the potential risk to the town as determined by the Town Manager.

(15) Proof of worker's compensation insurance coverage for each and every employee in any way involved with the production, as required under the laws of the State of Florida. (Ord. 90-07, passed 4-2-90)

§ 113.06 MOTION PICTURE PRODUCTION PERMIT APPLICATION APPROVAL CRITERIA.

The Town Manager shall approve issuance of a motion picture production permit upon application unless one of the following circumstances exist:

(1) The applicant has been convicted of a felony or a misdemeanor involving moral turpitude, and has not subsequently demonstrated rehabilitative characteristics.

(2) The applicant has made a material misrepresentation in the application.

(3) Proposed production will substantially disrupt the peace and quiet of any area of the town.

(4) Proposed production will substantially impact upon traffic within any area of the town.

(5) That the proposed production in any way damages or degrades the image of the town.

(6) That the production fails to comply with any of the criteria as designated under this code for issuance of the film production permit, or rules and regulations governing the production.

(7) If the application is for renewal of a permit, that the applicant has violated conditions of the previous permit or ordinances or regulations of the town in the conduct of the production.
(Ord. 90-07, passed 4-2-90)

§ 113.07 DENIAL OF FILM PRODUCTION PERMITS; TERM OF PERMITS; AND REVOCATION/SUSPENSION OF PERMITS.

(A) Denial of Film Production Permits. Where the film production permit is denied, the applicant shall be notified in writing by certified mail, return receipt requested, of the denial and the reasons therefor.

(B) Terms of Film Production Permits. Film production permits issued pursuant to this chapter shall be effective for the stated purpose from the date of issuance through the date specified in the permit.

(C) Revocation or Suspension of Film Production Permits. A film production permit issued under this chapter may be revoked or suspended for any of the following reasons:

(1) A material false statement contained in the application; or

(2) Failure to comply with applicable federal or state laws and regulations; or

(3) Failure to comply with any conditions imposed by the Town Manager on the issuance of the permit; or

(4) Failure to operate the film production in accordance with such town ordinances, laws, orders, rules and regulations as may be applicable; or

(5) Conducting the film production business or activity in a fraudulent or disorderly manner, or in a manner which endangers the public health, safety, welfare, or in a manner which disrupts the public peace.
(Ord. 90-07, passed 4-2-90)

§ 113.08 NOTICE OF HEARING AND GROUNDS FOR SUSPENSION OR REVOCATION.

Prior to suspension or revocation of a film production permit, the permittee shall be notified in writing of the grounds for suspension or revocation of the permit and a hearing shall be held before the Town Manager. Notice of the hearing shall be given to the permittee at least 10 days prior to the hearing.
(Ord. 90-07, passed 4-2-90)

§ 113.09 EMERGENCY TEMPORARY SUSPENSION OR PERMIT.

If the conduct or activity of the permittee creates an imminent peril to the environment or the public health, safety or welfare, the film production permit may be summarily suspended by the Town Manager upon notice to the permittee, provided that the permittee shall be entitled to a hearing within three (3) days thereafter; and provided further that any temporary emergency suspension shall not exceed 15 days pending a hearing under § 113.08.
(Ord. 90-07, passed 4-2-90)

§ 113.10 CONDUCT OF HEARING ON SUSPENSION OR REVOCATION.

The hearing before the Town Manager shall be conducted so as to allow the permittee the right to be heard and to call witnesses on the permittee's behalf.
(Ord. 90-07, passed 4-2-90)

§ 113.11 DECISION AFTER HEARING ON SUSPENSION OR REVOCATION, RIGHT TO APPEAL.

The decision of the Town Manager shall be rendered with five days of the close of the hearing. The decision shall be in writing and shall set forth the findings of fact and conclusions of law underlying the decision; and the permittee shall be notified in writing of the decision by certified mail, return receipt requested.

The decision of the Town Manager may be appealed within 15 days of the date of the written decision to the Town Commission.
(Ord. 90-07, passed 4-2-90)

§ 113.12 MOTION PICTURE FILMING REQUIREMENTS.

The following requirements will be made of all film productions within the limits of the town:

(A) A film production permit may authorize filming at more than one location within the town limits.

(B) No filming or related activity shall take place prior to 7:30 a.m. nor later than 9:00 p.m. without the prior written approval of the town manager.

(C) All parking relating to filming activities shall be restricted to one side of the street only. All public roadways shall be kept open at all times unless approved by the Chief of Police.

Parking may be prohibited in the area of filming activity, if, in the opinion of the Chief of Police, a safety hazard could result.

(D) There shall be no nude performers.

(E) There shall be no act of rape, sodomy, bestiality, sexual intercourse, or acts of violence portraying the dismemberment of bodies or body parts of humans or animals.

(F) Waste and refusal disposal, as well as placement of port-o-lets, shall be conducted in the manner directed by the Town Director of Public Works.

(G) Any damage to public property, private property and/or landscape shall be fully remedied at the cost of the permittee.

(H) No filming nor any related activity may take place in violation of any applicable federal, state or local law, ordinance or regulation.

(I) Additional restrictions may be placed on commercial filming within the limits of the town if the Town Manager deems it necessary to protect the public health, safety or general welfare of the community, its citizenry, and/or its environment. Such restrictions may include the requirement for use of police, fire and other town personnel during the filming.

(J) At no time, shall the noise level resulting from filming or related activities, violate § 130.02 of the code without prior written approval of the Town Manager.

(K) At no time, during filming or related activities, shall lights or lighting be operated in any means which endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

(L) No production shall utilize explosives or pyrotechnics.
(Ord. 90-07, passed 4-2-90)

§ 113.13 COST FOR SERVICES.

(A) The town shall recover costs for services rendered in connection with a film production. Such costs shall include but not be limited to charges for personnel and/or equipment committed in support of the production which are outside the normal scope of town services.

(B) Based on the information contained in the permit application, an estimate of these costs will be provided to the applicant prior to the issuance of a permit. The town may require prepayment of all or a portion of these estimated costs prior to the issuance of the permit. At the conclusion of the production, actual costs below or in excess of the estimates will be refunded by the town or paid by the applicant, respectively.
(Ord. 90-07, passed 4-2-90)

§ 113.14 FEES.

The fee for a production permit shall be $100 a day for each day or fraction thereof for the first five days, and $150 per day or fraction thereof from the sixth day through the tenth day, and $500 per day or fraction thereof from the eleventh day to the end of the production.
(Ord. 90-07, passed 4-2-90)

§ 113.15 SUSPENSION OF CERTAIN TOWN CODE REQUIREMENTS.

The provisions of Chapters 71, 72, 73, 74, 90, 94, 111, 150 and 158 and §§ 91.02, 91.20, 92.11, 92.12, 130.02 and 130.06 of this Code, insofar as certain acts are required or prohibited, may be suspended by the Town Manager in connection with the conduct of a production pursuant to this chapter and such suspension shall be indicated on the permit.
(Ord. 90-07, passed 4-2-90)

Chapter 130: GENERAL OFFENSES

Section

130.01	State misdemeanors
130.02	Loud and unnecessary noise
130.03	Annoying spotlights or floodlights
130.04	Firearms and weapons
130.05	Nudity in establishments selling alcoholic beverages
130.06	Impersonating law enforcement officers
130.07	Public nudity prohibited

§ 130.01 STATE MISDEMEANORS.

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 act of this kind in the town shall be considered a violation of the laws of the town.
('71 Code, § 14-1) (Ord. 170, passed 4-1-70) Penalty, see § 10.99

Case reference:

Orr v. Quigg, 135 Fla. 653, 185 So. 726
State v. Smith, 189 So. 2d 846

§ 130.02 LOUD AND UNNECESSARY NOISE.

(A) 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. This enumeration shall not be deemed to be exclusive.

(1) Exhausts. The discharge into the open air of the exhaust of any internal-combustion engine of any type, motorboat, or motor vehicle, whether situated on the land or the water of the town, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, is prohibited.

(2) 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, is prohibited.

(3) 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 a manner so 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 the machine or device is operated and who are voluntary listeners thereto is prohibited. The volume of sound amplified shall be controlled so that it is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.

(4) 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 is prohibited.

(5) Construction or Repair of Buildings. The erection, including excavation, demolition, alteration, delivery of materials, or repair of any building within any area, other than between the hours of 8:00 a.m. and 5:00 p.m. on Monday through Saturday inclusive is prohibited. A copy of this subsection shall be given to each person who is issued a building permit pursuant to Chapter 150 of the Longboat Key Code.

(6) Hydraulic Suction Dredges, Pneumatic Hammers, Pile Drivers, Derricks, Draglines, and Hoists. The operation between the hours of 5:00 p.m. and 8:00 a.m. Monday through Friday and all day on Saturday and Sunday of any hydraulic suction dredge, pneumatic hammer, pile driver, derrick, dragline, hoist, pump, bulldozer, earth-moving equipment, chain saw, air hammer, and any other type of heavy equipment, including repairs thereto, therewith and thereupon, and associated activities incident thereto, including but not being limited to the operation of tugboats, work barges, and the relocation of discharge pipelines is prohibited. In the case of urgent necessity where the interest of public health and safety so requires, and then only with a permit from the Town Manager or designee, any of the aforesaid activities may be performed during a period not to exceed three days while the emergency continues.

(B) The Town Commission may, by special permit, authorize parades, dredging operations, the operation of pneumatic hammers, pile drivers, derricks, draglines, steam or electric hoists, or other appliances at any time other than as provided in division (A)(6) above upon the application to it and showing by the applicant to the satisfaction of the Town Commission that these 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.
('71 Code, § 14-2) (Ord. 194, passed 4-21-71; Amd. Ord. 77-11, passed 5-18-77; Amd. Ord. 78-17, passed 11-15-78; Amd. Ord. 78-22, passed 12-20-78; Amd. Ord. 94-14, passed 6-6-94; Amd. Ord. 97-26, passed 11-3-97; Amd. Ord. 98-24, passed 7-16-98) Penalty, see § 10.99

§ 130.03 ANNOYING SPOTLIGHTS OR FLOODLIGHTS.

Outdoor lighting consisting of spotlights and floodlights shall be installed, regulated, and maintained by the owner and person in control thereof, so as to reflect the light away from any adjoining residential premises and avoid disturbance, annoyance, or interference to persons upon these adjoining premises.
('71 Code, § 14-4) (Ord. 76-24, passed 7-21-76) Penalty, see § 10.99

§ 130.04 FIREARMS AND WEAPONS.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"FIREARM." Any weapon or any destructive device which will, is designed to, or may readily be converted to expel a projectile. This term shall include without limitation any pistol, rifle, shotgun, BB gun, air gun, or gas-operated gun, and any explosive, incendiary or poison gas bomb, grenade, mine, rocket, missile, or similar device.

"WEAPON." Any dirk, metallic knuckles, slingshot, billie, tear gas gun, chemical device, or any other deadly device except a "firearm" or common pocketknife.

(B) No person other than a person lawfully defending life, home, or property or performing official duties requiring the discharging of firearms, shall discharge any firearm within the town.

(C) No person within the town shall carry, transport, or have concealed upon him any firearm or weapon. Exceptions from the provisions of this division are the following.

(1) Any firearm or weapon for which a license has been issued by the county commissioners of the respective counties of the state.

(2) Any firearm or weapon carried or transported by a person lawfully performing official duties, or who is a guard or messenger of a common carrier, express company, armored car carrier, mail carrier, bank, or other financial institution, licensed private protection agency while actually employed in and about the shipment, transportation, or delivery of money, treasure, bullion, bonds, or other things of value or property within the town.

(3) Any firearm or weapon carried by regularly-enrolled members of clubs organized for target, skeet, or trap shooting, while at or going to or from shooting practice; or regularly enrolled members of clubs organized for modern or antique firearms collecting while these members are at or going to or from their collector's gun shows, conventions, or exhibits.

(4) Any firearm or weapon carried by a person while engaged in fishing, camping, or lawful hunting; or while going to or returning from a fishing, camping, or lawful hunting expedition.

(5) Any firearm carried by a person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of such a person while engaged in the lawful course of the business.

(6) Any firearm or weapon carried by a person traveling by private conveyance where the firearm or weapon is securely encased, or in a public conveyance where the firearm or weapon is securely encased and not in the person's manual possession.

(7) Any firearm unloaded in a secure wrapper, concealed, or otherwise carried by any person from the place of purchase to his home, place of business, or to a place of repair, or back to his home or place of business.

(D) All firearms or weapons found on any person arrested hereunder shall be removed from the person and retained by the Police Department until after the trial of the person. If the person is convicted, the firearms or weapons shall be forfeited and the Chief of Police shall destroy or sell them at public sale and account for and pay over the proceeds thereof as in the case of fines collected. If the person is acquitted, the firearms or weapons shall be returned to him upon claiming them. Any firearm or weapon not claimed by its lawful owner within 90 days after a legal verdict of acquittal or nol prosse, shall be forfeited and destroyed or sold at public sale.
('71 Code, § 14-5) (Ord. 76-13, passed 6-2-76) Penalty, see § 10.99

§ 130.05 NUDITY IN ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES.

(A) This section is adopted pursuant to Article VIII, Section 2(b) under the State Constitution and F.S. § 166.021.

(B) It shall be unlawful for any person maintaining, owning, or operating a commercial establishment located within the town at which alcoholic beverages are offered for sale for consumption on the premises to do the following.

(1) Suffer or permit any female person, while on the premises of the commercial establishment, to expose to the public view that area of the human female breast at or below the areola thereof.

(2) Suffer or permit any female person, while on the premises of the commercial establishment, to employ any device or covering which is intended to give the appearance of or to simulate those portions of the human female breast as described in division (1).

(3) Suffer or permit any person, while on the premises of the commercial establishment to expose to public view his genitals, pubic area, buttocks, anus, or anal cleft or cleavage.

(4) Suffer or permit any person, while on the premises of the commercial establishment, to employ any device or covering which is intended to give the appearance of or to simulate the genitals, pubic area, buttocks, anus, or anal cleft or cleavage.

(C) It shall be unlawful for any female person, while on the premises of a commercial establishment located within the town at which alcoholic beverages are offered for sale for consumption on the premises, to expose to public view that area of the human female breast at or below the areola thereof or to employ any device or covering which is intended to give the appearance of or to simulate the areas of the female breast as described herein.

(D) It shall be unlawful for any person, while on the premises of a commercial establishment located within the town at which alcoholic beverages are offered for sale for consumption on the premises, to expose to public view his genitals, pubic area, buttocks, anus, or anal cleft or cleavage, or to employ any device or covering which is intended to give the appearance of or to simulate the genitals, pubic area, buttocks, anus, or anal cleft or cleavage.
(Ord. 80-10, passed 12-10-80) Penalty, see § 10.99

§ 130.06 IMPERSONATING LAW ENFORCEMENT OFFICERS.

(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 to do the following.

(1) 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 such a 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) Wear, in the town, any other uniform or badge, or other police equipment which causes the person to resemble a police officer of the town or any other police or enforcement agency.

(3) 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 any other police or law enforcement agency.

(4) 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 provisions of division (A) shall not be construed to prevent persons specifically authorized by the laws of the United States, the state, or any municipality or governmental subdivision of the state, to wear a prescribed uniform similar but not identical to the prescribed uniform of the members of the Police Department of the town while any of these persons are in the performance of their official duties.

(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 the person so employed is upon the private property and while this person is going to and from his residence to the private property which is being guarded. However, while on any public streets, sidewalks, rights-of-way, or public property located within the town, this person shall not display a badge and shall take all necessary precautions that his person does not, by use of the uniform or otherwise, resemble any police officer of the town or that of any police or law enforcement agency.

(D) The provisions of division (A) (3) above relating to use of sirens and blinker lights shall not be construed to apply to any emergency vehicles so designated by law or ordinance of this town, and shall not be applicable to ambulances.
('71 Code, § 17-6) Penalty, see § 10.99

§ 130.07 PUBLIC NUDITY PROHIBITED.

(A) No person shall knowingly or intentionally appear nude in a public place.

(B) Nude means the showing of any portion of the male or female genitals, pubic area, vulva, or anus with less than a fully opaque and obvious covering, the showing of any portion of the female breast with less than a fully opaque and obvious covering of the entire nipple and areola, or the showing of the covered male genitals in a discerningly turgid state. A simulation of the body part required to be covered, or that which creates the illusion of nudity, shall not qualify as a fully opaque covering.

(C) Public place means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by the public, but excludes public restrooms, bathing and locker room facilities, and those places in which nudity or exposure is necessarily expected outside of the home. By way of example and not limitation, beaches, public parks, bars, lounges, restaurants or theaters open to the public are public places.

(D) Exceptions. A mother's breast feeding of her baby does not in any way under any circumstances violate this section.
(Ord. 99-05, passed 1-11-99)

TITLE XV: LAND DEVELOPMENT CODE

Chapter

150. BUILDINGS
151. SHORELINE CONSTRUCTION
152. DREDGING AND FILLING
153. ELECTRICITY
154. FLOOD CONTROL
155. PLUMBING CODE
156. SIGN CODE
157. SUBDIVISION REGULATIONS
158. ZONING CODE

APPENDIX: LAND USE CHARTS AND ILLUSTRATIONS

160. COMPREHENSIVE PLAN

Chapter 150: BUILDINGS

Section

General Provisions

150.01 Adoption of Standard Building Code; amendments
150.02 Adoption of Standard Mechanical Code
150.03 Exemption for government buildings and grounds
150.04 Minimum housing standards
150.05 Construction of bulkheads; seawalls
150.06 Fee schedule
150.07 Building permit valuations

Administration

150.15 Administration and enforcement
150.16 Right of entry
150.17 Tests or test reports
150.18 Compliance with plans and specifications
150.19 Site restoration secured obligation, required for construction
150.20 Utility service to condominiums; required documents
150.21 Notice to stop dangerous or illegal work
150.22 Procedure for dangerous or unsanitary buildings
150.23 Procedure for buildings which are nuisances
150.24 Procedure for conversion of existing structures
150.25 Nonconforming uses
150.26 Civil remedies available

Certificates and Permits

150.30 Building permit required
150.31 Building permit application
150.32 Issuance of building permit
150.33 Denial of permit
150.34 Revocation of permit
150.35 Certificates of occupancy
150.36 Temporary certificate of occupancy
150.37 Statement of zoning compliance
150.38 Special exception uses
150.39 Records

Moving of Buildings

150.50 Moving of buildings

Swimming Pool Construction

150.60 Minimum standards

Coastal Construction Code

150.61 Title
150.62 Conflict
150.63 Scope
150.64 Definitions
150.65 Coastal Construction Requirements

Requirements Not Covered by Code

150.71 Requirements not covered by code

Burial of Trees and Other Organic Matter

150.72 Burial of trees and other organic material

Cross reference:

Occupational license for building trades, see § 111.05 Occupational license tax for contractors and subcontractors, see § 111.07

GENERAL PROVISIONS

§ 150.01 ADOPTION OF STANDARD BUILDING CODE; AMENDMENTS.

(A) Adoption. The Standard Building Code, 1997 Edition with appendices thereto, published by the Southern Building Code Conference International, Inc., 900 Montclaire Road, Birmingham, AL 35213, is hereby adopted as part of the building code of the town. If any provision of this chapter conflicts with any adopted provision of the Standard Building Code, the most restrictive provision shall apply. One copy of the Code shall be on file with the Town Clerk, identified as an official copy; and three or more copies shall be on file with the Town Planning, Zoning and Building Department and shall be kept there available for public use, inspection and examination. Any reference in the Standard Building Code, 1997 Edition, that uses the

word "city" shall mean "town." The Code is adopted by reference as authorized by Florida Statutes § 553.73. ('71 Code, § 6-1)

(B) Amendments.

(1) Secs. 2204.1 - 2204.7. The provisions of Sections 2204.1 through 2204.7 of the Standard Building Code adopted in subsection (A) above are hereby repealed.

(2) Sec. 2401. The Standard Building Code adopted in subsection (A) above is amended by adding Section 2401 to Chapter XXIV with respect to elevators and escalators.

"(a) A minimum of one (1) electric motor-driven elevator shall be provided in any building erected after the effective date of this amendment 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-A17.1-1965) of the American Standards Association."

(3) Repealed by Ord. 92-09, passed 3-2-92.

(Ord. 148, passed 4-16-69; Amd. Ord. 176, passed 6-17-70; Amd. Ord. 73-27, passed 9-26-73; Amd. Ord. 74-23, passed 8-7-74; Amd. Ord. 74-34, passed 12-4-74; Amd. Ord. 76-15, passed 5-19-76; Amd. Ord. 79-8, passed 6-6-79; Amd. Ord. 81-23, passed 7-1-81; Amd. Ord. 83-9, passed 6-1-83; Amd. Ord. 86-28, passed 1-5-87; Amd. Ord. 92-09, passed 3-2-92; Amd. Ord. 96-05, passed 5-6-96; Amd. Ord. 98-18, passed 7-6-98)

Cross reference:

Adoption of National Fire Code, see § 94.03

Statutory reference:

Adoption of certain minimum building codes, see F.S.A. §§ 553.70 et seq.

§ 150.02 ADOPTION OF STANDARD MECHANICAL CODE.

(A) The Standard Mechanical Code, 1997 Edition, with appendices thereto, published by the Southern Building Code Conference International, Inc., 900 Montclaire Road, Birmingham, AL 35213, is hereby adopted as part of the building code of the town. One copy of the Code shall be on file with the Town Clerk, identified as an official copy; and three or more copies shall be on file with the Town Planning, Zoning and Building Department and shall be kept available for public use, inspection and examination. Any reference in the Standard Mechanical Code, 1997 Edition, that uses the word "city" shall mean "town." The Code is adopted by reference as authorized by F.S. § 553.73.

(B) The requirements of the Standard Mechanical Code apply to new construction including remodeling, alterations and additions.
(Ord. 81-22, passed 7-1-81; Amd. Ord. 83-10, passed 6-1-83; Amd. Ord. 87-04, passed 4-6-87; Amd. Ord. 90-28, passed 12-3-90; Amd. Ord. 92-09, passed 3-2-92; Amd. Ord. 96-05, passed 5-6-96; Amd. Ord. 98-18, passed 7-6-98)

§ 150.03 EXEMPTION FOR GOVERNMENT BUILDINGS AND GROUNDS.

The Building Official may waive, in his discretion, the requirements for licensed contractors and fees for repairs or additions to the town governmental buildings and grounds.
('71 Code, § 6-2.1) (Ord. 76-15, passed 5-19-76; Amd. Ord. 81-23, passed 7-1-81; Amd. Ord. 98-24, passed 7-16-98)

Cross reference:
Building permit fees, see § 150.06
Licensing of contractors, see §§ 111.01, 111.05, and 111.07

§ 150.04 MINIMUM HOUSING STANDARDS.

(A) No person shall occupy as owner-occupant or let or sublet to another for occupancy, any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking, or eating therein, nor shall any vacant dwelling building be permitted to be used which does not comply with the following requirements.

(1) Sanitary Facilities Required. Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and water pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks, and obstructions.

(2) Location of Sanitary Facilities. All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants. The water closet, tub or shower, and lavatory shall be located in a room affording privacy to the user and the room shall have a minimum floor space of 30 square feet.

(3) Hot and Cold Water Supply. Every dwelling unit shall have connected to the kitchen sink, lavatory, and tub or shower an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(4) Water Heating Facilities. Every dwelling shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, or shower at a temperature of not less than 120°F. The water heating facilities shall be capable of meeting the requirements of this division when the dwelling unit heating facilities required under the provisions of this section

2000 TOWN CODE

(5) Heating Facilities. Every dwelling unit shall have heating facilities which are properly installed, and are maintained in safe and good working condition.

(6) Cooking and Heating Equipment. All cooking and heating equipment and facilities shall be installed in accordance with the building or electrical code of the town and shall be maintained in a safe and good working condition.

(7) Garbage Disposal Facilities. Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, the type and location of which shall be approved by the applicable governing body.

(B) However, when the standards of this section are in conflict with other provisions of the code of the town, the other provisions of the code shall prevail.
('71 Code, § 6-18) (Ord. 78-3, passed 4-5-78) Penalty, see § 10.99

are not in operation.

(5) Heating Facilities. Every dwelling unit shall have heating facilities which are properly installed, and are maintained in safe and good working condition.

(6) Cooking and Heating Equipment. All cooking and heating equipment and facilities shall be installed in accordance with the building or electrical code of the town and shall be maintained in a safe and good working condition.

(7) Garbage Disposal Facilities. Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, the type and location of which shall be approved by the applicable governing body.

(B) However, when the standards of this section are in conflict with other provisions of the code of the town, the other provisions of the code shall prevail.
('71 Code, § 6-18) (Ord. 78-3, passed 4-5-78) Penalty, see § 10.99

§ 150.05 CONSTRUCTION OF BULKHEADS; SEAWALLS.

(A) 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 application for permits shall be accompanied by plans including the following requirements.

(B) 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 50 feet seaward of the mean high waterline. The mean high-water line shall be shown thereon.

(3) Existing bulkheads within 100 feet of the proposed construction.

(4) Proposed finish elevations of the top of the 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, and the like, in complete detail.

(7) Proposed construction details, including strength of concrete.

(C) 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.

(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.

(D) Plans shall be submitted to the town for engineering evaluation prior to the issuance of a construction permit. 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. 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 this section, and upon compliance with §§ 151.01 through 151.07. ('71 Code, § 6-10)
(Ord. 181, passed 10-7-70; Amd. Ord. 73-25, passed 7-26-73) Penalty, see § 10.99

Cross reference:
Coastal construction generally, see §§ 151.01 through 151.07

§ 150.06 FEE SCHEDULE.

Permit fees and the administration of permit fees shall be set by resolution of the Town Commission.
(Ord. 98-25, passed 7-16-98)

§ 150.07 BUILDING PERMIT VALUATIONS.

(A) The Southern Building Code Congress International (SBCCI) Building Valuation Data Table, as may be amended from time to time by SBCCI, which is attached hereto in section (E), shall be applied as the minimum allowed valuation for new structure(s) for which a permit has been filed.

(B) The applicable valuation(s) reflected in the SBCCI Table shall be multiplied by the gross floor area of the structure(s) reflected in the permit application to determine the valuation of the structure(s) for the purpose of charging the inspection fee on structure(s).

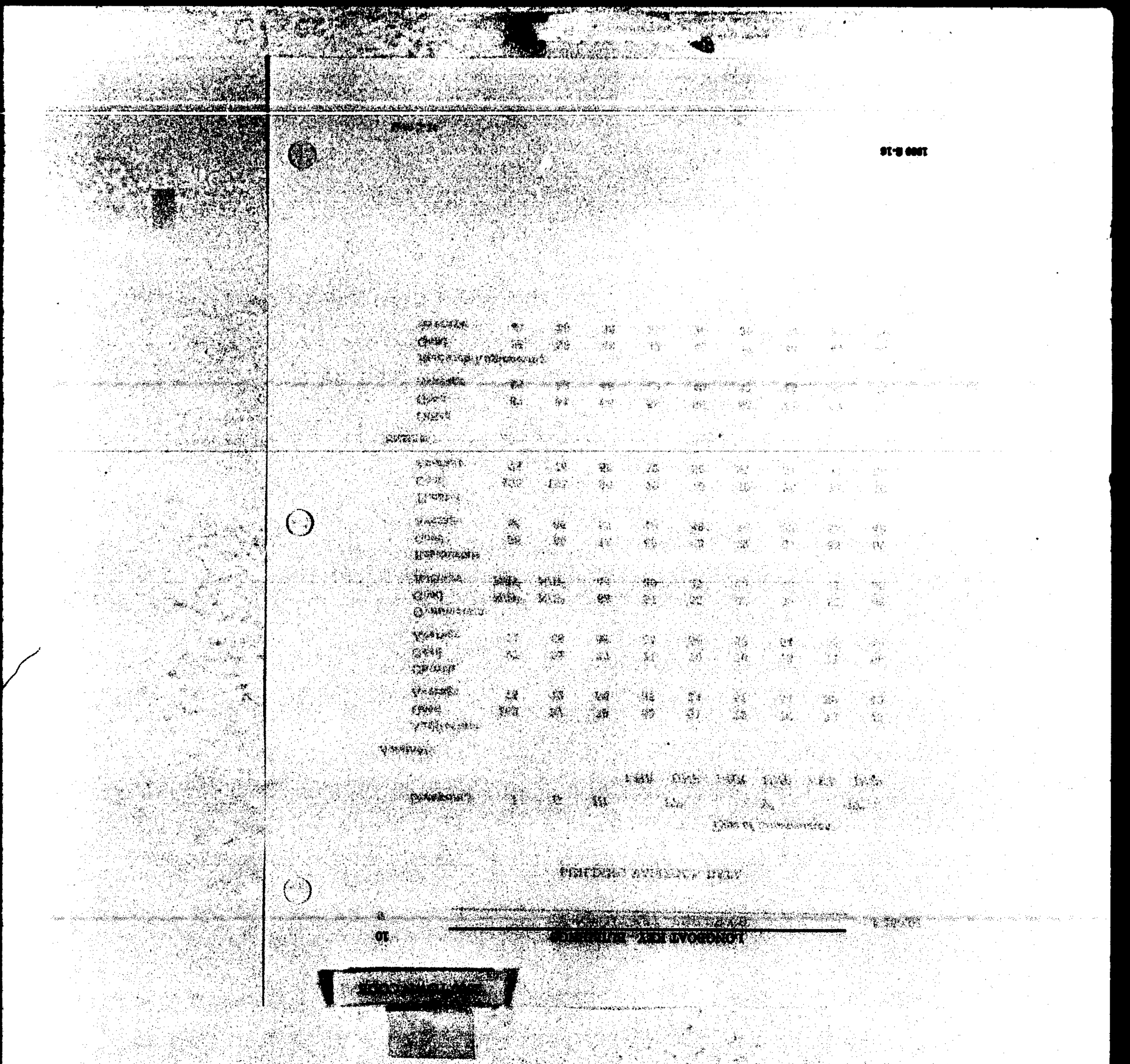
(C) Permit valuations shall include total value of the construction including plumbing, gas, electrical, mechanical equipment and other systems, also including all labor whether paid or unpaid. In no case shall the cost of a structure(s) be less than what would result from the use of the SBCCI table, as may be amended, which is attached hereto in section (E).

(D) Exclusions: Alterations, additions or renovations to existing structure(s), shall be subject to the provisions of § 154.100 to determine the cost of improvements and to determine applicable inspection fees.

(E) SBCCI Building Valuation Data Table:

BUILDING VALUTION DATA

Occupancy	Type of Construction[4] I	II	III	IV[5] 1-HR	IV[5] UNP	V[6] 1-HR	V[6] UNP	VI[6] 1-HR	VI[6] UNP
Assembly									
Auditorium									
Good	102	97	79	52	51	79	76	73	70
Average	75	72	56	36	34	57	54	52	49
Church									
Good	97	92	77	71	70	76	73	71	68
Average	71	68	58	51	50	57	54	52	49
Gymnasium									
Good	N/D[3]	N/D[3]	68	57	55	62	59	56	53
Average	N/D[3]	N/D[3]	44	39	37	43	40	41	38
Restaurant									
Good	88	88	78	65	63	72	69	68	65
Average	66	66	57	49	48	56	53	53	49
Theater									
Good	105	101	80	72	70	79	76	78	70
Average	78	76	58	52	50	57	54	53	50
Business									
Office									
Good	87	84	66	58	56	65	62	59	56
Average	66	62	48	42	40	47	44	43	40
Research/Engineering									
Good	55	53	48	43	41	47	44	44	41
Average	41	39	36	31	30	35	32	33	30



1996 TOWN CODE

Occupancy	Type of Construction[4] I	II	III	IV[5] 1-HR	IV[5] UNP	V[5] 1-HR	V[5] UNP	VI[5] 1-HR	VI[5] UNP
Service Station									
Good	83	80	63	63	63	64	63	56	59
Average	73	70	55	54	53	56	53	49	46
Educational									
School									
Good	87	87	65	59	57	64	61	59	56
Average	65	65	51	44	43	50	47	46	43
Factory-Industrial									
Factory									
Good	48	45	37	30	28	37	34	28	20
Average	35	33	26	22	20	26	22	19	16
Hazardous (Sprinkler system Included)[4]									
Hazardous									
Good	50	47	39	32	30	38	35	25	22
Average	37	35	28	23	22	27	24	21	18
Institutional									
Convalescent Hospital									
Good	106	102	79	71	69	78	N/P[1]	72	N/P[1]
Average	86	84	61	55	53	60	N/P[1]	56	N/P[1]
Hospital									
Good	126	122	106	71	69	105	N/P[1]	96	N/P[1]
Average	101	99	84	55	53	83	N/P[1]	77	N/P[1]
Mercantile									
Department Stores									
Good	73	71	62	47	45	61	58	46	43
Average	56	54	51	35	33	50	47	37	34
Mall Stores									
Good	77	77	57	53	51	56	53	53	50
Average	63	63	48	44	42	47	44	44	41
Mall-Concourse									
Good	64	64	28	20	18	27	24	24	21
Average	51	51	25	20	18	24	21	21	18
Retail Store									
Good	57	55	50	47	45	50	47	46	43
Average	45	44	40	35	33	39	36	37	34

Occupancy	*I*	*II*	*III*	*Type of Construction*[4] *IV*[5] *1-HR*	*IV*[5] *UNP*	*V*[5] *1-HR*	*V*[5] *UNP*	*VI*[5] *1-HR*	*VI*[5] *UNP*
Residential									
Apartments									
Good	68	65	57	52	50	56	53	53	50
Average	54	52	45	39	38	44	41	41	38
Dormitories									
Good	82	80	69	64	62	69	66	62	59
Average	64	62	54	48	47	53	50	49	46
Homes for Elderly									
Good	82	80	72	67	66	71	68	68	65
Average	64	62	55	50	48	54	51	52	49
Hotel									
Good	81	79	67	54	53	66	63	61	58
Average	62	60	54	41	39	53	50	48	45
Motel									
Good	81	79	60	54	53	59	56	57	54
Average	62	60	46	41	39	45	42	43	40
Single Family Residence[3]									
Good	72	69	62	57	56	61	58	56	53
Average	54	52	46	41	40	45	42	41	38
Storage									
Auto Parking Structure									
Good	29	28	N/D[2]	N/D[2]	N/D[2]	N/D[2]	N/D[2]	N/D[2]	N/D[2]
Average	23	22	N/D[2]	19	17	N/D[2]	N/D[2]	N/D[2]	N/D[2]
Private Garage									
Good	29	28	20	16	15	19	16	17	14
Average	23	22	17	12	10	16	13	13	10
Repair Garage									
Good	47	47	39	43	42	38	35	32	29
Average	36	36	23	31	29	27	24	24	21
Warehouse									
Good	47	44	38	30	29	37	34	31	27
Average	36	34	27	21	19	26	23	22	19

Notes:

1. N/P-Not permitted by code.
2. N/D-insufficient data to determine average cost.
3. Unfinished basements $8.00/sq. ft.

4. For sprinklered buildings in other than hazardous occupancies add $1.50/sq. ft.

5. In Type IV, V, and VI, add $27,000 per elevator.

6. A good building will normally have some components which are only average, but many will be better than average. A good building is well insulated to utility standards, with packaged or zoned air conditioning; and has more than the minimum code required plumbing fixtures, and lighting and electric outlets, with good quality fixtures, interior and exterior finishes, and carpets.

7. An average building has minimum model energy code insulation levels, with a forced air system, contains the minimum code required plumbing fixtures, lighting, electric outlets; and has average quality interior and exterior finish and minimum carpet.

REGIONAL MODIFIER - Tampa, Florida 1.08
(Ord. 94-10, passed 4-4-94)

ADMINISTRATION

§ 150.15 ADMINISTRATION AND ENFORCEMENT.

The duty of administering and enforcing this chapter is hereby conferred upon the Building Official and designees.
(Ord. 98-24, passed 7-16-98)

§ 150.16 RIGHT OF ENTRY.

The Building Official 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 ordinance of the town. For the purposes of such entry and inspection the provisions F.S. §§ 933.20 through 933.30 are hereby incorporated by reference as if fully set forth herein.
('71 Code, § 6-4) (Ord. 157, passed 10-1-69; Amd. Ord. 98-24, passed 7-16-98)

§ 150.17 TESTS OR TEST REPORTS.

The Building Official 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 the test reports or the results of all the tests shall be kept on file by the Building Official.
('71 Code, § 6-5) (Ord. 157, passed 10-1-69; Amd. Ord. 98-24, passed 7-16-98)

§ 150.18 COMPLIANCE WITH PLANS AND SPECIFICATIONS.

(A) A copy of the plans and drawings approved by the Building Official shall be kept at the site of the work, and shall be open to inspection by the Building Official. ('71 Code, § 6-6)

(B) 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.
('71 Code, § 6-7) (Ord. 157, passed 10-1-69; Amd. Ord. 989-24, passed 7-16-98) Penalty, see § 10.99

§ 150.19 SITE RESTORATION SECURED OBLIGATION, REQUIRED FOR CONSTRUCTION.

(A) At least 10 days prior to the time an application is made for a building permit for any buildings or structures to be constructed within the town, the applicant shall deliver to the town a cash bond, irrevocable letter of credit or other secured obligation in a form satisfactory to the Town Attorney in the sum of $2,500, plus two percent of the cost of construction of the entire building as indicated on the application for building permit. No site restoration cash bond, irrevocable letter of credit or other secured obligation shall be required for any project for which the costs of improvements do not exceed $75,000; for the construction of any single-family residence, or town-owned government facilities or any governmental facilities to be owned or constructed by the town. If the satisfactory secured obligation to be delivered is a corporate surety bond, the surety company must be licensed to do business in the state and be on the United States Treasury Department's list of approved surety companies. The cash bond, irrevocable letter of credit or other secured obligation shall guarantee that the site will be promptly restored to its original state so far as is possible in the event the construction is abandoned. In default thereof, the amount of the security shall be paid, on demand, to the town for its use in effecting the restoration, or retained by it as liquidated damages if complete restoration is impossible or impracticable, or if restoration costs would exceed the amount of the security. Construction shall be deemed to have been abandoned if the applicant, or his successors or assigns, so notifies the Planning, Zoning and Building Department, in writing, or if work on the premises ceases prior to the completion of the improvement and is not resumed within 30 days of the expiration of the building permit, or building permit revocation pursuant to § 150.34. The cash bond, irrevocable letter of credit, or other secured obligation shall have an expiration date at least one year after the expected construction completion date as reflected on the building permit application. (Ord. 93-22, passed 9-27-93)

(1) Permits for tree removal, clearing of the land (except debrushing), excavation, grading or installation of utilities shall not be issued nor undertaken in areas beyond the limits of the area necessary for the construction of the building for which a permit has been issued. The Building Official shall determine, in writing, the limits of the area necessary for the satisfactory completion of the permitted work, and such determination shall be deemed a condition of the permit. The necessary construction area shall be fenced to avoid damage to other areas.

(2) Temporary use permits shall not be issued prior to issuance of a building permit for construction.

(B) In the event the applicant, his successors, or assigns fail to restore the site prior to abandonment, the town shall notify the applicant and his surety, guarantor, or security agent, as the case may be, by certified mail, addressed to the last address furnished by the parties to the town, demanding performance or the deposit of the guarantee sum. Not later than 10 days after the posting by the town of the demand, the applicant or his surety, guarantor, or security agent shall deposit in the office of the Planning, Zoning and Building Department the sum demanded by the town, either the estimated cost of restoring the site to its original condition as nearly as possible or the full sum of the secured obligation in the event the restoration costs would exceed the amount of the security or if restoration is impossible or impracticable.

(C) In the event there is a surplus in the deposit made on the town's demand, after restoration of the site, the town shall refund to the depositor on his order the surplus after costs and expenses. If the amount received by the town is insufficient to restore the site, the applicant shall not be relieved of his obligation to complete the improvement or restore the site and the applicant shall, upon further demand by the town, deposit the additional amount necessary to restore the site.

('71 Code, § 6-9.5) (Ord. 77-25, passed 1-4-78; Amd. Ord. 85-4, passed 6-3-85; Amd. Ord. 85-11, passed 9-9-85; Amd. Ord. 86-12, passed 6-5-86; Amd. Ord. 95-25, passed 1-8-96; Amd. Ord. 98-24, passed 7-16-98)

Cross reference:

Suspension or abandonment of construction invalidates building permit, see § 150.40

§ 150.20 UTILITY SERVICE TO CONDOMINIUMS; REQUIRED DOCUMENTS.

(A) Any person, corporation or other legal entity proposing to create a condominium or cooperative or to convert a condominium or cooperative to a time-share or interval ownership plan within the town pursuant to F.S. Chs. 718, 719 and 721, shall do the following

(1) File with the Building Official two copies of all preliminary documents required to be filed with the state pursuant to F.S. Chapter 498, Florida Land Sales Practices, and F.S. Chapters 718, 719 and 721, including prospectus, condominium and cooperative plat, declaration of condominium, articles of incorporation, and bylaws of owner association. These documents shall be submitted to the town within three working days of their submission to the state for approval. (Ord. 93-22, passed 9-27-93)

(2) File with the Building Official copies of condominium and cooperative plats, declaration of condominium or cooperative articles of incorporation, and bylaws of the owners association after they have been recorded in the county where the condominium or cooperative is located. (Ord. 93-22, passed 9-27-93)

(B) The Building Official shall furnish one of all the copies to the Town Attorney for his review and written opinion, which shall be given to the Building Official, Town Manager and Town Commission and shall set forth any deviations of violations of this code or any site plan or other town development orders issued by the town. All charges of the Town Attorney for

reviewing the documents required in this section shall be the expense of the person or corporation filing them and shall be remitted to the town. This fee shall be paid to the Town Attorney. (Ord. 93-22, passed 9-27-93)

(C) No certificate of occupancy or public utility or service shall be provided to any condominium or cooperative building until the person or corporation proposing the condominium or cooperative has complied with the provisions of this section and has corrected any deviations and omissions reported by the Town Attorney.
('71 Code, § 6-9.7) (Ord. 78-2, passed 4-5-78; Amd. Ord. 80-12, passed 1-21-81; Amd. Ord. 81-6, passed 2-13-81; Amd. Ord. 85-4, passed 6-3-85; Amd. Ord. 98-24, passed 7-16-98)

§ 150.21 NOTICE TO STOP DANGEROUS OR ILLEGAL 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, the work shall be stopped immediately upon receipt of notice from the Building Official or designee. The 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. The notice shall be in writing, except that when an emergency exists, oral notice shall be sufficient, which shall be promptly followed by written notice.
('71 Code, § 6-11) (Ord. 157, passed 10-1-69; Amd. Ord. 98-24, passed 7-16-98) Penalty, see § 10.99

§ 150.22 PROCEDURE FOR DANGEROUS OR UNSANITARY BUILDINGS.

(A) If any building, 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 Official, immediately upon learning the condition, shall forthwith give the owner, agent, or person in control of the 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, structure, or portion thereof.

(B) If necessary for the preservation of life, safety, or health, the 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, the approved by the Building Official. The Building Official shall cause to be posted at each entrance to the building a notice that the building is unsafe and that its use or occupancy has been prohibited. The notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person to remove the notice without written permission of the Building Official, or for any person to enter the building except for the purpose of making the required repairs or of demolishing the building.

(C) 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 Official. In such case the owner, agent, or person in control, within ten days after receipt of the written notice from the Building Official, shall file with the Town Manager or designee a written notice of appeal, stating why the requirements of the Building Official are unjust or unreasonable. Until a final decision is reached by the Town Manager or designee, the filing of the notice of appeal shall stay further proceedings or action upon those requirements imposed by the Building Official 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 Official, continued use of the premises would involve imminent danger to health or human life.

(1) The Town Manager or designee shall set a date for a hearing of the appeal within 30 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 or designee shall make a written determination whether the requirements of the Building Official 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 the determination he shall make an order, either affirming the requirements imposed by the Building Official, or altering, modifying, or cancelling the requirements. In the order the Town Manager or designee may also impose any conditions that seem advisable.

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

(D) In case the owner, agent, or person in control cannot be found, or, if the 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 Official, after having determined the cost, shall with the approval of the Town Manager or designee cause the building, structure, or portion thereof to be demolished, secured, or required to remain vacant, as circumstances may require.

(E) Promptly after completion of any corrective, repair, or demolition work done by the town under the authority of this chapter, the Building Official shall cause the owner to be billed for the cost of the 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 the bill. If the 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 Building Official 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 the lien, at the stated time and place.

(2) The 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.

(F) At the hearing referred to in division (E) above, the Town Manager or designee 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 the costs, and shall thereupon by resolution levy a special assessment against the property in an amount, if any, as it finds to be proper and equitable.
('71 Code, § 6-12) (Ord. 157, passed 10-1-69; Amd. Ord. 98-24, passed 7-16-98)

Cross reference:
Dangerous buildings deemed nuisances, procedures for abatement, see § 150.23

§ 150.23 PROCEDURE FOR BUILDINGS WHICH ARE NUISANCES.

(A) All buildings or structures, as these terms are defined in § 158.006, and including docks, davits, seawalls and other marine structures, which have any or all of the following defects shall be deemed "dangerous structures:"

(1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumbline passing through the center of gravity falls outside of the middle third of its base.

(2) Those which, exclusive of the foundation, show 33% or more, of damage or deterioration of the supporting member or members, or 50% of damage or deterioration of the nonsupporting enclosing or outside walls or covering.

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(4) Those which have been damaged by fire, wind, water, wave activity, tides, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the town.

(5) Those which have become or are so dilapidated, decayed, unsafe, insanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.

(6) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(9) Those which, because of their condition, are likely to cause damage to abutting property or structures located thereon.

(10) Those which because of their condition are unsafe, insanitary, or dangerous to the health, morals, safety or general welfare of the people of this town.

(11) Those buildings existing in violation of any provision of the building code of this town, or any provision of the fire prevention code, or other ordinances of this town.

(B) All "dangerous structures" within the terms of subsection A of this section are declared to be public nuisances, and shall be repaired, vacated, or demolished as provided in this section.

(C) The following standards shall be followed in substance by the Town Manager or designee and the Town Commission in ordering repair, vacation, or demolition.

(1) If the "dangerous structure" can reasonably be repaired so that it will no longer exist in violation of the terms of this section, it shall be ordered repaired.

(2) If the "dangerous structure" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupant it shall be ordered to be vacated.

(3) In any case where a "dangerous structure" is 50% damaged or decayed, or deteriorated from its original value or structure, it shall be demolished and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter it shall be demolished. In all cases where a "dangerous structure" is a fire hazard existing or erected in violation of the terms of this section or any section of this code or statute of the State of Florida, it shall be demolished.

(D) It shall be the duty of the Building Official to regularly and frequently require examination of buildings and structures within the town to determine whether the buildings and structures constitute a public nuisance as provided in division (A) above. The Building Official shall make a detailed written report to the Town Commission which shall contain a detailed description of the examination and his opinion of whether the conditions found constitute the building or structure, or any part thereof, a public nuisance. (Amd. Ord. 92-09, passed 3-2-92)

(E) 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 Building Official. If the Commission finds that the building or structure described therein may constitute a public nuisance, the 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. The 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 Town Clerk shall also post a notice of the public hearing on the building or structure. The Clerk shall send a copy of the notice of hearing, by registered mail, to the owner of the premises, on which the building or structure is located, as it appears on the most current town or county tax assessment roll.

(F) The public notice specified in division (E) above shall contain a description of the property on which the building or structure is located sufficient for identification. The notice to the owner shall also describe, in general terms, the condition of the building or structure that is alleged to constitute the building or structure a public nuisance. The public notice and notice to the owner shall also contain the time, date, and place that the public hearing will be held.

(G) At the public hearing, the Town Commission shall hear and read the full report of the Town Manager or designee and hear any other evidence as the Commission may deem relevant. At the hearing, the owner shall be allowed to present testimony and evidence showing that the conditions do not constitute a nuisance. The owner of the 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.

(H) At the conclusion of the public hearing, the Town Commission shall adopt a resolution declaring one or more of the following.

(1) That the conditions alleged by the Town Manager or designee to exist in the building or structure do not exist.

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

(3) That the conditions alleged by the Town Manager or designee to exist in the building or structure have been remedied and that the building or structure does not now constitute a public nuisance.

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

(5) Any other provisions that will appropriately decide and determine the issues.

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

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

(I) Upon the adoption of a resolution under division (H) above, the Town Clerk shall post a copy thereof on the structure and shall mail a copy thereof to the owner of the premises on which the building or structure is located, if the address of the owner is known to the Town Clerk.

(J) If the 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 the public nuisance, including all attorneys' fees, court costs and expenses, shall be a lien on the premises and superior to all other liens except other liens for special assessments. The liens may be enforced against the property by foreclosure as provided by law for foreclosure of tax liens or may be collected as otherwise provided by law.
('71 Code, §§ 6-23—6-30) (Ord. 89-09, passed 6-5-89; Amd. Ord. 98-24, passed 7-16-98)

Cross reference:
Dangerous or unsanitary buildings and structures, procedures for abatement, see § 150.22

§ 150.24 PROCEDURE FOR CONVERSION OF EXISTING STRUCTURES.

(A) It shall be unlawful for any person or corporation to change the use of or make any alterations, changes, or modifications covered by the Standard Building Code in any dwelling unit, tourism unit, building structures, foundation, or improvement within the town without first notifying the town and furnishing the town with the following information prior to obtaining a building permit.

(1) Certificate of apparent ownership or attorney's opinion as to ownership with respect to the property involved, including legal description, address, and location.

(2) The present use of the existing building structure, dwelling unit, tourism unit, and improvement, the date alteration is planned, and a copy of any plat and restrictions or declaration.

(3) Site plans including details showing the building structure and dwelling unit, tourism unit, and foundations before and in their proposed altered condition.
('71 Code, § 6-19) (Ord. 78-3, passed 4-5-78)

(B) Any alterations, changes, or modifications made in any existing building structure, dwelling unit, tourism unit, foundation, or improvement without giving the notice or information provided in division (A) above, or conforming to § 150.25 shall render the existing certificate of occupancy for the structure void.
(Ord. 81-10, passed 3-4-81; Amd. Ord. 82-11, passed 10-6-82) Penalty, see § 10.99

§ 150.25 NONCONFORMING USES.

Any alterations, changes, or modifications in any existing building structure, dwelling unit, tourism unit, foundation, or improvement, including without limitation, motels, hotels, and bungalow courts, covered by the Standard Building Code, shall comply with this code. However,

the Town Commission may waive any nonconforming requirements with respect to any alterations, changes, and modifications, other than those requirements in § 150.04 and in Chapter 154, provided the nonconformities are reduced to the maximum extent possible.
(Ord. 81-10, passed 3-4-81; Amd. Ord. 82-11, passed 10-6-82) Penalty, see § 10.99

§ 150.26 CIVIL REMEDIES AVAILABLE.

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 Town Attorney, 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 the unlawful erection, construction, or reconstruction, or to restrain, correct, or abate the violation.
('71 Code, § 6-13) (Ord. 157, passed 10-1-69)

CERTIFICATES AND PERMITS

§ 150.30 BUILDING PERMIT REQUIRED.

(A) No person shall erect or construct, or proceed with the erection of any building, structure, or dock, nor repair, add to, enlarge, move, improve, alter, convert, extend, or demolish any building or structure in the town, or cause the same to be done without first obtaining a building permit therefor from the Building Inspector.

(B) No person shall do electrical construction or install electric wiring or apparatus or make any changes of existing wiring or apparatus for light, heat, or power within or attached to any building or property in the town without first obtaining a permit therefor from the Building Inspector.

(C) No person shall do or perform any heating, air conditioning, refrigeration and ventilation (H.A.R.V.) installations, alterations, or repairs within or attached to any building, property, or structure in the town or cause the same to be done or performed without first obtaining a permit therefor from the Building Inspector.
(Ord. 88-06, passed 5-19-88)

§ 150.31 BUILDING PERMIT APPLICATION.

(A) Each applicant for a building permit shall submit a complete application to the Building Official or designee for his approval before a permit shall be issued. A building permit shall not be issued unless that application is complete. A complete application shall include the following:

(1) An accurate plot diagram and certified survey, 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, roadways, waterways, easements, and any other pertinent superficial features, together with evidence of approval by the State and County Health Department of water, stormwater, and sewerage systems. The Building Official 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 division may be waived by the Building Official.

(2) 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. The 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 Standard Building Code. The Building Official may also require any other details and computations as will assure compliance with the Standard Building Code.

(3) When applicable to requirements of this chapter or other pertinent ordinances of the town, 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; and any other relevant information shall also be submitted.

(4) All applicable fees.

(5) Compliance with § 150.19, requiring prior submission of a site restoration bond or other secured obligation, is a condition precedent to applying for a building permit.

(6) Compliance with the plat requirements of the town subdivision code is a condition precedent to applying for a building permit.

(B) Nothing contained in this section shall be deemed to relieve or excuse any owner or builder from compliance with any other requirements contained in other ordinances now or hereafter enacted.

(C) Where plot plan or development plan approval is required by this or any other ordinance now or hereafter enacted, building permits shall be issued only in conformity with the final plot plan or development plan as approved by the Town Commission.
(Ord. 88-06, passed 5-19-88; Amd. Ord. 98-24, passed 7-16-98)

§ 150.32 ISSUANCE OF BUILDING PERMIT.

(A) Upon receipt of a complete building permit application, the Building Official will, within a reasonable time, either issue or refuse the building permit or refer the application to the Town Commission or the Zoning Board of Adjustment. After the building permit has been received by the applicant, he may proceed to undertake the action permitted in the building permit. If

the Building Official finds that the action of the applicant has been taken in accordance with the building permit, he will then issue a certificate of occupancy, allowing the premises to be occupied, or a statement of zoning compliance.

(B) One copy of the layout or plot plan, submitted with the application, shall be returned to the applicant when approved by the Building Official together with the permit. In addition, a copy of each application with accompanying plan, shall become a public record after a permit is issued or denied.

(C) Under the terms of Chapter 158, the following classes of building permits may be issued.

(1) Permitted use. A building permit for a permitted use may be issued by the Building Official on his own authority as provided for in Chapter 158. All of the elements of the town's Comprehensive Plan § 158.002 through § 158.006 of the Zoning Code and the town's site and development plan performance standards set forth in § 158.102, shall be adhered to the extent they are applicable.

(2) Permitted use with site plan review. A building permit for a permitted use with site plan review may be issued by the Building Official upon approval of the Town Commission after their review in accordance with the provisions of Chapter 158.

(3) Special exception use. A building permit for a special exception use may be issued by the Building Official upon order of the Planning and Zoning Board after the procedures and provisions of § 158.028 are complied with.

(4) Building permit after an appeal or a request for a variance. A building permit may be issued by the Building Official upon the order of the Zoning Board of Adjustment after the procedures and provisions of § 158.129 are complied with.

(D) No permit for clearing of land, excavation of, or the erection or alteration of, or repairs to any building shall be issued until complete application has been made for a certificate of occupancy or statement of zoning compliance as applicable. No permit for clearing of land shall be issued until the complete application therefor has been made to and approved by the town.

(E) Except upon a written order of the Board of Adjustment, no building permit, certificate of occupancy, or statement of zoning compliance shall be issued for any building where the construction, addition, alteration, or use thereof would be in violation of any of the provisions of Chapter 158.

(F) It shall be the duty of the Building Official to issue a building permit, provided he is satisfied that the structure, building, sign, parking area of premises, and the proposed use thereof, conform with all requirements of Chapter 158, and that all other reviews and actions, if any, called for in Chapter 158 have been complied with, and all necessary approvals secured therefor. All building permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises affected and protected from the weather whenever construction work is being performed thereon. No owner, contractor, workman or other person shall perform any building operations of any kind unless a building permit covering the operation is displayed as required by this chapter nor shall they perform building operations of any kind after

notification of the revocation of the building permit.
(Ord. 88-06, passed 5-19-88; Amd. Ord. 93-22, passed 9-27-93; Amd. 98-24, passed 7-16-98)

§ 150.33 DENIAL OF PERMIT.

When the Town Manager or designee is not satisfied that the applicant's proposed development will meet the requirements of Chapters 151 through 158, he shall direct the Building Official to refuse to issue a building permit, and notice of such action shall be sent to the applicant by certified mail, return receipt requested. The applicant may appeal to the Zoning Board of Adjustment for a reversal of the decision made by the Town Manager or designee.
(Ord. 88-06, passed 5-19-88; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 98-24, passed 7-16-98)

§ 150.34 REVOCATION OF PERMIT.

(A) If it shall appear, at any time, to the Building Official that the application or accompanying plat is in any material respect false or misleading, or that work is being done on the premises differing materially from that called for in the application for a building permit filed with him under existing laws or ordinances, he may forthwith revoke the building permit and notify the person holding the permit of the revocation in writing. It shall then be the duty of the person holding the permit to surrender it and all copies thereof to the Building Official. After the building permit has been revoked, the Building Official, in his discretion, and before issuing the new building permit, may require the applicant to file an indemnity bond in favor of the town with sufficient surety conditioned for compliance with Chapter 158 and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.

(B) A building permit heretofore issued shall be revoked and written notice given to the person holding the permit, if the construction authorized by the permit is not commenced within six months after the date the permit is issued, or if at any time after construction is commenced the work is suspended or abandoned for a period of 90 days.

Construction shall be deemed to have been "COMMENCED" when any work is started on the site preparation (only that work necessary for construction of buildings or structures) after issuance of the building permit or building and structures in accordance with approved development or construction plans. For purposes of this section, clearing of the site, installation of utilities and other similar activities not necessary for the actual construction of buildings shall not be deemed to be site preparation. Construction shall be deemed to have been "SUSPENDED" or "ABANDONED" when no substantial work has been accomplished in any 90-day period.

(C) A building permit can be extended prior to revocation or, if a building permit is revoked for any of the reasons provided in division (B) of this section, the permit can be revalidated within 20 days of the revocation. The Building Official may extend or revalidate a permit for no more than six consecutive periods of 30 days each, and only if there is a finding on the part of the Building Official of just cause for the delay. For purposes of this section, "JUST CAUSE"

shall be found only if special conditions and circumstances exist which do not result from the voluntary actions of the person holding the permit, his representatives or agents, which have caused an unforeseeable delay in the ability of the person holding the permit to proceed with construction of the project. Economic conditions or financing problems, absent other relevant considerations, shall not form the basis for a revalidation or extension of a building permit. In the event that the suspension, abandonment, or failure to commence construction has exceeded any revalidation or extension period or periods, a new building permit must be obtained from the Planning, Zoning and Building Department before work may be resumed. If changes have been made or will be made in plans previously approved by the town or if amendments have been made to Chapter 158 or in any other relevant ordinance or law, a new permit will not be issued until the proposed changes in the project have been approved by the town and any requirements of new relevant ordinances or other legal requirements have been satisfied.
(Ord. 88-06, passed 5-19-88; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 97-22, passed 10-6-97; Amd. Ord. 98-24, passed 7-16-98)

§ 150.35 CERTIFICATES OF OCCUPANCY.

(A) No land shall be occupied or used and no building shall be used or changed in use until a certificate of occupancy has been issued by the Building Official, stating that the building or proposed use thereof complies with the provisions of Chapter 158. In cases where development plan approval is required by the Town Commission, a certificate of occupancy shall not be issued for completed structures until the utilities, service facilities, and open areas as shown on the approved development plan have been completed in accordance with the development schedule for that stage of construction.

(B) The Building Official may authorize a temporary certificate of occupancy for the time stated therein and a variance from the provisions of this section where there are practical difficulties or peculiar hardships in carrying out the strict letter of the provisions of this section after compliance with § 150.36.

(C) All certificates of occupancy shall be applied for coincident with the application for a building permit. The certificate shall be issued within 10 days after completion of the erection or alteration and after it has been approved as complying with this chapter, all provisions of Chapter 158 and any other applicable regulations. Applications for certificates of occupancy shall be made for each stage of construction to be completed in accordance with the approved development plan.
('71 Code, § 6-9(a)) (Ord. 73-9, passed 5-16-73) (Ord. 157, passed 10-1-69; Amd. Ord. 88-06, passed 5-19-88; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 98-24, passed 7-16-98) Penalty, see § 10.99

§ 150.36 TEMPORARY CERTIFICATE OF OCCUPANCY.

The Building Official may authorize a temporary certificate of occupancy for the time stated therein and a variance from the provisions of § 150.35(A) where there are practical difficulties or peculiar hardship in carrying out the strict letter of the provisions of § 150.35(A). However,

no temporary certificate shall be granted until consideration of the request by the Building Official and only upon:

(A) The deposit of a cash bond, irrevocable letter of credit, or other secured obligation to guarantee the completion of all phases of that stage of the project not completed at the time of issuance of a temporary certificate of occupancy. The cash bond, irrevocable letter of credit, or other secured obligation shall be in a form satisfactory to the Town Attorney and shall be in a penal sum of 125% of the estimated cost of construction.

(B) The applicant furnishing the town with liability insurance policy in an amount not less than $1,000,000, insuring the town against any and all liability with respect to the completion of the development plan, together with a certificate from the insurance company issuing the policy that the town, as a coinsured, will be given 30 days' notice prior to any termination of the insurance. The applicant shall carry the liability insurance until the development plan has been completed and the certificate of occupancy issued by the town.
('71 Code, § 6-9(b)) (Ord. 157, passed 10-1-69; Amd. Ord. 73-9, passed 5-16-73; Amd. Ord. 80-13, passed 12-10-80; Amd. Ord. 88-06, passed 5-19-88; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 95-25, passed 1-8-96; Amd. Ord. 98-24, passed 7-16-98)

§ 150.37 STATEMENT OF ZONING COMPLIANCE.

Where an addition, alteration or reconstruction of a building or the construction or erection of a fence, wall, parking area, or other structure is undertaken after the issuance of a building permit and upon completion is in accordance with all provisions of this chapter; and where a certificate of occupancy is not applicable, a statement of zoning compliance shall be issued in the same manner as a certificate of occupancy.
('71 Code, § 6-15-(d)) (Ord. 157, passed 10-1-69; Amd. Ord. 73-9, passed 5-16-73; Amd. Ord. 74-25, passed 8-7-74; Amd. Ord. 88-06, passed 5-19-88) Penalty, see § 10.99

Cross reference:
Building permit applications, see § 150.31

§ 150.38 SPECIAL EXCEPTION USES.

All applications for building permits for special exception uses shall be accompanied by plans and any other information as may be required by this chapter and Chapter 158.
('71 Code, § 6-14) (Ord. 157, passed 10-1-69; Amd. Ord. 73-27, passed 9-26-73; Amd. Ord. 88-06, passed 5-19-88) Penalty, see § 10.99

§ 150.39 RECORDS.

The Planning, Zoning and Building Department shall maintain a record of all certificates and statements.
('71 Code, § 6-15(a) through (c)) (Ord. 157, passed 10-1-69; Amd. Ord. 73-9, passed 5-16-73; Amd. Ord. 74-25, passed 8-7-74; Amd. Ord. 85-4, passed 6-3-85; Amd. Ord. 88-06, passed 5-19-

88; Amd. Ord. 93-22, passed 9-27-93)

MOVING OF BUILDINGS

§ 150.50 MOVING OF BUILDINGS.

(A) It shall be unlawful for any person to move or cause to be moved any building or structure within, out of, or into the town limits without first obtaining a town building permit.

(B) The moving of a building or structure shall be in full compliance with the Standard Building Code then in effect.

(C) All information required as specified in the building permit application form provided by the town or as requested by the Building Official shall be submitted by the applicant.

(D) The permit fee for the moving of a building or structure shall be set by resolution of the Town Commission.

(E) No building or structure shall be left motionless, parked, or otherwise immobile, on any town street after daylight hours. The streets over which any building or structure is to be moved shall be reviewed by the Town Manager or designee. Permission to utilize the streets may be granted, denied, or granted with conditions in order to assure the protection of the public health, safety and welfare.
(Ord. 99-12, passed 5-3-99)

Cross reference:
Moving or demolishing buildings; sewers to be capped, see § 52.07

Prior history:
Formerly, §§ 150-50—150.55. '71 Code, §§ 6-31—6-37; Ords. 74-23, 90-27, 93-22, 93-25, 98-24, and 98-25.

SWIMMING POOL CONSTRUCTION

§ 150.60 MINIMUM STANDARDS.

All swimming pool and associated construction shall, in addition to other requirements set forth in this code, meet the following minimum requirements:

(A) Concrete block 8″ × 8″ × 16″ #4 Re-bars at 16′ o.c. vertical, #9 ga. horizontal truss type reinforcing at 16′ o.c. with footing 8″ × 16″ w/ 2 #5 Re-bar dowels required for above vertical Re-bars. (See § 1400, Standard Building code)

(B) Reinforced concrete walls - 6″ thick poured - 8″ thick hand-paced - w/ #3 Re-bars 12″ o.c. each way. (See Chapter XVI of the Standard Building Code)

(C) Pneumatic concrete walls - Gunite or equal - 3500 p.s.i. concrete - 4″ thick w/ #3 Re-bars 12″ o.c. each way. (See Chapter XVI of the Standard Building Code)

(D) Floors - 4" thick - #3 Re-bars 12" o.c. each way. (See Chapter XVI of the Standard Building Code)

(E) Perimeter beams - 8" × 8" w/ 1 #5 Re-bar around pool and patio decks. (See Chapter XVI of the Standard Building Code)

(F) Patio decks - 3-1/2" thick - with 6" × 6" #10 welded wire mesh. (See Chapter XVI of the Standard Building Code)

(G) Alternate materials and construction - This section is not intended to prevent the use of steel, plastic, aluminum, vinyl or other pool material or method of construction provided any such alternate has been approved and its use authorized by the Building Official. The Building Official shall approve any such alternate, provided he finds that the proposed design is satisfactory and complies with the provisions of Chapter XII of the Standard Building Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the code in quality, strength, effectiveness, fire-resistance, durability, and safety. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claim that may be made regarding its use.
(Ord. 84-22, passed 12-3-84)

COASTAL CONSTRUCTION CODE

Prior history:
Ord. 86-6, passed 4-7-86

§ 150.61 TITLE.

The provisions contained in this subchapter constitute the Coastal Construction Code for construction within the coastal building zone and coastal barrier islands in the town and shall be referred to as the "Coastal Zone."
(Ord. 86-20, passed 9/22/86)

§ 150.62 CONFLICT.

In the event of a conflict between this section and other sections or chapters of this code, the requirements resulting in more restrictive design shall apply. No provisions in this subchapter shall be construed to permit any construction in any area prohibited by local town, county or state regulation.
(Ord. 86-20, passed 9/22/86)

§ 150.63 SCOPE.

(A) Applicability. The requirements of this Coastal Code shall apply to the following types of construction in the Coastal Building Zone and on coastal barrier islands in the town:

(1) The new construction of, or improvement to, major structures, nonhabitable major structures, and minor structures as defined in this code.

(2) Construction which would change or alter the character of the shoreline (e.g. excavation, grading, paving). The Coastal Code does not apply to minor work in the nature of normal beach cleaning or debris removal.

(B) Existing structures. The requirements of this subchapter shall not apply to existing structures, structures under construction, or structures for which a valid and unexpired municipal or county building permit was issued prior to the adoption of the Coastal Code by Ordinance 86-6.

(C) Multizone structures. For structures located partially in the Coastal Building Zone, the requirements of the Coastal Code shall apply to the entire structure.

(D) Construction seaward of mean high water. Structures or construction extending seaward of the mean high water line which are regulated by Section 161.041, Florida Statutes, (e.g., groins, jetties, moles, breakwaters, seawalls, revetments, beach nourishment, inlet dredging, etc.), are specifically exempt from the provisions of this subchapter. In addition, the Coastal Code does not apply to piers,

pipelines, or outfalls which are regulated pursuant to the provisions of Section 161.053, Florida Statutes.

(E) Application for permits. Applications for building permits for all construction in the Coastal Building Zone and on coastal barrier islands, if not of normal or usual design as determined by the Building Official, shall be certified by an architect or professional engineer registered in the state of Florida. Such certification shall state that the design plans and specifications for the construction are in compliance with the criteria established by this Coastal Code.

§ 150.64 DEFINITIONS.

The following terms are defined for general use in the Coastal Code. The enumeration of types of structures in the definitions in this section shall not be construed as excluding from the operation of this Coastal Code any other structure which, by its usage, design, dimensions or structural configuration, would require engineering consideration similar to the listed structures.

(A) "BEACH." The zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. "Beach" is alternatively termed "shore."

(B) "BREAKAWAY WALL" or "FRANGIBLE WALL." A partition independent of supporting structural members that will withstand design wind forces, but will fail under hydrostatic, wave, and runup forces associated with the design storm surge. Under such conditions, the wall shall fail in a manner such that it breaks up into components that will not act as potentially damaging missiles.

(C) "BUILDING SUPPORT STRUCTURE." Any structure which supports floor, wall or column loads, and transmits them to the foundation. The term shall include beams, grade beams, or joists, and includes the lowest horizontal structural member exclusive of piles, columns, or footings.

(D) "COASTAL BARRIER ISLANDS." Geological features which are completely surrounded by marine waters that front upon the open waters of the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida and are composed of quartz sands, clays, limestone, oolites, rock, coral, coquina, sediment, or other material, including soil disposal, which features lie above the line of mean high water. Mainland areas which were separated from the mainland by artificial channelization for the purpose of assisting marine commerce shall not be considered coastal barrier islands.

(E) "COASTAL BUILDING ZONE." The land area from the seasonal high water line landward to a line 5,000 feet landward from the coastal construction control line established pursuant to Section 161.053, Florida Statutes. For those coastal areas fronting on the Gulf of

Mexico, Florida Bay or Straits of Florida and not included under Section 161.053, Florida Statutes, the land area seaward of the most landward velocity zone (v-zone) line as established by the Federal Emergency Management Agency and shown on flood insurance rate maps.

(F) "COASTAL OR SHORE PROTECTION STRUCTURE." Shore-hardening structures, such as seawalls, bulkheads, revetments, rubble mound structures, groins, breakwaters, and aggregates of materials other than beach sand used for shoreline protection; beach and dune restoration, and other structures which are intended to prevent erosion or protect other structures from wave and hydrodynamic forces.

(G) "COLUMN ACTION." The potential elastic instability in piles or columns resulting in axial or lateral bending of the member due to compressive stress.

(H) "CONSTRUCTION." The carrying out of any building, clearing, filling, excavation or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, "construction" refers to the act of construction or the result of construction.

(I) "DUNE." A mound or ridge of loose sediments, usually sand-sized, lying landward of the beach, and deposited by natural or artificial means.

(J) "MAJOR STRUCTURE." Houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, towers and other types of residential, commercial or public buildings and other construction having the potential for substantial impact on coastal zones.

(K) "MEAN HIGH WATER LINE." The intersection of the tidal plane of mean high water with the shore. Mean high water is the average height of high waters over a 19-year period. (See Section 177.27(15), Florida Statutes).

(L) "MINOR STRUCTURE." Pile-supported, elevated dune and beach walkover structures, beach access ramps and walkways, stairways, pile-supported elevated viewing platforms, gazebos, and boardwalks, lifeguard support stands, public and private bathhouses, sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts and other uncovered paved areas, earth retaining walls, sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, and other ornamental construction. It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm fences.

(M) "NONHABITABLE MAJOR STRUCTURE." Swimming pools, parking garages, pipelines, piers, canals, lakes, ditches, drainage structures, and other water-retention structures, water and sewage treatment plants, electrical power plants, transmission and distribution

lines, transformer pads, vaults, and substations, roads, bridges, streets, and highways, underground storage tanks.

(N) "NGVD." National Geodetic Vertical Datum means a geodetic datum established by the National Ocean Service and frequently referred to as the 1929 Mean Sea Level Datum.

(O) "SUBSTANTIAL IMPROVEMENT." Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds a cumulative total of 50% of the market value of the structure either:

(1) Before the improvement or repair is started; or

(2) If the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.
(Ord. 86-20, passed 9/22/86)

§ 150.65. COASTAL CONSTRUCTION REQUIREMENTS.

(A) General. Construction requirements within the coastal building zone shall meet the requirements of this chapter.

(B) Structural requirements for major structures.

(1) Major structures shall conform to the Standard Building Code, adopted and amended in this chapter.

(2) Mobile homes shall conform to the Federal Mobile Home Construction and Safety Standards or the Uniform Standards Code ANSI book A-119.1, pursuant to Section 320.823, Florida Statutes, and to the requirements of paragraph (3) of this subsection.

(3) Major structures shall also be designed, constructed and located in compliance with National Flood Insurance Program regulations as found in 44 CFR, Parts 59 and 60 or the town's Flood Control Ordinance (Chapter 154 of this code), whichever is more restrictive.

(4) Major structures, except those conforming to the standards of paragraph (2) of this subsection, shall, at a minimum, be designed and constructed in accordance with Section 1205 of the 1986

revisions to the 1985 Standard Building Code using a fastest mile-wind velocity of 110 miles per hour.

(5) Foundation design and construction of a major structure shall consider all anticipated loads resulting from a 100-year storm event, including wave, hydrostatic and hydrodynamic loads acting simultaneously with live and dead loads. Erosion computations for foundation design shall account for all vertical and lateral erosion and scour-producing forces, including localized scour due to the presence of structural components. Foundation design and construction shall provide for adequate bearing capacity taking into consideration the anticipated loss of soil above the design grade as a result of localized scour. The erosion computations required by this paragraph do not apply landward of coastal construction control lines which have been established or updated since June 30, 1980. Upon request, the Department of Natural Resources may provide information and guidance as to those areas within the Coastal Building Zone where the erosion and scour of a 100-year storm event is applicable.

(C) Structural requirements; minor structures. Minor structures need not meet specific structural requirements provided in subsection (B), except for the requirements of paragraph (3) and except for applicable provisions of the Standard Building Code as adopted by and amended in this chapter. Such structures shall be designed to produce the minimum adverse impact on the beach and the dune system and adjacent properties and to reduce the potential for water-blown and wind-blown material. Construction of a rigid coastal or shore protection structure designed primarily to protect a minor structure shall not be permitted.

(D) Structural requirement; nonhabitable major structures. Nonhabitable major structures need not meet specific structural requirements provided in subsection (B) of this section, except for the requirements of paragraph (3), and except for applicable provisions of the Standard Building Code as adopted by and amended in this chapter. Such structures shall be designed to produce the minimum adverse impact on the beach and dune system and shall comply with any applicable state and local standards not found in this section. All sewage treatment plants and public water supply systems shall be floodproofed to prevent infiltration of surface water from a 100-year storm event. Underground utilities, excluding pad transformers and vaults, shall be floodproofed to prevent infiltration of surface water from a 100-year storm event or shall otherwise be designed so as to function when submerged by such storm event.

(E) Location of construction. Construction, except for elevated walkways, lifeguard support stands, piers, beach access ramps, gazebos, and coastal or shore protection structures, shall be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability.

(F) Application to coastal barrier islands. All building requirements applicable to the Coastal Building Zone shall also apply to

coastal barrier islands. The Coastal Building Zone on coastal barrier islands shall be the land area from the seasonal high-water line to a line 5,000 feet landward from the coastal construction control line established pursuant to Section 161.053, Florida Statutes, or the entire island, whichever is less. For coastal barrier islands on which a coastal construction control line has not been established pursuant to Section 161.053, the Coastal Building Zone shall be the land area seaward of the most landward velocity zone (v-zone) boundary line fronting upon the Gulf of Mexico, Florida Bay or Straits of Florida.

(G) Public access. Where the public has established an accessway through private lands to lands seaward of the mean high tide or water line by prescription, prescriptive easement, or any other legal means, development or construction shall not interfere with such right of public access unless a comparable alternative accessway is provided. The developer shall have the right to improve, consolidate, or relocate such public accessways so long as the accessways provided by the developer are:

(1) Of substantially similar quality and convenience to the public;

(2) Approved by the town and approved by the Department of Natural Resources whenever improvements are involved seaward of the coastal construction control line; and

(3) Consistent with the coastal management element of the local comprehensive plan adopted pursuant to Section 163.3178, Florida Statutes.
(Ord. 86-20, passed 9/22/86)

REQUIREMENTS NOT COVERED BY CODE

§ 150.71 REQUIREMENTS NOT COVERED BY CODE.

Any requirement necessary for the strength or stability of an existing or proposed building or structure, or for the safety or health of the occupants thereof, not specifically covered by this Code, shall be determined by the Building Inspector, and any building permit may be issued conditioned upon the satisfaction of any such requirement.
(Ord. 86-26, passed 10-6-86)

BURIAL OF TREES AND OTHER ORGANIC MATTER

§ 150.72 BURIAL OF TREES AND OTHER ORGANIC MATERIAL.

(A) It is unlawful for any person or corporation to bury trees or any other organic material subject to decay without first obtaining a burial permit from the Building Official.

(B) The Building Official shall issue a written permit to bury trees or other organic material only under the following conditions:

(1) A written request for the permit designating the material to be buried and the specific burial site or area has been received; and

(2) The Building Official has determined that the proposed burial will not have a present or future adverse impact on the site or area where the material is to be buried or on any adjacent site or area.
(Ord 86-26, passed 10-6-86; Amd. Ord. 98-24, passed 7-16-98)

Chapter 151: SHORELINE CONSTRUCTION

Section

151.01	Definitions
151.02	Purpose
151.03	Permit required; application
151.04	Application processing procedure; processing fee
151.05	Permit issuance; conditions
151.06	State approval of permit required
151.07	Emergency permit

Statutory reference:

Regulation of shoreline construction, reconstruction, or other physical activity, see F.S.A. § 161.011 et seq.

§ 151.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"BASE AND CONTROL LINES." These words shall have the same meaning as 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 the State of Florida.

"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 31 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 Clerk.

"REPAIRS." Modifications to mend or fix existing seawalls where the seawall has not lost its structural integrity.

"REPLACEMENT." Installation of a new seawall which is the substantial equivalent of the structure being supplanted in its original condition. If a seawall has collapsed or otherwise lost its structural integrity for a period of greater than six months, an application shall be treated as new seawall construction.

"REVETMENT." A sloping covering of stone or other similar material to hold in place a shoreline.

"SEAWALL." Vertical wall or embankment for checking the encroachment of the gulf, bay, canal, bayou, pass or lagoon or for use as a breakwater.

"SHORELINE CONSTRUCTION." Any work or activity within the town on its shores which is likely to have a material physical effect on existing shoreline conditions or natural shore processes; includes coastal construction.
('71 Code § 7-1) (Ord. 105, passed 7-13-65; Amd. Ord. 91-05, passed 3-4-91)

§ 151.02 PURPOSE.

It is the intent of this chapter to provide for the management and conservation of the town's shoreline environmental resources. Management and conservation of shoreline resources shall be accomplished by regulating the installation of seawalls, and by regulating shoreline construction activities along the gulf, bay, canals, passes and lagoons to ensure the minimal physical effect on existing shoreline conditions, the maximum protection of natural shore processes, and an ecologically sound method of protecting property.
('71 Code § 7-2) (Ord. 105, passed 7-13-65; Amd. Ord. 91-05, passed 3-4-91)

§ 151.03 PERMIT REQUIRED; APPLICATION.

(A) Seawall Construction:

(1) If the proposed seawall is located toward, along, or adjacent to the Gulf of Mexico, Longboat Pass, New Pass, Sarasota Bay and its associated lagoons, bayous and all tidal-influenced waterways, except manmade canals, the applicant must obtain all necessary permits from the agencies of the State of Florida having jurisdiction. The town will grant a permit only after such permit has been issued by the State of Florida and the town finds that:

(a) There is significant erosion at the site;

(b) No viable alternative exists;

(c) Revetment or nonstructural shoreline stabilization is utilized to the extent feasible;

(d) There exists an inhabited structure on the upland which is threatened by the erosion; and

(e) All other provisions of the Code are met.

The permit shall be issued by the Town Manager or designee only if all factors listed above are met. All construction of seawalls and revetment shall be constructed landward of the existing mean high-water line except as provided below for repairs/replacements of existing seawalls.

(2) Along manmade canals, seawalls will be permitted only where the applicant can meet all of the provisions of the Code, including but not limited to the requirements of § 158.102(G) and where a seawall exists on adjoining properties.

(B) Existing Seawall Repair and Replacement:

(1) Repairs to existing seawalls are permitted provided that all such repairs shall not protrude further seaward than the existing structure, except that a buttress, not to extend more than six inches seaward of the existing seawall or seawall cap, may be erected.

(2) Replacement seawalls are permitted provided that the seawall structure does not protrude further seaward than the structure being replaced.

(3) Any dispute as to structural integrity will be resolved at the applicant's expense by an engineer registered in the State of Florida.

(C) Mangroves: Where mangroves exist and the applicant has otherwise complied with this chapter and all other applicable sections of the Town Code, the applicant must meet the following additional criteria: Seawall construction shall be prohibited except that a seawall may be constructed more than 10 feet landward from the canopy or root system of the mangrove, whichever produces the greater setback. Elevation of the top of the seawall cap shall not be greater than 12 inches from the existing grade prior to construction. Existing grade is defined as the elevation or grade of the parcel as of March 15, 1991. If fill material is deposited after the above date, the previous elevation shall be considered as the existing grade for purposes of this section. The burden of proving the grade shall be upon the applicant. All areas seaward of the seawall shall not be filled or otherwise disturbed.

Rock revetment may be substituted for a seawall provided it is located landward of the mean high-water line and the mangroves will not be damaged or removed except as provided by Chapter 98 of the Town Code.

(D) Prohibitions: Shoreline construction is prohibited along the shoreline of satellite islands within corporate limits of the town.

(E) Any person desiring to undertake shoreline construction, as defined in § 151.01, shall make application in writing in duplicate to the Town Manager or designee which application shall contain the following:

(1) Name and address of applicant property owner.

(2) Name, address, and capacity of person making application, if other than property owner.

(3) Legal description of upland property adjacent to or in front of which construction is planned.

(4) Evidence of record ownership of adjacent upland property (certified statement by license title or abstract company or county tax assessor or clerk); and, if applicant is not the property owner, a statement from the owner record consenting to the proposed construction.

(5) Statement describing the purpose of the proposed construction; the problem, its cause, and the expected effect of the proposed construction on adjacent and neighboring property.

(6) Location map on 8-1/2-inch by 11-inch paper, showing the location of each structure to approximate scale, and the following information:

(a) Name of applicant.

(b) 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.

(c) Location by town and county.

(d) Name of water body.

(e) Brief word description or title of project.

(f) General identifying landmarks.

(g) Legend or labels to identify graphic objects.

(h) Date.

(i) Scale and north arrow.

(j) Control line.

(7) Names and addresses from latest county tax roll or owners of all riparian property within 1,000 feet of any proposed coastal construction or within 200 feet of any proposed shoreline construction.

(8) Where applicable, a statement by an engineer, registered in the State of Florida, that the plan and elevation views of the structures, and the profile of the shore 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. The statement shall also include a declaration that any plan of proposed 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.

(9) In the event the proposed shoreline construction is such that the applicant's engineer cannot make the statement required in division (8) above, then in addition to the requirements of divisions (1) through (7) above a drawing prepared by a registered professional engineer shall be submitted, showing the following at scale:

(a) Plan view of structures (or typical structure, if all are essentially identical), with mean high and mean low-water lines extending 100 feet on each side.

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

(c) Profiles of shore at proposed structures (or typical structure) from dune crest to 100 feet beyond mean-high water line where applicable, with elevations referenced to mean sea level datum.

(d) Details of construction, including materials to be used. ('71 Code §§ 7-3, 4)

(Ord. 105, passed 7-13-65; Am. Ord. 91-05, passed 3-4-91; Amd. Ord. 98-24, passed 7-16-98)

§ 151.04 APPLICATION PROCESSING PROCEDURE; PROCESSING FEE.

(A) Applications will be checked by the Town Manager or designee for completeness prior to processing. Following an office review of the proposed construction, a field investigation will be conducted if indicated by the nature of the project. Riparian property owners within 1,000 feet of the proposed construction will be notified by the town and given 15 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 1,000 feet. If the proposed project is approved by the town, recommendation will be made to the agency of the state having jurisdiction that the permit be issued. If, in the opinion of the town and the agency of the state having jurisdiction 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. ('71 Code, § 7-5)

(B) A processing fee, payable in advance, will be charged for each application to partly offset costs of investigation and handling. The fee shall be set by resolution of the Town Commission. An application for contiguous properties may be made jointly by owners. Checks should be made payable to the town. ('71 Code, § 7-4(h))

(Ord. 105, passed 7-13-65; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98)

§ 151.05 PERMIT ISSUANCE; CONDITIONS.

The town will issue a permit for shoreline construction if the application is approved by the Town Manager or designee. 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 agency of the state having jurisdiction, made a part of this permit and agreement.

(B) The permittee shall in no way obstruct or impair the use of the shore by the public in the area below the mean high-water line, except to a minimum extent determined by the town and by the state agency having jurisdiction 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 state agency having jurisdiction 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 state agency having jurisdiction, if in the opinion of the town or the agency 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 state agency as to whether adjustment, alteration or removal is required shall be final; and the town or state agency shall set reasonable time limits within which adjustment, alteration, or removal shall be accomplished.

(F) This permit and agreement shall be canceled and the permittee directed to remove the structure or other physical evidence of the work or activity permitted hereunder, at the permittee's expense, on 30 days' written notice from the town or state agency having jurisdiction, 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 state agency having jurisdiction with an acceptable surety bond in an amount equal to 110% of the estimated cost of removal of the shoreline construction, but in no case less than $500, for the 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 the bond may be waived, discontinued at any time, renewed for the successive terms, or kept in force perpetually, at the discretion of the state agency having jurisdiction.

(H) Upon completion of the work the permittee shall notify the Town Manager or designee and the Town Manager or designee 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 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.
('71 Code § 7-6) (Ord. 105, passed 7-13-65; Amd. Ord. 91-05, passed 3-4-91; Amd. Ord. 98-24, passed 7-16-98)

§ 151.06 STATE APPROVAL OF PERMIT REQUIRED.

Upon action on any application for a permit for shoreline construction, the Town Manager or designee shall forward a copy of the application, together with his recommendations to the agency of the state having jurisdiction. No permit granted by the town shall become effective until the state agency having jurisdiction grants a permit for such construction.
('71 Code § 7-7) (Ord. 105, passed 7-13-65; Amd. Ord. 91-05, passed 3-4-91; Amd. Ord. 98-24, passed 7-16-98)

§ 151.07 EMERGENCY PERMIT.

The Town Manager or designee may grant an emergency permit, if emergency exists in the opinion of the Town Manager or designee, without a formal application therefor after he has obtained the verbal of written approval of the state agency having jurisdiction. The emergency permit shall be conditioned on the applicant agreeing in writing to hold the Town harmless and indemnify the Town from any damage to persons or property which might result from the emergency work permitted hereunder and immediately making an application pursuant to this chapter.

('71 Code, § 7-8) (Ord. 105, passed 7-13-65; Amd. Ord. 98-24, passed 7-16-98)

[redacted]

Chapter 152: DREDGING AND FILLING

Section

Permits

152.01 Permit required; exceptions
152.02 Application; processing fees and costs
152.03 Plans and drawings
152.04 Issuance; revocation
152.05 Staking of area to be filled
152.06 Waiver of requirements

Improvements and Special Assessments

152.15 Special assessments for improvements; resolution required
152.16 Publication of resolution
152.17 Assessment plat
152.18 Assessment roll
152.19 Public hearing by Equalizing Board
152.20 Assessment in proportion to benefits
152.21 Payment of assessment; lien
152.22 Foreclosure
152.23 Issuance of bonds
152.24 Second assessment
152.25 Payments by town
152.26 Irregularities not affecting validity

PERMITS

§ 152.01 PERMIT REQUIRED; EXCEPTIONS.

(A) No lands within the corporate limits of the town, whether bordering on tidal waters, or otherwise, shall be dredged or excavated, and none of these 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 Manager or designee in compliance with the terms of this chapter, and F.S. Ch. 253, except as hereinafter set forth as exceptions to this section, and this chapter.

(1) The normal matters coming up in the construction and building of buildings, and the maintenance of grounds.

(2) Swimming pools.

(3) Projects initiated by the Town of Longboat Key and as approved by the Town Commission.

(B) All of the above exceptions shall refer only to the lands owned by the individual applicant.

('71 Code, § 8-1) (Ord. 98-24, passed 7-16-98) Penalty, see § 10.99

§ 152.02 APPLICATION; PROCESSING FEES AND COSTS.

(A) A sworn application for a permit under this chapter, accompanied by the required filing fee and the exhibits provided herein, shall be made to the Town Manager or designee. The application shall contain the following unless the Town Manager or designee determines that one or more of the following are not applicable to the particular development:

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

(2) An accurate, legal description of the land or submerged land from which fill material is to be dredged or excavated, if any. The 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.

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

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

(5) The names and addresses of all persons owning or holding any legal or equitable interest in the lands described pursuant to divisions (1) and (2) of this section, as shown by the public records of the county in which the lands are located.

(6) The names and addresses of all persons owning lands bordering on, or adjacent to, the mean high-water line within 1000 feet of the areas to be filled and dredged, as shown by the latest tax assessment roll in the county in which the lands are located.

(7) Satisfactory evidence of fee simple title to lands described pursuant to division (1), and satisfactory evidence of the ownership of lands described pursuant to division (2). 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.
('71 Code, § 8-2)

(B) The application fee for filing, processing, and considering an application for a permit under this chapter shall be set by resolution of the Town Commission.
('71 Code, § 8-3) (Ord. 93-25, passed 2-7-94; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98)

§ 152.03 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 water to fill material available for dredging in the area to be dredged.

(E) Showing the elevation of the proposed fill above the 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 any other matters and meeting any other requirements the Town Manager or designee may reasonably require in order that a comprehensive and complete plan of the proposed construction is presented.
('71 Code, § 8-6) (Ord. 98-24, passed 7-16-98)

§ 152.04 ISSUANCE; REVOCATION.

(A) Upon receipt of four copies of an application and all other matters required in this chapter, the Town Manager or designee shall evaluate and determine the appropriateness and completeness of the application. Within 90 days of the submission of a valid, complete application the Town Commission shall hold a public hearing on the application.

(B) Upon consideration, if the Commission finds that the work proposed in the application does not violate any statute, zoning law, ordinance, or other restriction which may be applicable thereto; no harmful obstruction to, or alteration of, the natural flow of the navigable waters within the area will arise from the proposed construction; no harmful or increased erosion, shoaling of channels, or stagnant areas of water will be created thereby; 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 agency of the state having jurisdiction.

(C) Upon Town Commission approval and receipt of a permit from the state and/or federal agency having jurisdiction, the Town Manager or designee shall issue a permit for the work proposed in the application, which shall be an authorization for the applicant to perform and complete the work described in the application within a period of two years after the date of the issuance of the permit. The Town Manager or designee may extend the time for completion of the work for good cause, upon a showing that all due efforts and diligence toward completion of the work have been made.

('71 Code,§ 88-4) (Ord. 182, passed 10-21-70; Amd. Ord. 98-24, passed 7-16-98)

Statutory reference:

Internal Improvement Trust Fund, see F.S. Ch. 253

§ 152.05 STAKING OF AREA 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.
('71 Code, § 8-7) (Ord. 98-24, passed 7-16-98)

§ 152.06 WAIVER OF REQUIREMENTS.

(A) The Town Manager or designee may waive any of the requirements of applicants to fill upland property of less than 10,000 square feet by dredging less than 500 cubic yards, provided the work proposed does not violate any zoning law, ordinance, or other restriction which may be applicable thereto; no harmful obstruction to, or alteration of, the natural flow of the navigable waters within the area will arise from the proposed construction; no harmful of increased erosion, shoaling of channels, or stagnant areas of water will be created thereby; and no material injury or monetary damage to adjoining land will accrue therefrom.

(B) The Town Manager or designee may waive any of the requirements of application to dredge any existing canal of 5,000 cubic yards or less when the work is for maintenance purposes, without reference to the Town Commission, and the permit shall be issued by the Town Manager or designee. The permit fee for a maintenance work permit shall be set by resolution of the Town Commission.
('71 Code, § 8-5) (Ord. 182, passed 10-21-72; Amd. Ord. 74-28, passed 9-18-74; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98)

IMPROVEMENTS AND SPECIAL ASSESSMENTS

§ 152.15 SPECIAL ASSESSMENTS FOR IMPROVEMENTS; RESOLUTION REQUIRED.

(A) The town, by its Town Commission, may provide for the construction, reconstruction, repair, cleaning, or dredging of canals or waterways within the boundaries of the town and provide for the payment of all or any part of the costs of any of these improvements by levying and collecting special assessments on the abutting, adjoining, contiguous, or other specifically benefited property. ('71 Code, § 8-8)

(B) When the Town Commission determines to make any improvement authorized by division (A) above, and defray the whole or any part of the expense thereof by special assessments, the Commission shall so declare by resolution stating the nature of the proposed improvement, designating the canal or waterway to be so improved, and the part or portion of the expense thereof to be paid by special assessments, the manner in which these assess-

ments shall be made, when the assessments are to be paid and what part, if any, shall be apportioned to be paid from the general improvement fund of the town, if any. The resolution shall also designate the lands upon which the special assessments shall be levied.

(1) In describing the lands, it shall be sufficient to describe them as "all lots and lands adjoining and contiguous or bounding and abutting the improvements or specially benefited thereby and further designated by the assessment plat hereinafter provided for."

(2) The resolution shall also state the total estimated cost of the improvement. The estimated cost may include the cost of construction or reconstruction, the cost of all labor and materials, financing charges, interest prior to and during construction and for one year after completion of construction, discount on the sale of special assessment bonds, cost of plans and specifications, surveys of estimates of costs and of revenues, cost of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of the construction or reconstruction, administrative expense, and any other expense necessary or incident to the financing herein authorized.
('71 Code, § 8-10) (Ord. 79-18, passed 11-7-79)

§ 152.16 PUBLICATION OF RESOLUTION.

Upon the adoption of the resolution provided for in § 152.15, the town shall cause the resolution to be published one time in a newspaper of general circulation published in the town, and if there is no newspaper published in the town, the governing authority of the town shall cause the resolution to be published once a week for a period of two weeks in a newspaper of general circulation published in the county in which the special assessment project is located.
('71 Code, § 8-12) (Ord. 79-18, passed 11-7-79)

§ 152.17 ASSESSMENT PLAT.

At the time of the adoption of the resolution provided for in § 152.15(B), there shall be on file with the Town Clerk, an assessment plat showing the area to be assessed, with plans and specifications, and an estimate of the cost of the proposed improvement. This assessment plat, plans, specifications, and estimate shall be open to the inspection of the public.
('71 Code, § 8-11) (Ord. 79-18, passed 11-7-79)

§ 152.18 ASSESSMENT ROLL.

Upon the adoption of the resolution in § 152.15, the Town Commission shall cause to be made an assessment roll in accordance with the method of assessment provided for in the resolution, which shall be completed and filed with the Tax Assessor's office in the county in which the special assessment project is located as promptly as possible. The assessment roll shall show the lots and lands assessed, the amount of the assessment against each lot or parcel of land, and if the assessment is to be paid in installments, the number of annual installments in which the assessment is divided shall also be entered and shown upon the assessment roll.
('71 Code, § 8-13) (Ord. 79-18, passed 11-7-79)

§ 152.19 PUBLIC HEARING BY EQUALIZING BOARD.

(A) Upon the completion of the assessment roll, the Town Commission shall by resolution fix a time and place at which the owners of the property to be assessed, or any other persons

interested therein, may appear before the governing authority and be heard as to the propriety and advisability of making the improvements, as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved.

(1) Ten days notice in writing of the time and place shall be given to these property owners, which shall be served by mailing a copy of the notice to each of the property owners at his last known address, the names and addresses of the property owners to be obtained from the records of the property appraiser or from any other sources the Town Clerk deems reliable, proof of the mailing to be made by the affidavit of the Clerk or Deputy Clerk of the town, which proof is to be filed with the Clerk. Failure to mail the notice or notices shall not invalidate any of the proceedings hereunder.

(2) Notice of the time and place of the hearing shall also be given by two publications a week apart in a newspaper of general circulation in the town, and if there is no newspaper published in the town, the Town Commission shall cause the notice to be published in like manner in a newspaper of general circulation published in the county in which the special assessment project is located; however, the last publication shall be at least one week prior to the date of the hearing.

(3) The notice shall describe the canal or other areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece or parcel of property may be ascertained at the office of the Town Clerk. Service by publication shall be verified by the affidavit of the publisher and filed with the Town Clerk.
('71 Code, § 8-14)

(B) At the time and place named in the notice provided for in division (A) above, the Town Commission shall meet as an Equalizing Board to hear and consider any and all complaints as to the special assessments and shall adjust and equalize the assessments on the basis of justice and right. When so equalized and approved by resolution or ordinance of the Town Commission, the assessments shall stand confirmed and remain legal, valid, and binding first liens upon the property against which the assessments are made, until paid. However, upon completion of the improvement, the town shall credit to each of the assessments the difference in the assessment as originally made, approved, and confirmed, and the proportionate part of the actual cost of the improvement to be paid by special assessments as finally determined upon the completion of the improvement. In no event shall the final assessments exceed the amount of benefits originally assessed.

(C) Promptly after confirmation, the assessments shall be recorded by the Town Clerk in the Public records in the office of the Clerk of the Circuit Court and the record of the lien shall constitute prima facie evidence of its validity. The Town

Commission may by resolution grant a discount equal to all or a part of the payee's proportionate share of the cost of the project consisting of bond financing costs, such as capitalized interest, funded reserves, and bond discount included in the estimated cost of the project, upon payment in full of any assessment during the period prior to the time the financing costs are incurred, as specified by the Town Commission.
('71 Code, § 8-15)
(Ord. 79-18, passed 11-7-79)

§ 152.20 ASSESSMENT IN PROPORTION TO BENEFITS.

Special assessments against property deemed to be benefited by local improvements, as provided for in § 152.15 shall be assessed upon the property specially benefited by the improvement in proportion to the benefits to be derived therefrom, the special benefits to be determined and prorated according to the foot frontage of the respective properties specially benefited by the improvement, or by any other method the Town Commission may prescribe.
('71 Code, § 8-9) (Ord. 79-18, passed 11-7-79)

§ 152.21 PAYMENT OF ASSESSMENT; LIEN.

Assessments shall be payable at the time and in the manner stipulated in the resolution providing for the improvements. Special assessments shall remain liens, co-equal with the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid, and shall bear interest at a rate not to exceed 8% per annum from the date of the acceptance of improvement. Special assessments may, by the resolution aforesaid, be made payable in not more than ten equal yearly installments, to which, if not paid when due, there shall be added a penalty at the rate of 1% per month, until paid; however, the assessments may be paid without interest at any time within 30 days after the improvement is completed, and a resolution accepting this has been adopted by the Town Commission.
('71 Code, § 8-16) (Ord. 79-18, passed 11-7-79)

§ 152.22 FORECLOSURE.

(A) Each special assessment and each annual installment provided for in § 152.21 shall be paid upon the dates specified in the resolution, with interest upon all deferred payments, until the entire amount of the assessment has been paid. On the failure of any property owner to pay any special assessment or any annual installment due, or any part thereof, or any annual interest upon deferred payments, the Town Commission shall cause to be brought the necessary legal proceedings by a complaint to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred, including a reasonable attorney's fee, to be assessed as part of the costs.

(B) In the event of default in the payment of any installment of an assessment, or any accrued interest on the assessment, the whole assessment, with the interest and penalties thereon, shall immediately become due and payable and subject to foreclosure. In the foreclosure of any special assessment, service of process against unknown, or nonresident defendants, may be had by publication, as now provided by law. The foreclosure proceedings shall be prosecuted to a sale and conveyance of the property involved in the proceedings as now provided by law in suits to foreclose mortgages.
('71 Code, § 8-17) (Ord. 79-18, passed 11-7-79)

§ 152.23 ISSUANCE OF BONDS.

(A) After the equalization, approval, and confirmation of the levying of the special assessments for improvements as provided by § 152.19 and as soon as a contract for the improvement has been finally let, the Town Commission may by resolution or ordinance authorize the issuance of bonds, to be designated "Improvement bonds, series No. _____," in an amount not in excess of the aggregate amount of the liens levied for the improvements. The bonds shall be payable from a special and separate fund, to be known as the "Improvement fund, series No. _____," which shall be used solely for the payment of the principal and interest of the "Improvement bonds, series No. ___" and for no other purpose. This fund shall be deposited in a separate bank account; and all the proceeds collected by the town from the principal, interest, and penalties of the liens shall be deposited and held in this fund.

(1) Bonds so issued shall never exceed the amount of liens assessed. The bonds shall mature not later than two years after the maturity of the last installment of the liens. The bonds shall bear certificates signed by the Town Clerk certifying that the amount of liens levied, the proceeds of which are pledged to the payment of the bonds, are equal to the amount of the bonds issued.

(2) The bonds may be delivered to the contractor in payment for his work and may be sold at public or private sale for not less than 95% of par and accrued interest, the proceeds to be used in payment for the cost of the work. The bond shall not be a charge on, or payable out of, the general revenues of the town, but shall be payable solely out of these assessments, installments, interest, and penalties. Any surplus remaining after payment of all bonds and interest thereon shall revert to the town and be used for any municipal purpose.
('71 Code, § 8-18)

(B) All bonds issued under this chapter shall be in the denomination of $100 or some multiple thereof, and shall bear interest at a uniform rate not exceeding 8% per annum, payable annually, or semiannually thereafter until maturity, and 10% per or annum after maturity, and both principal and interest shall be payable at the place or places the Town Commission may determine. The form of the bonds shall be fixed by resolution of the Town

Commission and the bonds shall be signed by the Mayor and the Clerk, under the town seal; the coupons, if any, shall be executed by the facsimile signatures of these officers. The delivery of any bond and coupon so executed at any time thereafter shall be valid, although before the date of delivery the person signing the bond or coupons shall cease to hold office. ('71 Code, § 8-22)

(C) This chapter shall, without reference to the Town Charter or any other state law, be full authority for the issuance and sale of the bonds by this chapter authorized, and shall be construed as an additional and alternative method for the financing of the improvements referred to herein. No election or proceeding in respect of the issuance of any bonds hereunder shall be necessary. No publication of any notice or proceeding relating to the issuance of the bonds provided for by this chapter shall be required, except such as required by this chapter. ('71 Code, § 8-23)

(D) Bonds issued under division (C) above shall have all the qualities of negotiable paper under the law merchant, shall not be invalid for any irregularity or defect in the proceedings for the issue and sale thereof, and shall be incontestable in the hands of bona fide purchasers or holders thereof for value. ('71 Code, § 8-24)
(Ord. 79-18, passed 11-7-79)

§ 152.24 SECOND ASSESSMENT.

If any special assessment made under the provisions of this chapter to defray the whole or any part of the expense of any improvement shall be either in whole or in part annulled, vacated, or set aside by the judgment of any court, the Town Commission shall take all necessary steps to cause a new assessment to be made for the whole, or any part of any improvement, or against any property benefited by any improvement, following as nearly as may be the provisions of this chapter. In case the second assessment is annulled, the Town Commission may obtain and make other assessments until a valid assessment is made.
('71 Code, § 8-19) (Ord. 79-18, passed 11-7-79)

§ 152.25 PAYMENTS BY TOWN.

The Town Commission may pay out of its general funds or out of any special fund that may be provided for that purpose, that portion of the cost of any improvement that it may budget and deem proper.
('71 Code, § 8-20) (Ord. 79-18, passed 11-7-79)

§ 152.26 IRREGULARITIES NOT AFFECTING VALIDITY.

Any informality or irregularity in the proceedings in connection with the levy of any special assessment under the provisions of this chapter shall not affect the validity of the assessment where the assessment roll has been confirmed by the Town Commission. The assessment roll as finally approved and confirmed shall be competent and sufficient evidence that the assessment was duly levied, that

the assessment was duly made and adopted, and that all other proceedings adequate to the adoption of the assessment roll were duly had, taken, and performed as required by this chapter. No variance from the directions hereunder shall be held material unless it is clearly shown that the party objecting was materially injured thereby.
('71 Code, § 8-21) (Ord. 79-18, passed 11-7-79)

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Chapter 153: ELECTRICITY

Section

153.01	Adoption of National Electrical Code
153.02	Amendments to National Electrical Code

§ 153.01 ADOPTION OF NATIONAL ELECTRICAL CODE.

The National Electrical Code, as adopted by the State of Florida, with appendices thereto, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, is hereby adopted as part of the building code of the town. If any provision of this chapter conflicts with any adopted provision of the National Electrical Code, the most restrictive provision shall apply. One copy of the Code shall be on file with the Town Clerk, identified as an official copy; and three or more copies shall be on file with the Town Planning, Zoning and Building Department and shall be kept there available for public use, inspection and examination. Any reference in the National Electrical Code, as adopted by the State of Florida, that uses the word "city" shall mean "town." The Code is adopted by reference as authorized by F.S. § 553.73.

(Ord. 81-25, passed 7-1-81; Amd. Ord. 84-14, passed 10-1-84; Amd. Ord. 87-3, passed 4-6-87; Amd. Ord. 90-29, passed 12-3-90; Amd. Ord. 93-01, passed 4-8-93; Amd. Ord. 96-06, passed 5-6-96; Amd. Ord. 99-34, passed 12-6-99)

§ 153.02 AMENDMENTS TO NATIONAL ELECTRICAL CODE.

The National Electrical Code of the National Fire Protection Association, is amended as follows:

PART I - ADMINISTRATIVE is amended to add to 1-4 as follows:

1-4 (a) The work under this Section applies to new construction, temporary installations, alterations, repairs and maintenance and shall be performed only under the supervision of Master Electricians holding an Operating Certificate issued by Sarasota or Manatee County.

PART II - GENERAL REQUIREMENTS is amended to read as follows:

2-1 All terms used in this section shall be the official National Fire Protection Association definitions, unless otherwise stated herein.

2-2 Electrical Metallic Tubing (EMT) shall be permitted only inside of a building and in concrete slabs and walls which are above grade level.

2-3 The use of aluminum or copper clad aluminum wiring for power, lighting, control, and signal circuits including all conductors from the load end of the service drop, or load end of the service lateral conductors to the outlet(s) shall be prohibited.

EXCEPTION: Wiring or busway internal to appliances, fixtures, motors, controllers, panels, meter center, motor control centers and similar equipment may be aluminum or copper clad aluminum.

2-4 Combustion type heaters shall have a wall mounted switch outside the heater room to serve as a disconnecting means.

PART IV - RESIDENTIAL is amended by deleting 4-6, thereby changing the numbering and adding a new 4-7, to read as follows:

4-6 All circuits which penetrate, pass through, or are concealed within a wall required to be fire rated, shall be in a complete conduit raceway system.

4-7 All exposed cable within seven and one-half (7 1/2) feet of the floor shall be protected by approved raceway.

PART VII - FEES is amended in 7-2 as follows:

7-2 Re-Inspection fees shall be set by resolution of the Town Commission.

(Ord. 81-25, passed 7-1-81; Amd. Ord. 83-14, passed 7-6-83; Amd. Ord. 84-14, passed 10-1-84; Amd. Ord. 87-3, passed 4-6-87; Amd. Ord. 90-29, passed 12-3-90; Amd. Ord. 93-25, passed 2-7-94; Amd. Ord. 98-19, passed 7-6-98; Amd. Ord. 98-25, passed 7-16-98)

Chapter 154: FLOOD CONTROL

Section

154.01	Purpose; applicability
154.02	Interpretation
154.03	Definitions
154.04	Compliance required
154.05	Disclaimer of liability
154.06	Town Manager designated administrator
154.07	Flood zones A1-30
154.08	Flood zones V1-30
154.09	Development permits
154.10	Minimum floor elevation
154.11	Floodproofing
154.12	Breakaway walls
154.13	Subdivision proposals
154.14	Utilities
154.15	Variances
154.99	Penalty
154.100	Form for estimating the cost of residential improvements

§ 154.01 PURPOSE; APPLICABILITY.

(A) It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to do the following:

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve those uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling and grading which may increase erosion or flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; ('71 Code, § 9C-1)

(B) This chapter shall apply to all lands within the jurisdiction of the town that are depicted on the community's flood insurance rate map as being a flood hazard district. ('71 Code, § 9C-3) (Ord. 77-9, passed 6-1-77)

§ 154.02 INTERPRETATION.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where this chapter and other provisions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under state statutes.
('71 Code, § 9C-5) (Ord. 77-9, passed 6-1-77)

§ 154.03 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ACCESSORY USE." A use of a nature customarily subordinate or incidental to, and located on the same parcel as, the principal use of any structure or property.

"ADDITION (TO AN EXISTING BUILDING)." Means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common loadbearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter loadbearing walls is construction.

"APPEAL." Means a request for a review of the Zoning Board of Adjustment's interpretation of any provision of this chapter or a request for a variance.

"APPRAISAL." The act or process of estimating value; an estimate of value meeting the requirements of Chapter 475, Part II, Florida Statutes.

"AREA OF SPECIAL FLOOD HAZARD." That area of and within a community in the floodplain which is subject to a one percent chance of flooding annually, that is, the 100-year-flood.

"BREAKAWAY WALLS." Includes but shall not be limited to any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material, which are not part of the structural support of the building and which are so designated as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any of the buildings to which they might be carried by floodwaters.

"COASTAL HIGH HAZARD AREA (ZONES V1-30)." That portion of the floodplain having special flood hazards that are subject to high-velocity waters, including hurricane wave wash and tsunami.

"ELEVATED BUILDING." Means a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls or breakaway walls.

"EXISTING MANUFACTURED HOME PARK OR SUBDIVISION." Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of the ordinance codified in this chapter.

"EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION." Means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets). Any expansion is considered "new construction."

"FLOOD" OR "FLOODING." A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation of runoff or surface waters from any source.

"FLOOD FRINGE AREA (ZONES A1-30)." That area of the floodplain lying outside of the floodway but still lying within the area of special flood hazard, that is, within the 100-year floodplain.

"FLOODPLAIN." Any normally dry land area that is susceptible to being inundated by waters of the 1% annual chance flood, that is, the 100-year flood.

"FLOODPROOFING." A combination of structural or nonstructural additions, changes, or adjustments to properties, water and sewer facilities, structures, and contents of buildings.

"FLOODWAY." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the velocity waters of the regulatory flood.

"FUNCTIONALLY DEPENDENT FACILITY." Means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as docking or port facility necessary for the loading and unloading of cargo or passengers, ship-building, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

"HIGHEST ADJACENT GRADE." Means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"LOWEST FLOOR (INCLUDING BASEMENT)." Any floor used for living, which includes working, laundry, sleeping, eating, cooking, or recreation facilities, or any combination thereof.

"MANGROVE STAND." Means an assemblage of mangrove trees which is mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contain one or more of the following species: black mangrove (*Avicennia nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Laguncularia racemosa*); and buttonwood (*Conocarpus erecta*).

"MANUFACTURED HOMES." New manufactured home parks and subdivisions; expansions to existing manufactured home parks and subdivisions; existing manufactured home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equal or exceed 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and manufactured homes placed on individual lots outside of manufactured home parks and subdivisions, shall have stands or lots (pads) elevated on compacted fill or on pilings so that the lowest floor of the manufactured home shall be elevated no lower than (BFE feet) above the base flood elevation, except in coastal high hazard areas, where the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than (BFE feet) above the base flood elevation.

"MARKET VALUE." The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and acting in what they consider their best interests; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale. Where required in its context, market value shall refer only to structural improvements and shall not include land and site improvement values.

"MARKET VALUE OF IMPROVEMENTS." The procedure for estimating the cost of repair, reconstruction, rehabilitation, addition or improvement to an existing residential structure for purposes of determining whether the proposed modification constitutes a substantial improvement shall be calculated in substantial compliance with the Form for Estimating the Cost of Residential Improvements (the "Estimating Form") annexed to this chapter as § 154.100. The square footage costs to be utilized within the Estimating Form shall be derived from the Southern Building Code Congress and the Means Building Construction Cost Data Manual applicable to the town and shall reasonably reflect prevailing costs in the town for typical residential construction. The initial square footage costs shall be as reflected in the Estimating Form attached to this chapter under § 154.100. Said figures shall be reviewed each year by the town and shall be modified, by resolution of the Town Commission, when the town finds that the prevailing costs for typical residential construction have changed such that the square footage cost estimates contained within the Estimating Form no longer reasonably reflect prevailing building costs for the town.

"MARKET VALUE OF STRUCTURE." The value of the structure shall be considered to be either (a) equal to the county's assessment of the structure plus 20%, or (b) the value assigned to the structure as determined by a state-certified appraiser meeting the requirements of F.S. Ch. 475, Pt. II. The election as to which methodology is used to value the structure shall be at the option of the applicant. If the appraisal method is chosen, the appraiser shall set forth under oath that he has personally visited the subject property and reviewed the structure in connection with his determination of the value.

"MEAN SEA LEVEL." The average height of the sea for all stages of the tide.

"NATIONAL GEODETIC VERTICAL DATUM (NGVD)." As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

"NEW CONSTRUCTION." Those structures the construction or relocation of which begin after June 1, 1975. "New Construction," for purposes of this chapter, shall also mean a parcel of land used for manufactured homes for which the construction of streets, utilities, and site grading or pads is commenced after June 1, 1975.

"REGULATORY FLOOD." For purposes of this chapter, a flood event having a 1% chance of occurring in any given year, although the flood may occur in any year, that is, the 100-year flood.

"REGULATORY FLOOD ELEVATION." The crest elevation in relation to mean sea level expected to be reached by the regulatory flood at any given point in an area of special flood hazard.

"START OF CONSTRUCTION."

(A) The first placement or permanent construction of a structure on a site, such as pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation such as clearing, grading, or filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(B) For a structure without a basement or poured footings for sites other than mobile home parks or manufactured home parks, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation or the affixing of any prefabricated structure to its permanent site.

(C) For manufactured home parks which are equipped with concrete pads on which manufactured homes are to be placed, "start of construction" means the dates on which the pouring of the pads has begun. For manufactured home parks which are not equipped with concrete pads, "start of construction" means the date on which installation of utilities and final site grading are completed.

"STRUCTURE." Means a walled and roofed building that is principally aboveground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures. The words "building" and "structure" shall have the same meaning for the purpose of this chapter.

"SUBSTANTIAL DAMAGE." Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

"SUBSTANTIAL IMPROVEMENT." Any repair, reconstruction, rehabilitation, addition, or improvement of a structure, where the actual cost, as determined by this chapter, of the improvement or repair of the structure to its pre-damage condition equals or exceeds, over a five-year period a cumulative total of 50% of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. The cumulative total cost does not include nonstructural interior finishings or roof coverings except when determining whether the structure has been substantially improved as a result of a single improvement or repair. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code requirements which are solely necessary to assure safe living conditions, or (b) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places, or (c) any expenditure to bring a structure into compliance with minimum FEMA elevation requirement or floodproofing as applicable.

"VARIANCE." A grant of relief to a person from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.
('71 Code, § 9C-2) (Ord. 77-9, passed 6-1-77; Amd. Ord. 81-13, passed 4-1-81; Amd. Ord. 84-7, passed 3-5-84; Amd. Ord. 87-33, passed 11-2-87; Amd. Ord. 90-10, passed 6-4-90; Amd. Ord. 92-30, passed 2-1-93; Amd. Ord. 94-17, passed 6-27-94; Amd. Ord. 96-12, passed 7-18-96; Amd. Ord. 97-06, passed 7-17-97; Amd. Ord. 97-25, passed 11-3-97)

§ 154.04 COMPLIANCE REQUIRED.

(A) No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(B) If the applicant chooses to determine market value of the structure by utilizing a state-certified appraiser in accordance with and as described in the definition of "market value of structure," the value assigned to the structure by the appraiser shall remain fixed for a five-year period beginning upon the date of the issuance of a building permit for the improvement.

(C) The improvement to the structure shall not exceed 50% of the market value of the structure.

(D) The determination of substantial improvement shall be in compliance with the terms and conditions of this chapter as well as all federal and state regulations and, if residential, shall be determined pursuant to § 154.100.

(E) Once any repair, reconstruction, rehabilitation, addition or improvement of a structure is undertaken, the market value of the structure may not reflect that improvement for five years from the initial construction of that improvement.
('71 Code, § 9C-4) (Ord. 77-9, passed 6-1-77; Amd. Ord. 94-17, passed 6-27-94; Amd. Ord. 96-12, passed 7-18-96; Amd. Ord. 97-06, passed 7-17-97) Penalty, see § 154.99

§ 154.05 DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that areas outside the boundaries of the flood hazard districts or land uses permitted within those districts will be free from flooding or flood damages. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
('71 Code, § 9C-6) (Ord. 77-9, passed 6-1-77)

§ 154.06 TOWN MANAGER DESIGNATED ADMINISTRATOR.

The Town Commission hereby appoints the Town Manager or designee as local administrator. The Town Manager shall be appointed to implement the elevation and floodproofing provisions of this chapter and such other duties as are assigned to him herein, including the following:

(A) Reviewing proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law;

(B) Notifying adjacent communities and the Tampa Bay Regional Planning Council prior to any alteration or relocation of a watercourse, and shall submit evidence of notification to the Federal Insurance Administration;

(C) Assuring that all records pertaining to the provisions of this chapter shall be maintained in official offices of the Town of Longboat Key and shall be open for public inspection during normal business hours.
('71 Code, § 9C-7) (Ord. 77-9, passed 6-1-77; Amd. Ord. 87-33, passed 11-2-87; Amd. Ord. 97-25, passed 11-3-97)

§ 154.07 FLOOD ZONES A1-30.

(A) Applicability. The provisions of this section shall apply to all residential and nonresidential structures in Zones A1-30 on the community's flood insurance rate map.

(B) Requirements for Development.

(1) Development permits will be required for all proposed construction, repair, improvement or alteration of a structure within Zones A1-30.

(2) The Director or designee of the Planning, Zoning and Building Department shall review all building permit applications to determine if the proposed construction is designed and anchored to prevent flotation, collapse, or lateral movement of the structure.

(3) New or replacement water supply and sanitary sewer systems located within Zones A1-30 must be floodproofed as specified in § 154.11.

(4) New construction or substantial improvement of any residential structure within Zones A1-30 shall have the lowest habitable floor, including basement, elevated to the regulatory flood elevation.

(5) New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot above grade; and

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(b) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(d) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(6) New construction or substantial improvement of any commercial-industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the regulatory flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed to the level of the regulatory elevation. All floodproofing shall meet the requirements of § 154.11.

(C) Manufactured Home Requirements.

(1) The construction of a new manufactured home park, the expansion of an existing manufactured home park, the placement of a new manufactured home not in a manufactured home park, or the substantial improvement of any of the above in Zones A1-30 shall be allowed only if the following criteria are met:

(a) Ground anchors for tie-downs are provided.

(b) Tie-down requirements. Over-the-top ties are required at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with one additional tie per side for manufactured homes more than 50 feet long. Frame ties are required in conjunction with each over-the-top tie. All components of the anchoring must be capable of carrying a force of 4,800 pounds.

(c) Lots or pads are elevated on compacted fill or by any other method approved by the Director of Public Works so that the lowest habitable floor of the manufactured home is at or above the regulatory flood level.

(d) Adequate surface drainage and easy access for a manufactured home hauler are provided.

(e) Load-bearing foundation supports such as piers or pilings must be placed on stable soil or concrete footings no more than 10 feet apart; and if the support height is greater than 72 inches, the support must contain steel reinforcement.

(2) In the event that a manufactured home location or relocation is not deemed to constitute the expansion of an existing manufactured home park as used in division (C)(1) above and as defined in § 154.03, the location or relocation shall be allowed provided that the following requirements are met.

(a) Any manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood shall be elevated to or above the base flood elevation. All other manufactured homes placed, relocated or substantially improved in these existing manufactured home parks and subdivisions shall be elevated on reinforced piers or other foundation elements that are no less than 36 inches in height above grade or have their lowest floor at or above the base flood elevation if this allows for a lower foundation.

(b) Easy access for a manufactured home hauler is provided.

(3) New manufactured home parks and subdivisions, expansions to existing manufactured home parks and subdivisions, existing manufactured home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equal or exceed 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced, and manufactured homes placed on individual lots outside of manufactured home parks and subdivisions, shall have stands or lots (pads) elevated on compacted fill or on pilings so that the lowest floor of the manufactured home shall be elevated no

lower than (BFE feet) above the base flood elevation, except in coastal high hazard areas, where the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than (BFE feet) above the base flood elevation.
('71 Code, § 90-10) (Ord. 77-9, passed 6-1-77; Amd. Ord. 81-13, passed 4-1-81; Amd. Ord. 87-33, passed 11-2-87; Amd. Ord. 90-10, passed 6-4-90; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 97-25, passed 11-3-97)

§ 154.08 FLOOD ZONES V1-30.

(A) Applicability. The provisions of this section shall apply to all residential and nonresidential structures in Zones V1-30 on the community's flood insurance rate map.

(B) Requirements for Development.

(1) Development permits will be required for all proposed construction, repair, improvement, or alteration of a structure within Zones V1-30.

(2) Except as otherwise provided herein, all new construction and substantial improvements within a designated Zone V1-30 shall meet the following requirements.

(a) Be located landward of the mean high tide.

(b) Be elevated on adequately anchored piles or columns so that the structural members of the lowest floor are elevated at least to the regulatory flood elevation and securely anchored to the piles or columns; provided, however, construction on property fronting the Gulf of Mexico and west of Gulf of Mexico Drive within 250 feet of the mean high-water line of the Gulf of Mexico shall hereby be prohibited except for construction on piles in accordance with § 1303 of the Standard Building Code, adopted by reference in § 150.01, or the equivalent thereof approved by the Director or designee of the Planning, Zoning and Building Department at the expense of the applicant.

(c) Have the space below the lowest floor free of obstruction or constructed with breakaway walls intended to collapse under stress without jeopardizing the structural integrity of the building; all breakaway walls shall meet the requirements of § 154.12. If breakaway walls are utilized, the enclosed space shall not be used for human habitation.

(d) Be designated and constructed so as to minimize the impact and effect of abnormally high tides, wind-driven water, or waves on the building.

(3) The adequacy of provisions contained in division (B)(2)(b) and (d) above shall be certified to by a registered professional engineer or architect.

(4) Fill shall not be used for structural support within Zones V1-30.

(5) Alteration of sand dunes and mangroves which would increase potential flood damage is prohibited.

(C) Manufactured Home Requirements.

(1) No new manufactured home parks, expansion of existing manufactured home parks, or placement of any manufactured home not in a manufactured home park shall be allowed within a designated Zone V1-30.

(2) In the event that a manufactured home park location or relocation is not deemed to constitute the expansion of an existing manufactured home park as used in division (C)(1) above and as defined in § 154.03, the location or relocation shall be allowed provided that the following requirements are met.

(a) Any manufactured home moved into or relocated within an existing manufactured home park shall be anchored in accordance with the provisions in § 154.07(C)(1)(a), (b) and (d).

(b) Easy access for a manufactured home hauler is provided.

(3) New manufactured home parks and subdivisions, expansions to existing manufactured home parks and subdivisions, existing manufactured home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equal or exceed 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced and manufactured home parks and subdivisions, shall have stands or lots (pads) elevated on compacted fill or on pilings so that the lowest floor of the manufactured home shall be elevated no lower than (BFE feet) above the base flood elevation, except in coastal high hazard areas, where the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than (BFE feet) above the base flood elevation.
('71 Code, § 9C-11) (Ord. 77-9, passed 6-1-77; Amd. Ord. 81-13, passed 4-1-81; Amd. Ord. 87-33, passed 11-2-87; Amd. Ord. 97-25, passed 11-3-97) Penalty, see § 154.99

§ 154.09 DEVELOPMENT PERMITS.

(A) A development permit issued by the Town Manager or designee in conformity with the provisions of this chapter shall be secured prior to the erection, addition, or alteration of any building or structure or portion thereof or other development including, but not limited to, dredging, filing, grading, paving, or excavation within the permitted area prior to the change of use of a building, structure, or land, and prior to the change or extension of a nonconforming use.

(B) Development permits issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in the approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and enjoinable or punishable as provided by § 154.99.
('71 Code, § 9C-8) (Ord. 77-9, passed 6-1-77; Amd. Ord. 97-25, passed 11-3-97) Penalty see § 154.99

§ 154.10 MINIMUM FLOOR ELEVATION.

The following minimum building floor elevations for construction within the town are established: As indicated on the National Flood Insurance Program, Flood Insurance Rate Maps for the Town of Longboat Key in Manatee and Sarasota Counties, Panel 5 of 10, map revised 10-1-83 and Panel 10 of 10, map revised 8-15-83 and as such maps, or their equivalents, may from time to time be revised and made effective.
('71 Code, § 9C-9) (Ord. 77-9, passed 6-1-77; Amd. Ord. 82-12, passed 7-7-82; Amd. Ord. 84-5, passed 3-5-84; Amd. Ord. 97-25, passed 11-3-97) Penalty see § 154.99

§ 154.11 FLOODPROOFING.

(A) Whenever any of the provisions of this chapter require that a building be floodproofed or specify that floodproofing may be used as an alternative to elevating a structure above the regulatory flood level, floodproofing shall be deemed to include all of the following.

(1) Wherever possible, the location, construction, and installation of all electrical and gas utility systems in such a manner as to assure the continuing functioning of those systems in the event of a regulatory flood.

(2) The location, construction, and installation of all potable water supply systems in such a manner as to prevent contamination from floodwaters during the regulatory flood.

(3) Approved backflow preventers or devices shall be installed on main water service lines, at water wells, and at all building entry locations to protect the system from backflow or backsiphonage of floodwaters of other contaminants.

(4) Sanitary sewer and storm drainage systems that have openings below the regulatory flood elevation shall be equipped with automatic backwater valves or other automatic backflow devices that are installed in each discharge line passing through a building exterior wall.

(5) A registered professional engineer or architect shall certify that any new construction or substantial improvement has been designed to withstand the flood depths, pressure, velocities, impact, and uplift forces associated with the regulatory flood at the location of the building and that the walls below the regulatory flood level are substantially impermeable to the passage of water.

(B) Prior to construction, plans for any structure that is required to be floodproofed must be submitted to the Director or designee of the Planning, Zoning and Building Department for approval. The Director or designee of the Planning, Zoning and Building Department will review the plans for compliance with the provisions of division (A) above and for compliance with any other applicable building codes or regulations. The Director or designee of the Planning, Zoning and Building Department shall approve, reject, or recommend modifications of the plans within 30 days from the receipt of the plans.
('71 Code, § 9C-12) (Ord. 77-9, passed 6-1-77; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 97-25, passed 11-3-97) Penalty see § 154.99

§ 154.12 BREAKAWAY WALLS.

(A) Wherever any of the provisions of this chapter allow for a breakaway wall to be located below the regulatory flood level, the following conditions must be met.

(1) All new construction and substantial improvements within Zone V1-30 shall have the space below the lowest habitable floor free of obstructions; or be constructed with breakaway walls intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or wind-driven water is minimized.

(2) The temporarily enclosed space shall not be used for human habitation.

(B) Prior to construction, plans for any structure that will have breakaway walls must be submitted to the Director or designee of Planning, Zoning and Building Department for approval. The Director or designee of Planning, Zoning and Building Department will review the plans for compliance with the provisions of division (A) above. The Director or designee of Planning, Zoning and Building Department shall approve, reject, or recommend modifications of the plans within 30 days from receipt of the plans.
('71 Code, § 9C-13) (Ord. 77-9, passed 6-1-77; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 97-25, passed 11-3-97) Penalty see § 154.99

§ 154.13 SUBDIVISION PROPOSALS.

The Town Manager or designee shall review subdivision proposals and other proposed new developments to assure that all such proposals are consistent with the need to minimize flood damage; all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; adequate drainage is provided so as to reduce exposure to flood hazards; and all the proposals include flood elevation data.
('71 Code, § 9C-14) (Ord. 77-9, passed 6-1-77; Amd. Ord. 97-25, passed 11-3-97)

§ 154.14 UTILITIES.

(A) The Town Manager or designee shall require new or replacement water supply systems or sanitary sewer systems to be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

(B) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
('71 Code, § 9C-15) (Ord. 77-9, passed 6-1-77; Amd. Ord. 87-33, passed 11-2-87; Amd. Ord. 97-25, passed 11-3-97)

§ 154.15 VARIANCES.

(A) The Town Commission, upon receipt of a written application for a variance from the criteria of this chapter, shall approve or disapprove a request for variance in accordance with the procedures set forth below. Flood insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The procedure for the granting of variances is as follows:

(1) Variances shall not be issued by the Town Commission within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of paragraphs (3), (4), (5) and (6) of this section.

(3) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) The town shall notify the applicant in writing over the signature of the Town Manager that (i) the issuance of a variance to construct a structure below the base flood level will result in significantly increased premium rates for flood insurance, and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (6) of this subsection.

(6) The town shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual report submitted to the Administrator of the Federal Emergency Management Agency.

(B) Fee; Contents of Application. Each written application for a variance shall be accompanied by a fee as set by resolution of the Town Commission. Such an application shall reflect the type of structure for which a variance is sought, the size of the structure, the approximate location on the parcel, the intended use thereof and the facts which form the basis for granting a variance in accordance with the criteria set forth in this section.
('71 Code, § 9C-16) (Ord. 77-9, passed 6-1-77; Amd. Ord. 77-18, passed 7-6-77; Amd. Ord. 84-7, passed 3-5-84; Amd. Ord. 97-25, passed 11-3-97; Amd. Ord. 98-25, passed 7-16-98)

§ 154.99 PENALTY.

Any person, firm, company, corporation, or association, or the managing agent of any person, firm, company, corporation, or association, who violates this chapter shall be fined in a sum not more than $500, with each day of the violation constituting a separate offense. ('71 Code, § 9C-18) (Ord. 77-9, passed 6-1-77)

§ 154.100 FORM FOR ESTIMATING THE COST OF RESIDENTIAL IMPROVEMENTS.

This form establishes the procedure for estimating the cost of an addition to or the remodeling of (remodeling includes repair, reconstruction, rehabilitation, renovation or other improvements to an existing structure), an existing structure for purposes of determining the cost of construction. This form will establish if the proposed work is a substantial improvement (as defined in the Town of Longboat Key Code of Ordinances Chapter 154) to the structure.

The calculation of the overall estimate is based on both decorative and structural items. Labor, materials, overhead, profit and demolition costs are to be included. Excluded from the overall cost are plans, specifications, surveys and building and development permits, and other items which are separate from and incidental to the improvements, e.g., walkways, driveways, landscaping.

This cost estimate furnished by following the procedures set forth below shall be accepted as an estimate of costs based upon the prevailing costs in the town for typical residential construction.

Procedure: The cost of the construction multiplier in Parts 1 and 2 may be amended from time to time by resolution of the Town Commission based in the SBCCI Building Valuation Data Tables and Regional Modifier, Means Building Construction Cost Data Manual, and actual cost of local construction.

Please follow these step-by-step instructions, fill in the blanks as appropriate and furnish any attachments as may be called for.

Part 1. For new floor area (square footage added to an existing structure):

(A) If the addition is for space that is typically air-conditioned space, then complete this Part 1A.

Gross s.f. of new floor area including kitchen & baths: _____ s.f.

Multiply: X $55.00/ s.f.

Sub-total is 1A $ _____ .

(B) If the addition includes a new or relocated kitchen, also complete this Part 1B.

Gross s.f. in kitchen: _____ s.f.

If the kitchen addition exceeds 100 gross s.f. subtract: - 100 s.f.

Enter difference, or enter zero if gross s.f. are less than 100,

Multiply difference by: X $12.00/ s.f.

(This line cannot be less than zero): $ _____ .

Add: + $5000.00 .

Sub-total is 1B $ _____ .

(C) If the addition includes a new or relocated bathroom, also complete this Part 1C.

Gross s.f. in bath: _____ s.f.

If the bath addition exceeds 60 gross s.f. subtract: - 60 s.f.

Enter difference, or enter zero if gross s.f. are less than 60,

Multiply difference by: X $12.00/ s.f.

(This line cannot be less than zero): $ _____ .

Add $2500 for complete bath
(lavatory, water closet, tub and/or shower)

Add $1500 for half bath (lavatory, water closet)

Add: + $1500 or $2500 .

Sub-total 1C $ _____ .

REPEAT THIS PART 1C CALCULATION FOR EACH BATH AND EACH HALF BATH.

(D) If the addition includes unfinished, typically non-air-conditioned square footage, e.g., garages, porches, storage rooms, workshops, mechanical rooms and attics (if the attic space contains 60 s.f. or more of floor area and minimum ceiling height of 7'-0"), then complete this Part 1D.

Gross s.f. of space described in this Part 1D: _____ s.f.

Multiply: x $32.00/ s.f.

Sub-total 1D $ _____ .

(E) Total Estimated Cost for New Floor Area (Square Footage Added to an Existing Structure).

Sub-total 1A	$_____
Sub-total 1B	$_____
Sub-total 1C	$_____
Sub-total 1D	$_____
PART 1 TOTAL	$_____.

Part 2. For remodeling floor area (square footage improved within existing wall(s) of the structure, covered by an existing permanent roof):

Under this part, two options are available for providing estimated cost of construction: (1) Utilize this form as provided; or (2) provide a complete breakdown of project cost, i.e., labor, materials, from the most recently published Means Building Construction Cost Data Manual. The second option will also require a summary invoice from your material suppliers and subcontractors prior to final inspection, and the project total will be adjusted accordingly provided the accumulative improvement at the site has not exceeded the FEMA 50% rule prior to permit issuance.

(A) If the project includes minor remodeling, such as new/replacement doors, windows, interior finishes and painting only; or ceiling support structure modification to accommodate a second story addition, complete this Part 2A.

Gross s.f. of this minor remodeling: _____ s.f.

Multiply: x $12.00/ s.f.

Sub-total 2A $_____ .

(B) If the project includes minor remodeling, such as new/replacement walls, doors or windows and new interior finishes, electrical and relocated HVA, complete this Part 2B.

Gross s.f. of this minor remodeling: _____ s.f.

Multiply: x $30.00/ s.f.

Sub-total 2B $_____ .

(C) If the project includes major remodeling, such as exterior wall removal and/or relocation, removal of ceiling support structures, roof removal, creation of volume ceilings (above 8'-00" fin. flr.) clerestories, relocated electrical and HVAC, etc., complete this Part 2C.

Gross s.f. of this major remodeling: _____ s.f.

Multiply: x $63.00/ s.f.

Sub-total 2C $_____ .

(D) If the project includes a new or relocated kitchen, also complete this Part 2D.

Gross s.f. in kitchen: _____ s.f.

If the kitchen addition exceeds 100 gross s.f. subtract: - 100 s.f.

Enter difference, or enter zero if gross s.f. are less than 100,

Multiply difference by: X $30.00/ s.f.

(This line cannot be less than zero): $ _____ .

Add: + $5000.00 .

Sub-total 2D $ _____ .

(E) If the project includes a new or relocated bathroom, also complete this Part 2E.

Gross s.f. in bath: _____ s.f.

If the bath addition exceeds 60 gross s.f. subtract: - 60 s.f.

Enter difference, or enter zero if gross s.f. are less than 60,

Multiply difference by: X $12.00/ s.f.

(This line cannot be less than zero): $ _____ .

Add $2500 for complete bath (lavatory, water closet, tub and/or shower)

Add $1500 for half bath (lavatory, water closet)

Add: +$1500 or $2500.

Sub-total 2E $ _____ .

REPEAT THIS PART 2E CALCULATION FOR EACH BATH AND EACH HALF BATH.

(F) If existing, previously non-air-conditioned space is being air conditioned, such as when a garage is converted to a family room, or if an existing air conditioning system is being totally replaced, then complete this Part 2F.

Gross s.f. of newly air conditioned space or space for which A/C system was replaced: _____ s.f.

Multiply: X $3.00/ s.f.

(This line cannot be less than zero): $ _____ .

Sub-total 2F $ _____ .

(G) Total estimated cost for remodeled floor area (square footage improved within existing walls of the structure, covered by an existing permanent roof).

Sub-total 2A	$ _____
Sub-total 2B	$ _____
Sub-total 2C	$ _____
Sub-total 2D	$ _____
Sub-total 2E	$ _____
Sub-total 2F	$ _____
PART 2 TOTAL	$ _____

Part 3: If the project involves construction costs that were not included in the Part 1 or 2 above, then submit itemized estimate of these additional costs and add this total to the totals of Parts 1 and 2.

Part 4:

Total Part 1	$ _____
Total Part 2	$ _____
Total Part 3	$ _____
Grand Total	$ _____

_____

COMPLETED BY: _____

Signature

_____

Print or type name

_____

Date

COMPLETED FOR: _____

Property owner's name

_____

Brief description of project

_____

LOCATION: _____

Street address of project

(Ord. 92-30, passed 2-1-93; Amd. Ord. 97-25 Exh. A, passed 11-3-97)

Chapter 155: PLUMBING CODE

Section

155.01 Adoption of Standard Plumbing Code
155.02 Amendments to Standard Plumbing Code

§ 155.01 ADOPTION OF STANDARD PLUMBING CODE.

The Standard Plumbing Code, 1994 Edition, with appendices thereto, published by the Southern Building Code Conference International, Inc., 900 Montclaire Road, Birmingham, AL 35213, is hereby adopted as part of the building code of the town. If any provision of this chapter conflicts with any adopted provision of the Standard Plumbing Code, the most restrictive provision shall apply. One copy of the Code shall be on file with the Town Clerk, identified as an official copy; and three or more copies shall be on file with the Town Planning, Zoning and Building Department and shall be kept there available for public use, inspection and examination. Any reference in the Standard Plumbing Code, 1994 Edition, that uses the word "city" shall mean "town." The Code is adopted by reference as authorized by F.S. § 553.73. ('71 Code, § 16-1) (Ord. 73-22, passed 9-12-73; Amd. Ord. 74-32, passed 11-6-74; Amd. Ord. 76-7, passed 4-7-76; Amd. Ord. 81-35, passed 10-7-81; Amd. Ord. 87-10, passed 7-16-87; Amd. Ord. 90-30, passed 12-3-90; Amd. Ord. 92-10, passed 3-2-92; Amd. Ord. 96-07, passed 5-6-96)

§ 155.02 AMENDMENTS TO STANDARD PLUMBING CODE.

The following modifications, changes, and additions to the Standard Plumbing Code, 1994 Edition, are hereby adopted:

(A) Section A103.7.4, Schedule of Permit Fees, is amended and shall be as set by resolution of the Town Commission.

(B) Section 409.8.2.1, Construction, is amended by adding the following new subsection:

"4.09.8.2.1 Top of shower strainer 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."

(C) Section 501.7, Location, is amended by adding the following new subsection:

"501.7.1 Water heaters shall not be installed in the attic or loft of any building."

(D) Section 606.4, Backflow Preventer Installation, is amended by adding the following new subsection:

"606.4.4 BACKFLOW PREVENTION

1. Each service line, either commercial or residential, shall be equipped with its own cut off valve and backflow prevention device. Cut off valves to be full flow and backflow prevention devices shall be selected according to the degrees of hazard present.

2. The following devices shall be installed in specified applications and shall conform to the requirements of Appendix D.

APPLICATION	DEVICE
Residential and individual	FEBCO 805Y or equal
Condominium units and commercial	FEBCO 805Y or equal
Applications where the installation only includes fixtures common to residential use	FEBCO 805Y or equal
Condominium (up to 3 stories)	FEBCO 805Y or equal
Condominium (3 stories and above)	FEBCO 825Y or equal
Commercial (3 stories and above)	FEBCO 825Y or equal
Fire lines	FEBCO 806Y or equal
Lawn sprinkler/irrigation (metered)	FEBCO 805Y or equal
Lawn sprinkler/irrigation (well)	FEBCO 825Y or equal"

(E) Section 607.8, Hazard and Noise, is amended by adding the following new subsection:

"607.8.4 Air chamber fifteen (15) inches long or equal shall be provided on each lavatory or washbasin."

(F) Section 608.1.1, the first sentence of said section is replaced with the following new sentence:

"608.1.1 Materials for underground water service pipe and lawn sprinkler systems shall be Type L copper tube, brass, cast iron pressure pipe, galvanized steel, or pressure-rated plastic as listed in Table 603."

(G) Section 611.2 and Section 611.3 are replaced with the following new sections:

"611.2 Materials Above Ground

Above ground materials for water-distribution pipes and tubing shall be brass, copper water tube Type L or K, stainless steel water tube minimum Grade H, all to be installed with approved fittings; except that changes in direction in copper tube (ASTM B 88) may be made with bends having a radius of not less than four diameters of the tube, providing that such bends are made by use of forming equipment which does not deform or create a loss in cross-sectional area of the tube.

611.3 Materials Below Ground

"Inaccessible water distribution piping under slabs shall be copper water tube Type L or K or brass, all to be installed with approved fittings or bends. Any material subject to corrosion

shall be protected when used in corrosive soils."
('71 Code, § 16-2) (Ord. 190, passed--; Amd. Ord. 74-32, passed 11-6-74; Amd. Ord. 76-7, passed 4-7-76; Amd. Ord. 81-35, passed 10-7-81; Amd. Ord. 83-12, passed 7-6-83; Amd. Ord. 84-3, passed 3-5-84; Amd. Ord. 85-15, passed 11-4-85; Amd. Ord. 85-23, passed 1-6-86; Amd. Ord. 87-10, passed 7-16-87; Amd. Ord. 88-14, passed 5-2-88; Amd. Ord. 90-27, passed 10-8-90; Amd. Ord. 90-30, passed 12-3-90; Amd. Ord. 98-20, passed 7-6-98; Amd. Ord. 98-25, passed 7-16-98)

1999 S-16

LONGBOAT KEY - PLUMBING CODE 69/70

Chapter 156: SIGN CODE

Section

156.01	Purpose and objectives
156.02	Applicability of other code or regulatory requirements
156.03	Administration fees
156.04	Exempt signs
156.05	Prohibited signs
156.06	Permitted temporary signs
156.07	Permitted permanent signs
156.08	Illuminated signs
156.09	Historical signs
156.10	Placement and construction standards
156.11	Variances
156.12	Nonconforming signs
156.13	Maintenance and abandonment
156.14	Violations and sign removal
156.15	Revocation of permits
156.16	Enforcement and penalties
156.100	Definitions

Cross reference:

Zoning use regulations, see § 158.037

Prior History:

1971 Code §§ 18-1, 18-2, 18-3, 18-4, 18-5, 18-6, 18-7, 18-8, 18-9, 18-10, 18-11, 18-12, 18-13, 18-14.

Ord. 73-12, passed 5-24-73; Amd. Ord. 78-12, passed 10-25-78; Amd. Ord. 79-14, passed 8-1-79; Amd. Ord. 84-13, passed 12-3-84; Amd. Ord. 88-29, passed 11-7-88; Ord. 90-06, passed 3-19-90; Amd. Ord. 92-17, passed 6-18-92; Ord. 93-25, passed 2-7-94; Amd. Ord. 94-01, passed 3-24-94

§ 156.01 PURPOSE AND OBJECTIVES.

The ordinance codified in this chapter creates the legal framework for a comprehensive sign code intended to assure consistent and fair regulation, permitting and enforcement for all outdoor signs and sign structures. Its objective shall be to protect the health, safety and general welfare of those residing, visiting, and working on this barrier island. It is intended to improve pedestrian and vehicular traffic safety. Further, it shall be used to promote efficient communication and identification for business, residents and government and to preserve the property values and the aesthetic quality of the town. The Town Manager shall be responsible for the administration of this chapter in coordination with other appropriate town, state and federal agencies or departments.

(Ord. 95-04, passed 5-1-95)

strict conformity with the Town Fire Protection Code (§ 94), the Town Tree Code (§ 98), the Town Building Code (§ 150), the Town Electrical Code (§ 153), the Town Zoning Code (§ 158), Florida Statutes, and all other applicable regulations.

In the event of any of the provisions of this section are in conflict with other sections of this Code or other applicable requirements, the more restrictive requirements shall apply. (Ord. 95-04, passed 5-1-95)

§ 156.03 ADMINISTRATION FEES.

(A) Permits.

(1) All work to demolish, alter, rebuild, enlarge, extend, relocated, attach to, suspend from, or support from a building or structure a permanent or temporary sign requires a permit issued by the town unless the sign is specifically exempted from the permit requirements of this chapter.

(2) It shall be unlawful to change, modify, alter or otherwise deviate from the terms or conditions of a sign permit without the prior approval of the Town Manager. Written record of such approval shall be entered upon the original permit application and maintained in the files of the town.

(3) No permit for any permanent on-site sign shall be issued until a building permit has been issued for the building, structure or establishment to which it relates.

(4) No sign permits will be issued for a premises when existing signage of the same type exceeds the limits of this chapter.

TYPES OF SIGNS THAT REQUIRE A SIGN PERMIT

A. Temporary Signs

1. Special Event Signs
2. Real Estate, For Sale or Lease Signs
3. Open House Signs
4. Future Project Signs
5. Yard, Garage and Household Sale Signs

B. Permanent Signs

1. Freestanding Signs
2. Wall Signs
3. Overhang and Covered Walkway Signs
4. Directory Signs
   a. On-site Directory Signs
   b. Off-premises Directory Signs for one business organization or activity
   c. Off-premises Directory Signs for multiple business organizations or activities
5. Changeable Copy Signs

(B) Application.

(1) Who Must Apply: For all signs not specifically exempted or prohibited, the real property owner or his authorized agent shall submit an application on forms furnished by the town, together with applicable fees. If the applicant is not the owner, then written consent of the real property owner is required.

(2) The Application: Each application shall contain an agreement to indemnify and hold the town harmless for all damages, demands, or expenses caused by the sign or sign structure. The application shall be filed in triplicate and may require the following information, depending upon the type of sign requested:

(a) The name, address and telephone number of the real property owner, lessee (if applicable) and sign contractor (if applicable). If the applicant is not the owner, then written consent of the real property owner is required;

(b) The legal description, boundary survey, parcel identification number, and the street address of the property upon which the sign is to be placed;

(c) Plot plans, site plans or survey showing the location(s) of the existing and/or proposed sign(s), building, parking, streets, driveways, rights-of-way, easements, property lines, overhead utilities and applicable intersection visibility standards;

(d) Drawings or photographs of the proposed sign and sign structure including footings, dimensions, height, setbacks, clearances, spacing, size of sign face, percentage of sign face illuminated, sign area, colors, elevation of building walls (if applicable) and existing signs;

(e) Drawings shall reflect all required electrical information in accordance with the Town's Electrical Code;

(f) For all permanent signs, certification by an engineer registered in the State of Florida of the plans and specifications. Engineering specifications shall include stress diagrams and calculations showing that the structure is designed for deadload and wind pressure in any direction in the amount required by the Standard Building Code and this chapter;

(g) For all off-premises signs, including open house signs, written permission from the property owner for which the off-premises sign is to be placed.

(3) Renewals: Any application for renewal of a permit for a temporary sign shall be filed in triplicate and shall contain as much of the information requested in (2) above as deemed appropriate by the Town Manager.

(4) Prior Violations: Previous violators of this Chapter will not be issued a new sign permit unless they have paid the appropriate fine or storage cost for all previous sign violations and have corrected the sign violation.

(5) Duration: An application of a sign permit shall be void 90 days after the date of the application unless a permit has been issued. One or more extensions of time for a period not to exceed 90 days may be granted by the Town Manager so long as: (i) the conditions under which the permit was issued are the same at the time of permit extension; and (ii) the construction, specifications and placement of the sign(s) are substantially the same contained in the approved permit application; and (iii) the delay in erection of the sign is not within the control of the property owner, lessee, or their authorized agent.

(C) Permit Identification Tag.

(1) A permit identification tag issued by the town shall be permanently attached to all signs or sign structures in an accessible place, visible from the adjacent street and legible from ground level. The permit identification tag shall bear the number of the sign permit. Absence of this tag from any sign, except exempted signs, shall constitute prima facie evidence of the violation of this chapter.

(2) No sign, unless specifically exempted herein, shall be erected, displayed, rebuilt, repaired, or otherwise maintained which does not have a permit identification tag attached as described above.

(3) The property owner (or the authorized agent) is responsible for maintaining a valid permit identification tag on each permitted sign at all times.

(D) Fee Schedule. All fees shall be paid prior to the issuance of a permit or renewal. Fees for each category of sign shall be in the amounts determined by the Town Commission in a Fee Schedule which may be adopted and amended by resolution.
(Ord. 95-04, passed 5-1-95)

§ 156.04 EXEMPT SIGNS.

(A) The following signs are exempted from the permit requirements of this chapter provided that the signs are located in accordance with the placement standards in § 156.10(A), except § 156.10(A)(4):

(1) Permanent on-site signs which do not exceed two square feet in area and which are:

(a) An identification sign,

(b) A directional sign, or

(c) A sign located in a yard indicating danger, no trespassing, or similar information, provided such signs shall be located only along the boundary or perimeter of the property and that there shall be no more than one such sign located within or along each 100 lineal or curvilinear feet, or fraction thereof, of the property's boundary or perimeter;

(2) Government signs;

(3) One national flag and one state flag and one foreign national flag or flag, emblem or insignia of a not-for-profit organization. In no case may more than three flags be flown at any one time on each lot, tract or parcel;

(4) Private navigational aids in conformance with state regulations;

(5) On-site religious symbols or identification emblems of religious orders at houses of worship;

(6) Other on-premises religious symbols or identification emblems of religious orders, not to exceed two square feet in area;

(7) Signs officially recognized by the Town Commission as having historical significance in accordance with § 156.09;

(8) Manatee protection signs and watercraft speed signs as specified in § 158.102(F)(5)(d);

(9) Vehicle identification signs;

(10) Signs incorporated on machinery or equipment at the manufacturers or distributors level which identify or advertise only the product(s) or service(s) dispensed by the machine or equipment; such as signs customarily affixed to beverage machines, newspaper racks, telephone booths, gasoline pumps, ATMs, and similar machines or equipment;

(11) Seasonal, holiday or commemorative decorations containing no advertising, provided that such decorations are not displayed for a period of more than 45 days per occasion. Such signs shall not be displayed in such a manner to cause a nuisance or hazard to public health, safety or welfare;

(12) Political signs, subject to the following criteria:

(a) Each sign shall not exceed five square feet in area,

(b) A maximum of two political signs are permittable per lot, parcel or tract,

(c) The signs shall be prohibited within street rights-of-way, but may be erected on private property and shall be removed from the premises within 48 hours after the issue or campaign has been decided or resolved;

(13) Window signs, subject to the following criteria:

(a) In addition to any other sign or signs allowed, a commercial establishment shall be entitled to use window signs for the display of the name of the establishment, and for temporary advertisements of special events at their places of business. Window signs may be a banner sign, but no more than one window sign may be used for each 20 feet or fraction thereof of display window frontage, nor may any such sign exceed six square feet in area. Except for "open" and "closed" signs, window signs shall not be electrical signs. Displays of photographs, merchandise, or a maximum of four decals in the display window of a commercial establishment, which are customary to the business, will not be subject to the requirements of this chapter,

(b) Window signs are not permitted in residential districts,

(c) Window signs shall only be placed on the inside surface of windows;

(14) Informational decals and bumper stickers placed on vehicles;

(15) Nonilluminated advertising signs located on vehicles whose primary purpose is mass transit;

(16) Balloons not to exceed two feet in diameter together with associated party, commemorative, or celebratory banners or signs, displayed for less than 24 hours and displayed solely for noncommercial purposes.

(B) The following signs are exempted from the permit requirements of this chapter provided that the signs are located in accordance with the placement standards in § 156.10(A):

(1) Chamber of Commerce signs, one placed at each the north and south entrances to the town on Gulf of Mexico Drive; and one sign not to exceed six square feet at the location of the Chamber of Commerce's main office;

(2) Off-premises directional signs for emergency medical services, not to exceed four square feet.

(Ord. 95-04, passed 5-1-95; Amd. Ord. 96-03, passed 5-6-94; Amd. Ord. 97-08, passed 7-7-97)

§ 156.05 PROHIBITED SIGNS.

The following signs are specifically prohibited unless exempt pursuant to § 156.04:

(A) Any sign which:

(1) Bears or contains statements, words, or pictures of any obscene, pornographic or immoral character,

2000 TOWN CODE

(2) Employs motion picture projection,

(3) Emits audible sound, vapor, smoke, odor, or gaseous matter.

(4) Has unshielded illuminated devices that produce glare or are a hazard or nuisance to motorists, cyclists, pedestrians or occupants of adjacent properties, or in any way threatens or endangers sea turtles as set forth in Chapter 100 of the Town Code, Sea Turtles,

(5) Causes radio, television or other communication interference,

(6) Is erected or maintained so as to obstruct any fire fighting equipment, window, door, or opening used as a means of ingress or egress for fire escape purpose including any opening required for proper light and ventilation,

(7) Uses the words "stop," "look," "slow," "yield" or similar messages, except as may be necessary to provide traffic safety within a particular premises,

(8) For any reason impairs, interferes with the view of, or be confused with any emergency vehicle lighting, or interferes with, misleads or confuses traffic,

(9) Was constructed in violation of the Building Code or Electrical Code as adopted by the town,

(10) Is a non-governmental sign which does not comply with the intersection visibility standard, or

(11) Is a permanent sign, except for a residential development name sign, located on or in conjunction with property that is residentially used or zoned;

(B) Abandoned signs;

(C) Off premises signs unless expressly permitted in this chapter;

(D) Handwritten signs;

(E) Wind signs, snipe signs, party balloons, banners, pennants, flags, streamers or similar devices located so as to be visible from public or private roads or waterways unless otherwise permitted pursuant to this chapter;

(F) Mailbox signs other than letters and numbers which conform to applicable United States Postal Service criteria, not to exceed three inches in height;

(G) Containers attached to a mailbox or mailbox post advertising a business or product;

(H) Portable signs, except open house signs in compliance with § 156.06(B)(3);

(I) Vehicle or trailer signs, except political signs or signs affixed to vehicles whose primary purpose is mass transportation;

(J) Roof signs;

(K) Signs on the side or rear of any non-residential building or property (excluding the front of buildings) directly facing residentially zoned property;

(L) Permanent or temporary signs in any public right-of-way;

(M) Future project signs, except for projects that have received site plan approval;

(N) Animated signs;

(O) Search lights, flashing lights, strobe lights, animated or moving lights, border lighting and beacon lights used for display purposes;

(P) Reflective backgrounds, except on directional signs;

(Q) Neon tubing which is not completely enclosed within a U.L. approved sign cabinet;

(R) Any accessory sign attached to a temporary or permanent sign or its sign structure. Multiple listing strips, broker identification strips, sold signs and similar informational strips or riders are prohibited;

(S) Signs on canvas and/or vinyl materials used as awnings, canopies, or other structures, except for addresses and directional information located only on the face of the awning;

(T) All signs not expressly permitted or exempted by this chapter.

(Ord. 95-04, passed 5-1-95; Amd. Ord. 96-08, passed 6-3-96; Amd. Ord. 97-08, passed 7-7-97)

§ 156.06 PERMITTED TEMPORARY SIGNS.

(A) General Conditions and Permit Requirements. All temporary signs which are not specifically exempted or prohibited under this chapter shall require a site specific sign permit for temporary use prior to the placement of the sign on private or public property. All temporary signs shall be erected in conformance with the placement standards of § 156.10. Temporary signs shall be permitted for a period of time not to exceed nine months, unless the time frame for that specific permitted temporary sign is less as provided herein. Any sign which is permitted for a nine month period shall be entitled to a renewal(s) for a period of time not to exceed 90 days, upon the demonstration by the applicant that:

(1) The conditions under which the permit was issued are the same at the time of the requested extension; and

(2) The intended action or result requested by the sign has not been fulfilled despite reasonable efforts to accomplish it.

(B) Types of Permitted Temporary Signs.

(1) Special Event Signs.

(a) Signs announcing special events for civic purposes which are sponsored by a not-for-profit organization, including the Chamber of Commerce, may be permittable subject to the following additional criteria:

(i) The sign(s) may be displayed up to seven consecutive days, and may be extended for a reasonable amount of time subject to written authorization from the Town Manager;

(ii) The sign(s) shall not be constructed of reflective material or illuminated;

(iii) The maximum size of home tour directional signs shall not exceed four square feet.

(b) On-site grand opening signs announcing the grand opening of developments, construction sites, or changing ownership or management shall not be displayed more than seven consecutive days. Such on-site grand opening signs shall be permitted once per owner or tenant for each property subject to the opening.

(2) Real Estate, For Sale or Lease Signs. A real estate sign can be placed only by: (i) the owner of the specific property for sale, rent or lease; or (ii) the owner's authorized agent. Real estate signs are permittable subject to the following additional criteria:

(a) One non-illuminated sign shall be allowed to be placed along the road frontage of a specific lot, parcel or tract to advertise that property.

(b) The maximum size of the sign shall be four square feet.

(c) The sign shall be free-standing with a 4" x 4" support post with the top of the supporting arm a maximum of four feet from the ground.

(d) The sign shall have a single background color and shall have no more than a total of three colors, exclusive of a registered logo, trademark or designation required by federal, state or local law. Black and white are considered colors.

(e) The sign structure shall be painted white.

(f) Multiple listing strips, broker identification strips, sold signs and similar informational strips or riders are prohibited.

(g) The sign shall be removed within two business days after transfer of ownership, when the property is no longer for rent, sale or lease, when the lease or rent period commences, or when the temporary sign permit expires, whichever occurs first.

(h) Signs, indicating "vacancy", "no-vacancy", "for lease", "for rent", or other language indicating availability of temporary occupancy are prohibited in all non-residentially zoned property or property which is zoned residential but has a legal nonconforming use.

(3) Open House Signs.

(a) On-premises open-house signs associated with the sale or rental of property are permittable subject to the following additional criteria:

(i) The maximum size of the sign shall be three square feet.

(ii) No balloons, streamers, flags or similar attention attracting items may be attached to the sign.

(iii) A maximum of one open-house sign may be placed on the lot, parcel or tract that is advertised for sale, lease or rent.

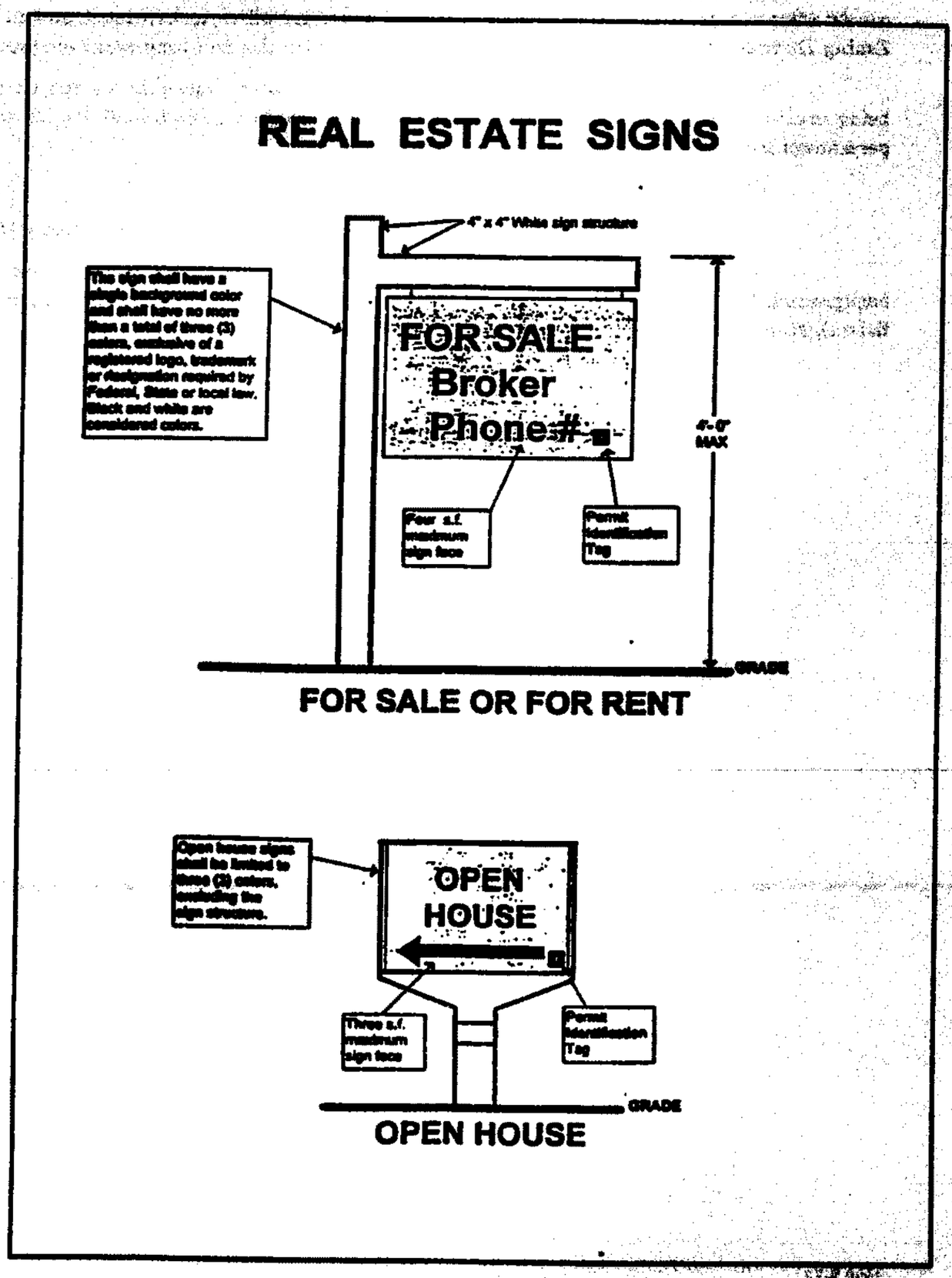
(iv) The sign shall not be displayed more than one hour prior to when the house is open for public viewing and removed not later than one hour after the house is closed.

(v) Open-house signs shall be limited to three colors, excluding the sign structure.

(b) Off-premises open-house signs are subject to the above criteria except that:

(i) No more than one off-premises open-house sign shall be placed at one connecting street to Gulf of Mexico Drive, and no more than one off-premises open-house sign shall be placed at other street intersections leading to the advertised property. The granting of an on-site open-house sign permit and payment of the permit fee shall entitle the applicant to a maximum of three off-premises open-house signs. These off-premises open-house signs shall be erected on a first-come, first-served basis.

(ii) Off-premises open-house signs shall be directional only.


REAL ESTATE SIGNS
4" x 4" White sign structure
This sign shall have a single background color and shall have no more than a total of three (3) colors, exclusive of a registered logo, trademark or designation required by Federal, State or local law. Black and white are considered colors.
FOR SALE
Broker
Phone#
4'-0" MAX
Four s.f. maximum sign face
Permit Identification Tag
GRADE
FOR SALE OR FOR RENT
Open house signs shall be limited to three (3) colors, excluding the sign structure.
OPEN HOUSE
Three s.f. maximum sign face
Permit Identification Tag
GRADE
OPEN HOUSE

(4) Future Project Signs. Temporary freestanding future project signs for all residential construction requiring site plan approval, and all commercial, office, institutional, and all other Zoning Districts are permittable subject to compliance with the following requirements:

(a) The sign may be erected only after approval of a site plan for the structure being erected and shall be removed after certificate of occupancy or completion, or once a permanent sign has been erected, whichever occurs first;

(b) One sign permitted per site;

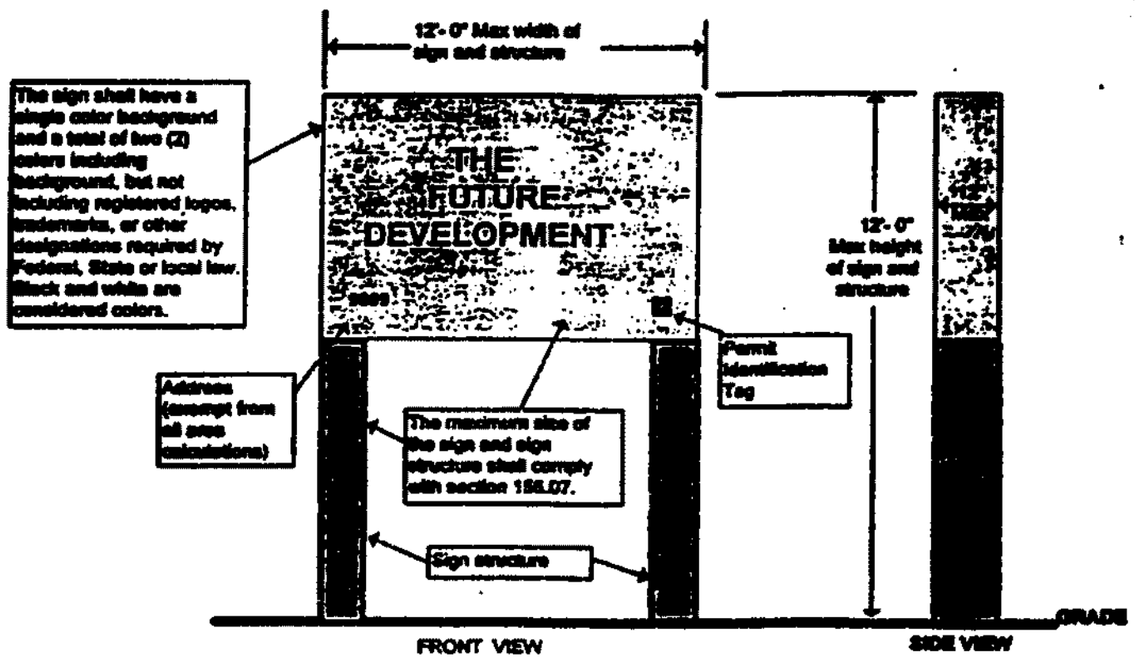
(c) The maximum size of the sign and sign structure shall comply with § 156.07;

(d) The sign shall have a single color background and a total of two colors including background, but not including registered logo, trademark or other designation required by federal, state or local law. Black and white are considered colors;

(e) The sign shall not be illuminated or constructed with reflective materials.

2000 TOWN CODE

FUTURE PROJECT SIGNS.



Temporary freestanding future project signs for all residential construction requiring site plan approval, and all commercial, office, institutional, and all other Zoning Districts are permittable subject to compliance with the following requirements:

The sign may be erected only after approval of a site plan for the structure being erected and shall be removed after certificate of occupancy or completion, or once a permanent sign has been erected, whichever occurs first.

The sign shall comply with the standards for future project signs contained in section 156.06(B)(4).

The maximum size for a permitted freestanding future project sign and its structure is determined by the lineal feet of frontage on the right-of-way for the lot on which the building is located and faces in accordance with the following schedule:

LINEAL FEET OF FRONTAGE	MAXIMUM SIZE OF SIGN FACE (Single-Face)	MAXIMUM SIZE OF SIGN FACE (Double-Face)	MAXIMUM SIZE OF STRUCTURE
0 - 73 Ft.	16 Sq.Ft.	32 Sq. Ft.	32 Sq. Ft.
73 - 99 Ft.	24 Sq.Ft.	48 Sq. Ft.	48 Sq. Ft.
99 + Ft.	32 Sq.Ft.	64 Sq. Ft.	64 Sq. Ft.

(5) Yard, Garage and Household Sale Signs.

(a) On-premises, yard, garage and household sale signs are permittable; provided, that no more than two permits for any address may be issued within any consecutive 12-month period, and shall be subject to the following criteria:

(i) The maximum size of the sign shall be three square feet.

(ii) No balloons, streamers, flags or similar attention attracting items may be attached to the sign.

(iii) A maximum of one sign may be placed on the lot, parcel or tract where the sale is held.

(iv) The sign shall not be displayed more than one hour prior to the commencement of the sale and removed not later than one hour after the conclusion of the sale.

(v) The sign shall be limited to three colors, excluding the sign structure.

(b) Off-premises yard, garage and household sale signs are subject to the criteria in (5) above except that:

(i) No more than one off-premises sign shall be placed at one connecting street to Gulf of Mexico Drive, and no more than one sign shall be placed at other street intersections leading to the advertised property. The granting of an on-site yard, garage or household sale sign permit and payment of the permit fee shall entitle the applicant to a maximum of two off-premise yard, garage or household sale signs. These off-premise yard, garage and household sale signs shall be erected on a first come, first-served basis.

(ii) Off-premises signs shall be directional only.

(6) Construction Signs.* Construction signs identifying the owner/developer(s), architect(s) and/or contractor(s), are permittable subject to the following additional criteria:

(a) All residential construction when the building(s) being (re)constructed are residential and less than 10 units, or individual dwelling units within a multi-family building;

(i) The sign may be erected only after issuance of a building permit for the structure being erected and shall be removed after certificate of occupancy or completion, whichever occurs first,

(ii) One sign permitted per site,

(iii) The maximum size of sign shall be four square feet,

(iv) The sign shall be freestanding with a 4" x 4" support post. The top edge of supporting arm shall be a maximum of four feet off the ground. All supports shall be painted white,

(v) The sign shall not be illuminated or constructed with or of reflective materials,

(vi) No more than two colors including single-color background, but not including registered logos, trademarks, or other designations required by federal, state or local law. Black and white are considered colors;

(b) All residential (re)construction of 10 or more units, and all commercial, office, institutional, and all other zoning districts shall comply with (a)(a) above except that:

(i) The maximum size of the sign and sign structure shall comply with ~~§ 156.10~~ 156.07

(ii) The sign shall have a single color background and total of three colors including background, but not including registered logo, trademark or other designation required by federal, state or local law. Black and white are considered colors.

(Ord. 95-04, passed 5-1-95; Amd. Ord. 96-08, passed 6-3-96)

* See also the diagram entitled "Temporary Construction Signs" on the following page.

§ 156.07 PERMITTED PERMANENT SIGNS.

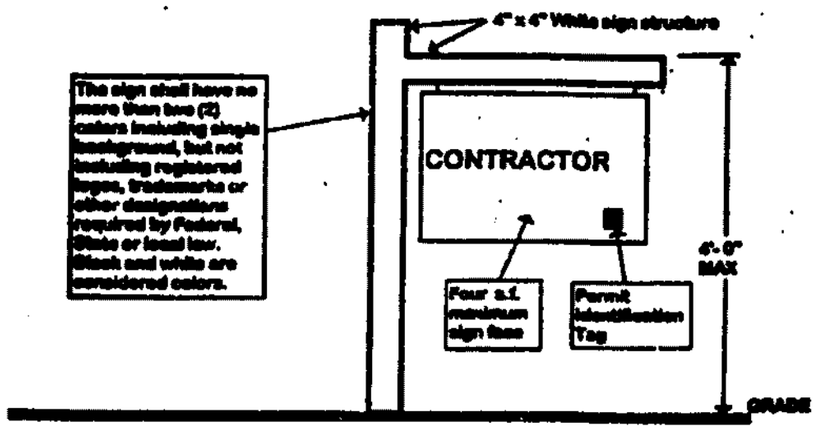
(A) General Conditions and Permit Requirements.

(1) Permanent signs not specifically exempted or prohibited under this chapter, shall require a site specific sign permit prior to the placement of the sign on private or public property. All permittable permanent signs must meet the construction and placement requirements contained in § 156.10.

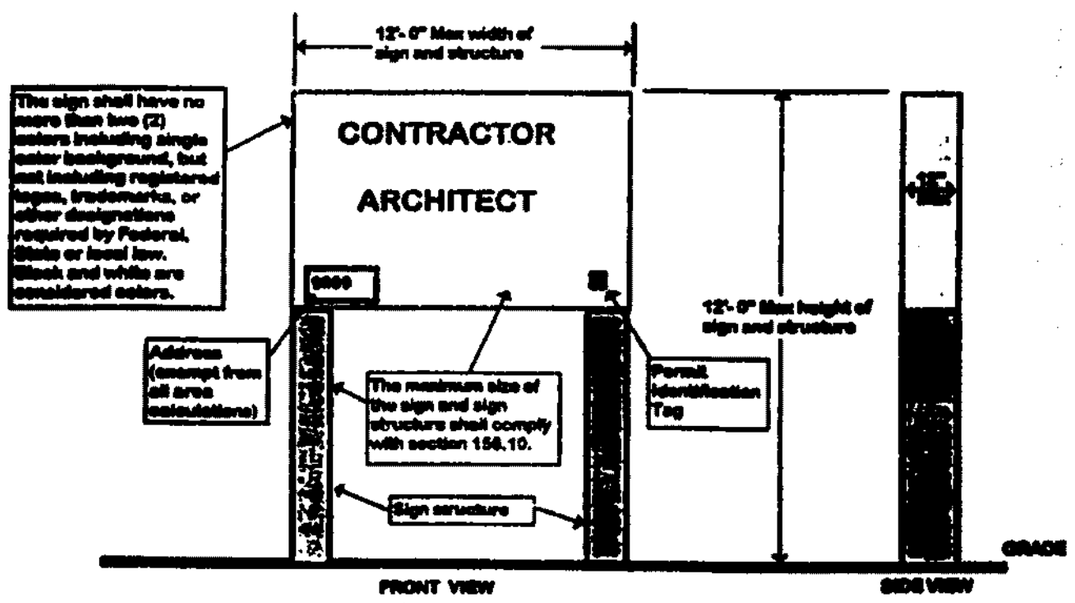
(2) One wall sign shall be permitted per occupant/tenant space, however, if only one occupancy/tenant space exists per property, a wall sign or freestanding sign is permittable, but not both. In addition, if an overhanging sign is placed parallel to the building, a wall sign for that occupant/tenant space shall be prohibited.

(B) Freestanding Signs. Freestanding signs are permittable subject to the following additional criteria:

TEMPORARY CONSTRUCTION SIGNS



Residential construction of less than 10 units or individual dwelling units within a multi family building



Residential construction of 10 or more units or non residential projects

(1) The maximum size for a permanent permitted freestanding sign and its structure is determined by the lineal feet of frontage on the right-of-way for the lot on which the building is located and faces in accordance with the following schedule:

LINEAL FEET OF FRONTAGE	MAXIMUM SIZE OF SIGN FACE (Single-Face)	MAXIMUM SIZE OF SIGN FACE (Double-Face)	MAXIMUM SIZE OF STRUCTURE
0 - 73 Ft.	16 Sq. Ft.	32 Sq. Ft.	32 Sq. Ft.
73 - 99 Ft.	24 Sq. Ft.	48 Sq. Ft.	48 Sq. Ft.
99+ Ft.	32 Sq. Ft.	64 Sq. Ft.	64 Sq. Ft.

(2) Only one freestanding sign is allowed per lot, tract or parcel, except residential developments which may have one residential development name sign at each principal entrance.

(3) Sign structures shall not contain advertising matter, nor shall the form or substance of the sign structure be such as to advertise or denote the business or other activity of the establishment, organization or entity owning the sign.

(4) The numerical address of the business, service or establishment may be included on the sign itself or on the sign structure, and if on the sign structure, the numerical address will not cause the structure to be included in the calculation of the maximum size of sign face. As per Town Code § 94.44(A), the size of numerical address numbers for single-family residential properties shall be four inches and all others shall be six inches.

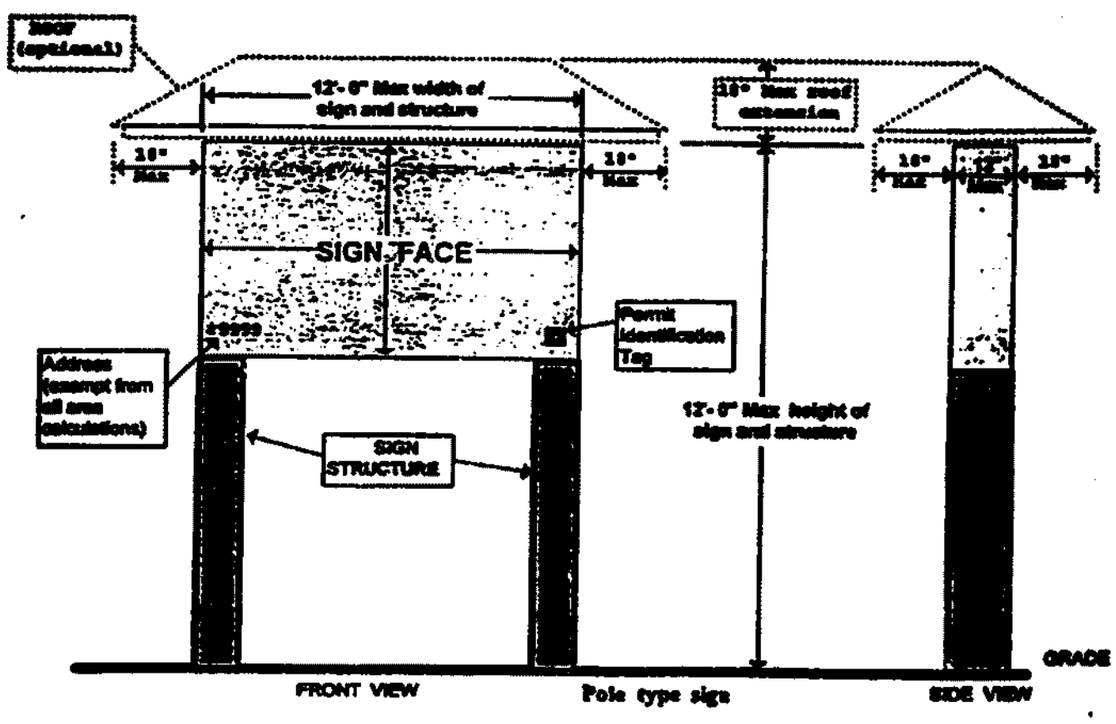
(5) The maximum height of a sign and its structure shall not exceed 12 feet. The maximum width of a sign and its structure shall not exceed 12 feet. The maximum depth (thickness) of a sign and its structure shall not exceed 12 inches. Roofs on signs, where allowed for the purpose of sign protection or concealment of a light source, are allowed to extend a maximum of 18 inches on all sides of the sign; however, the total width of the roof on the sign shall not to exceed 48 inches.

(6) No more than three colors shall be allowed for one sign and its supporting structure, including the color used for the background, but excluding the registered logo, trademark or other designation required by federal, state or local law. Black and white are considered colors. However, if the sign structure is constructed from wood or stone, the natural color of the product may be an exception from the three color rule. A liquid preservation coating may be applied to the stone or wood sign structure without compromising this exception.

(7) Double-faced signs must contain the same message on both sides.

2000 TOWN CODE

PERMANENT FREE STANDING SIGNS



The design of this sign is not mandatory, and is intended for illustrative purposes only.

No more than three (3) colors shall be allowed for one sign and its supporting structure, including the color used for the background, but excluding the registered logo, trademark or other designation required by Federal, State or local law. Black and white are considered colors. However, if the sign is constructed from wood or stone, the natural color of the product may be an exception from the three (3) color rule. A liquid preservation coating may be applied to the stone or wood sign structure without compromising this exception

The maximum size for a permanent permitted freestanding sign and its structure is determined by the lineal feet of frontage on the right-of-way for the lot on which the building is located and faces in accordance with the following schedule:

LINEAL FEET OF FRONTAGE	MAXIMUM SIZE OF SIGN FACE (Single-Face)	MAXIMUM SIZE OF SIGN FACE (Double-Face)	MAXIMUM SIZE OF STRUCTURE
0 - 73 Ft.	16 Sq.Ft.	32 Sq. Ft.	32 Sq. Ft.
73 - 98 Ft.	24 Sq.Ft.	48 Sq. Ft.	48 Sq. Ft.
98 + Ft.	32 Sq.Ft.	64 Sq. Ft.	64 Sq. Ft.

(C) Wall Signs. Wall signs are permittable signs provided they meet the following additional criteria:

(1) One wall sign shall be permitted per occupancy/tenant.

(2) Wall signs shall not be painted on the building surface.

(3) The wall sign shall be attached to the building and supported throughout its entire length by the facade of the building.

(4) The maximum area of a wall sign shall be in accordance with the following schedule:

LINEAL FEET OF FRONTAGE OF OCCUPANT/TENANT SPACE	MAXIMUM SIGN AREA
0-74 feet	16 square feet
74-99 feet	24 square feet
99+ feet	32 square feet

(5) Calculation of wall sign area.

(a) When a sign panel or similar device is attached to a building wall the sign area is determined by the area of the sign face.

(b) When individual letters or symbols are directly attached to a building wall without the use of a sign panel or similar device, the sign area is determined in accordance with § 156.100, definition of sign area.

(6) Legal conforming wall bearing signs will be exempted from sign structure size, but shall be subject to sign area requirements.

(D) Overhang and Covered Walkway Signs. Overhang signs are permittable provided that the signs meet the following additional criteria:

(1) The sign shall not protrude beyond the face of the overhang or roof of the walkway and may be placed either parallel or perpendicular to the building face. However, if an overhang sign is placed parallel to the building face, a wall sign for that occupant/tenant space shall be prohibited.

(2) The maximum size of sign allowed shall not exceed six feet in length and 18 inches in height.

(3) Two signs shall be permitted per occupancy/tenant space.

(E) Directory Signs. Directory signs shall be permitted provided they are within one of the three categories below and meet the following additional criteria:

(1) On-site directory signs are permittable subject to the following additional criteria:

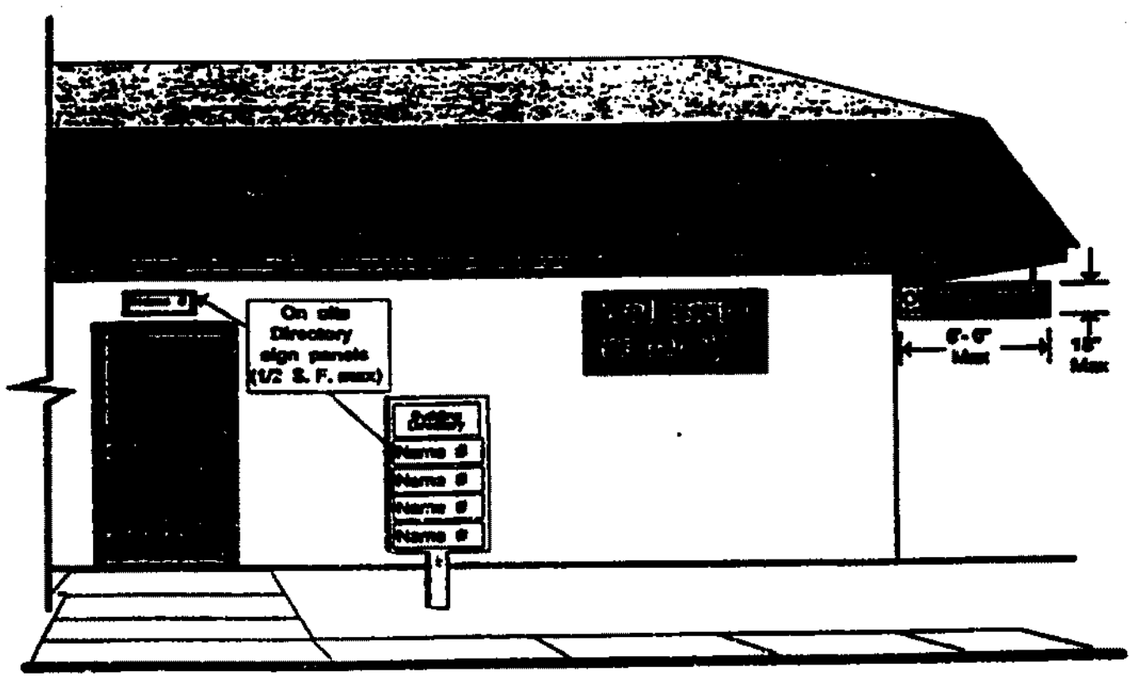
(a) Shall be erected only on nonresidential property.

(b) Shall be used to identify multiple tenants occupying the same property.

(c) Shall consist of a unified sign face that has the appearance of a single sign and shall be limited to the name of the tenant. One sign panel per tenant/occupant space is allowed, and the size of the sign panel shall not exceed one-half square foot per tenant/occupant space.

(d) In addition to (c) above, where multiple buildings with multiple tenants are located on the same property, one free-standing, uniform, directory sign per building is allowed to identify occupants/tenants located within that building, subject to the size limitations within (c) above.

WALL SIGNS, ON-SITE DIRECTORY SIGNS, AND OVERHANG / COVERED WALKWAY SIGNS



One (1) wall sign shall be permitted per occupant/tenant space, however, if only one (1) occupant/ tenant space exists per property, a wall sign or freestanding sign is permitable, but not both. In addition, if an overhanging sign is placed parallel to the building, a wall sign for that occupancy/tenant space shall be prohibited.

The maximum area of a wall sign is based on the lineal feet of frontage of occupant/tenant space and shall comply with the following schedule:

Lineal Feet of Frontage of Occupant/Tenant Space	Maximum Sign Area
0-74 Feet	16 Sq. Ft.
74-99 Feet	24 Sq. Ft.
99 + Feet	32 Sq. Ft.

Overhang and covered walkway signs shall not protrude beyond the face of the overhang or roof of the walkway and may be placed either parallel or perpendicular to the building face. However, if an overhang sign is placed parallel to the building face, a wall sign for that occupant / tenant space shall be prohibited.

All signs are required to have a permit identification tag.

(2) Off-Premise Directory Signs are permissible only where a business organization or activity seeking to place a directional sign does not have frontage on Gulf of Mexico Drive and are permittable provided they meet the following additional criteria:

(a) The sign shall be located only on nonresidential property.

(b) The sign shall not exceed four square feet in area.

(c) Shall denote only the name, business, and direction of the business or organization.

(d) A uniform logo, not to be considered as part of the sign areas, shall be on top of the sign structure and shall include a white hibiscus flower on a blue background to match Printers Measurement Systems (PMS) number 3015c.

(e) The sign design shall be white lettering on a blue background to match Printers Measurement Systems (PMS) number 3015c.

(f) Signs may be double-faced.

(3) For Off-Premise Directory Signs where two or more applicants seek permission to erect directional signs in the same general location, such Directory Signs will be permittable subject to the following additional criteria:

(a) Where two or more applicants seek permission to erect off-premise directory signs in the same general location, the Town Manager shall require the applicants to join in the erection of a directory sign in lieu of separate directory signs, and, if the applicant(s) are unwilling to do so, the Town Manager shall deny the application(s) for individual off-premise signs and shall give 30 days with notice of the intent to revoke any permit to erect a single off-premise directory sign as described in subsection (2) above.

(b) Not more than one off-premise sign structure per street and one sign panel per building shall be allowed.

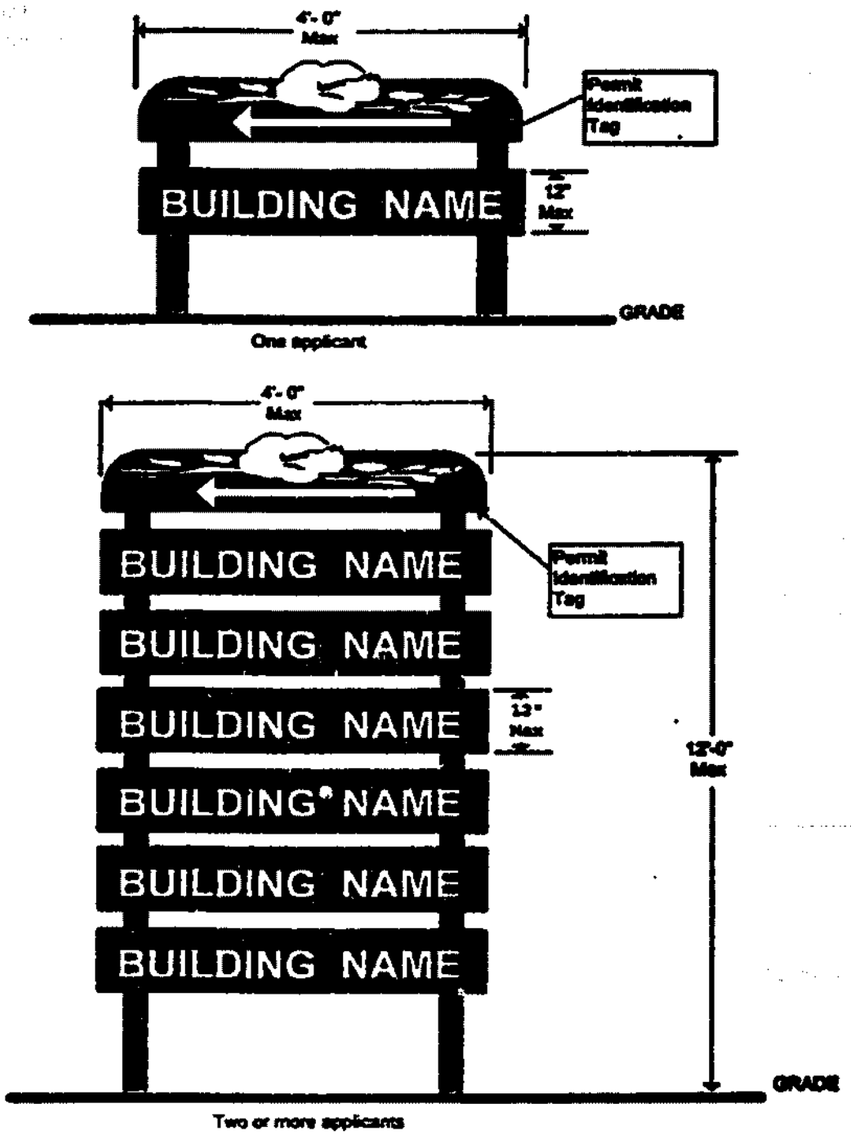
(c) The structure of the directory sign shall not exceed 12 feet in height or four feet in width.

(d) Individual panels or nameplates of the directory sign shall be uniform in size, color, and lettering.

(e) Individual panels or nameplates may not exceed one foot in width, four feet in length, or four square feet in area.

(f) The aggregate area of all panels or nameplates shall not exceed 24 square feet.

OFF - PREMISE DIRECTORY SIGN



A uniform logo, not to be considered as part of the sign areas, shall be on top of the sign structure and shall include a white hibiscus flower on a blue background to match Printers Measurement Systems (PMS) number 3015c.

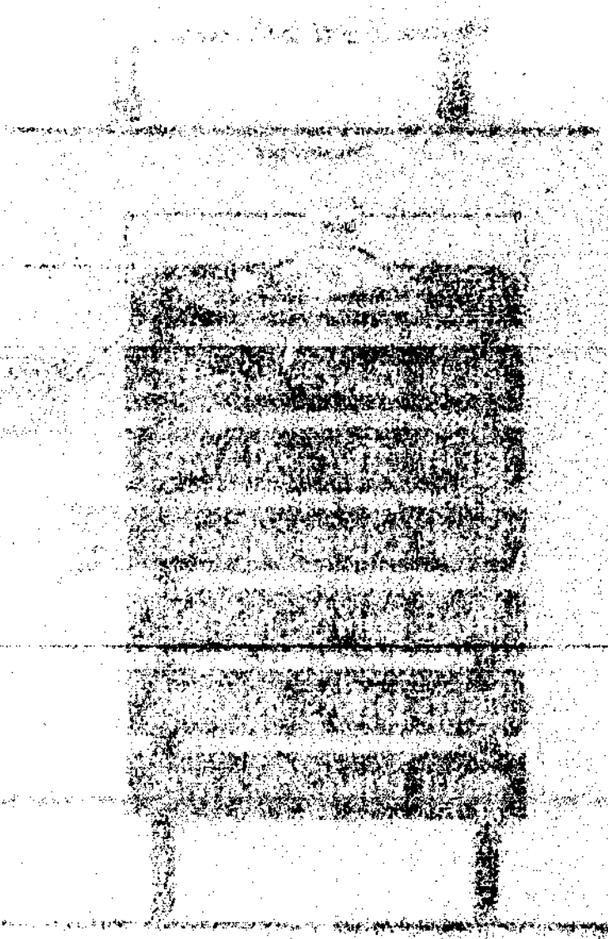
The sign design shall be white lettering on a blue background to match Printers Measurement Systems (PMS) number 3015c.

The aggregate area of all panels or nameplates shall not exceed 24 square feet.

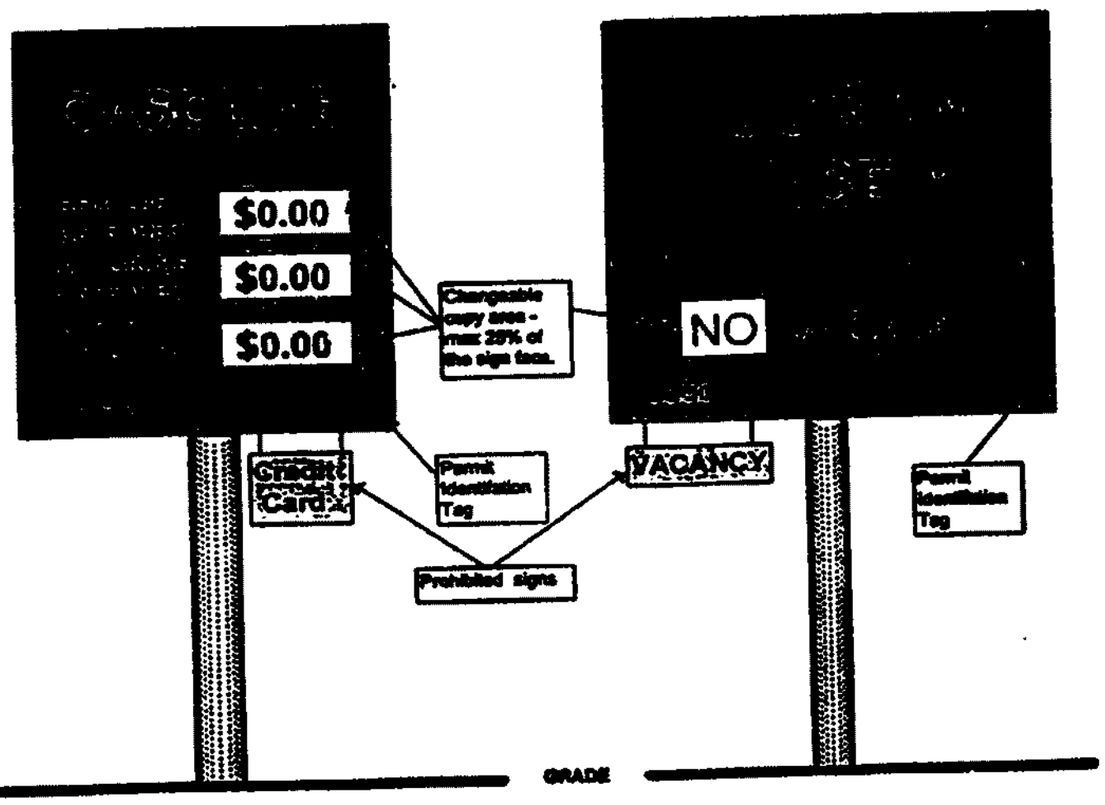
(F) Changeable Copy Signs. Changeable Copy Signs are permittable subject to the following additional criteria:

(1) the signs are permitted only as part of a permanent sign and shall be incorporated into the sign face, but not the sign structure.

(2) the signs can only be erected in non-residentially zoned property or property which is zoned residential but has a legal nonconforming use and shall only indicate "vacancy," "no vacancy," "for lease," "for rent," or other language indicating the availability of temporary occupancy or the price of gasoline, and shall not exceed 25 percent of the sign face.
(Ord. 95-04, passed 5-1-95)



CHANGEABLE COPY SIGNS



Changeable Copy Signs are permittable *subject* to the following additional criteria:

(1) the signs are permitted only as part of a permanent sign and shall be incorporated into the sign face, but not the sign structure.

(2) the signs can only be erected in non-residentially zoned property or property which is zoned residential but has a legal nonconforming use and shall only indicate "vacancy", "no vacancy", "for lease", "for rent", or other language indicating the availability of temporary occupancy or the price of gasoline, and shall not exceed twenty-five (25) percent of the sign face.

§ 156.08 ILLUMINATED SIGNS.

(A) Except for Government Signs, only permittable permanent signs may be illuminated. No illuminated sign may be erected or maintained along or adjacent to any public rights of way unless the source of illumination is shaded and not directly visible from any public street. In addition, the source of the illumination shall in no way threaten or endanger sea turtles as set forth in Chapter 100 of the Town Code, Sea Turtles. Additionally, illuminated signs must meet the following additional criteria:

(1) Internally Illuminated Signs. Signs which are internally illuminated are permittable if they meet the following additional criteria:

(a) Illumination shall be emitted through letters and logo which shall not consume more than 25 percent of the sign face.

(b) Excluding the illuminated sign area, the remainder of the sign face shall be opaque.

(c) No more than three colors shall be allowed for one sign, including the color used for the background, but excluding the registered logo, trademark or other designation required by federal, state or local law. Black and white are considered colors.

(d) Internal illumination shall be provided by fluorescent lighting comprised of florescent lamps with a designation of "cool white," "warm white" or "daylite."

(e) Internal lamps shall be installed no closer than six inches to any translucent sign surface.

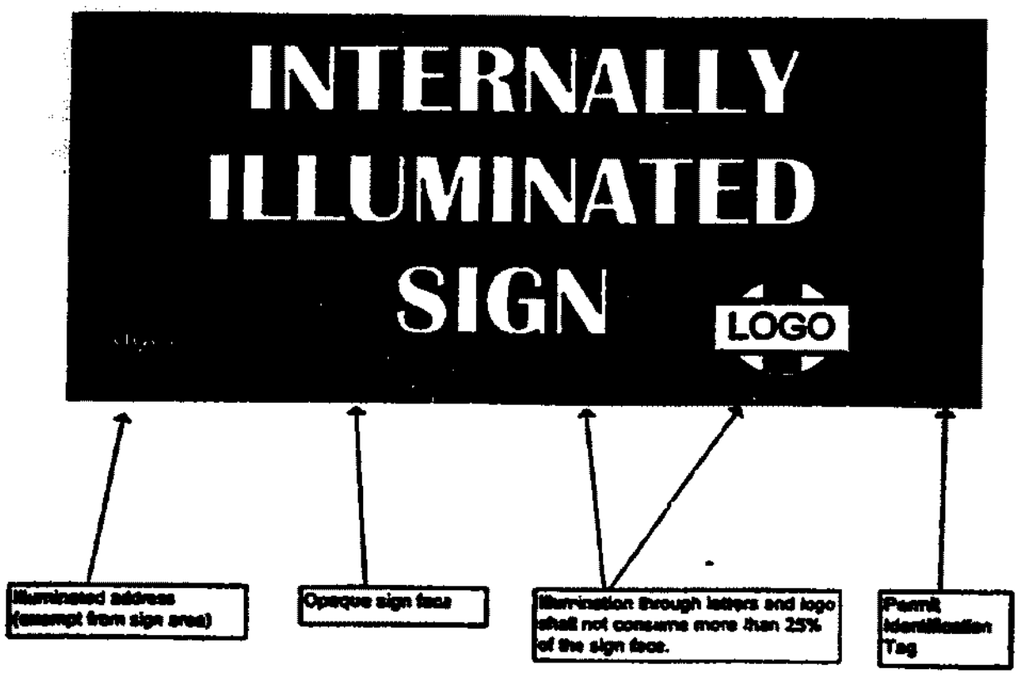
(f) Internal lamps shall not be spaced closer than ten inches center to center.

(g) Cabinets and internal wiring shall meet or exceed Underwriter Laboratory specifications.

(h) Illuminated letters of the sign are restricted to one uniform and consistent color.

2000 TOWN CODE

INTERNALLY ILLUMINATED SIGNS



NOTES-

No more than three (3) colors shall be allowed for one sign, including the color used for the background, but excluding the registered logo, trademark or other designation required by Federal, State or local law. Black and white are considered colors.

The intensity of illumination shall be in compliance with Section 156.06(A)(1).

The size of the sign is dependent upon the type of sign.

Illuminated letters of the sign are restricted to one uniform and consistent color.

(2) Externally Illuminated Signs. Signs which are externally illuminated are permittable if they meet the following additional criteria:

(a) No more than three colors shall be allowed for one sign, including the color used for the background, but excluding the registered logo, trademark or other designation required by federal, state or local law. Black and white are considered colors.

(b) External lighting shall be provided by either fluorescent, quartz, halogen, metal halide, par type flood lights or similar Underwriter Laboratory approved type lighting fixture not to exceed a total of 300 watts of illumination per face of sign.

(c) Lighting fixtures shall be Underwriter Laboratory approved and all wiring shall comply with National Electrical Code specifications.
(Ord. 95-04, passed 5-1-95)

§ 156.09 HISTORICAL SIGNS.

(A) Designation as an Historical Sign. An owner of a sign may petition the Town Commission for designation of that sign as historical. In making its determination, the Town Commission shall consider whether:

(1) The sign is registered or certified by the Manatee County Historical Preservation Board or the Sarasota County Historical Preservation Board;

(2) The sign is a minimum of 25 years old;

(3) The sign is unique and enhances the cultural, historical or aesthetic quality of the community;

(4) The sign is structurally and electrically safe or is capable of being made so without substantially altering its historical significance;

(5) The sign is of exemplary technology, craftsmanship or design of the period in which it was constructed; uses historic sign materials, and is not significantly altered from its historic period. If the sign has been altered it must be restored to its historic function and appearance.

(B) Historical signs shall be exempt from this Chapter unless they are enlarged, added to, modified, removed, or replaced unless that modification has been approved by the Town Commission.
(Ord. 95-04, passed 5-1-95)

§ 156.10 PLACEMENT AND CONSTRUCTION STANDARDS.

(A) Placement of Signs. All signs, except governmental signs, including exempt and permittable signs, shall:

(1) Not be located in any public right-of-way;

(2) Not be located as to obstruct entrances or exits from buildings or impede the visibility of oncoming traffic;

(3) Not be placed in a location which would prove dangerous to individuals or the public;

(4) Be located in the yard facing the street, driveway, or other vehicular access point and shall be no closer to a public street than as follows:

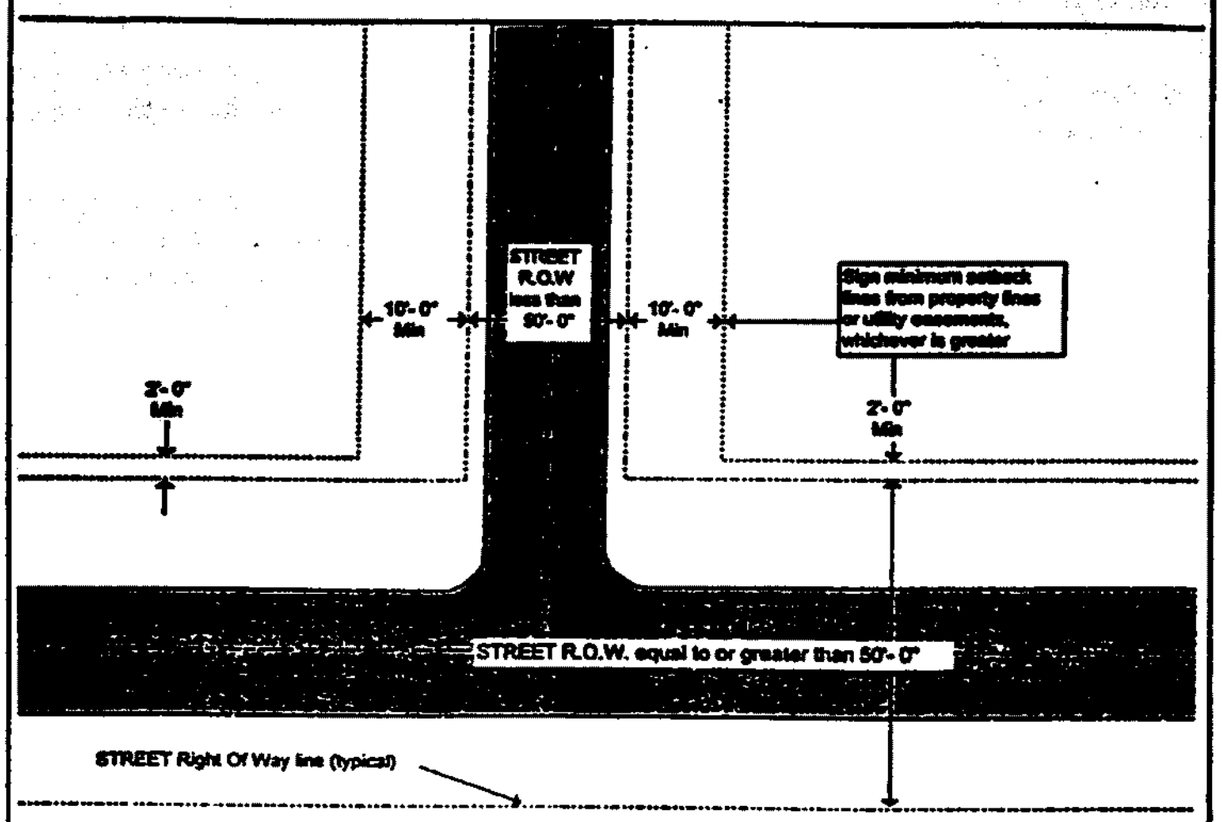
(a) Where the property borders a right-of-way which is greater than or equal to 50 feet in width, the sign and structure shall be a minimum of two feet inside the property line or utility easement, whichever is greater.

(b) Where the property borders a right of way which is less than 50 feet in width, the sign and structure shall be a minimum of 10 feet inside the property line or utility easement or half of the distance between the property line and the front edge of the building, whichever is greater;

(5) Comply with the following intersection visibility requirements:

(a) At all street intersections, no sign exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle illustrated herein, except that a freestanding sign shall be permitted in a median located within the intersecting street right-of-way, provided that the sign is setback a minimum of five feet from the street right-of-way in compliance with § 156.07(B).

PLACEMENT OF SIGNS



All signs, except government signs, including exempt and permittable signs, shall:

(1) not be located in any public right-of-way;

(2) not be located as to obstruct entrances or exits from buildings or impede the visibility of on coming traffic;

(3) not be located in a location which would prove dangerous to individuals or the public;

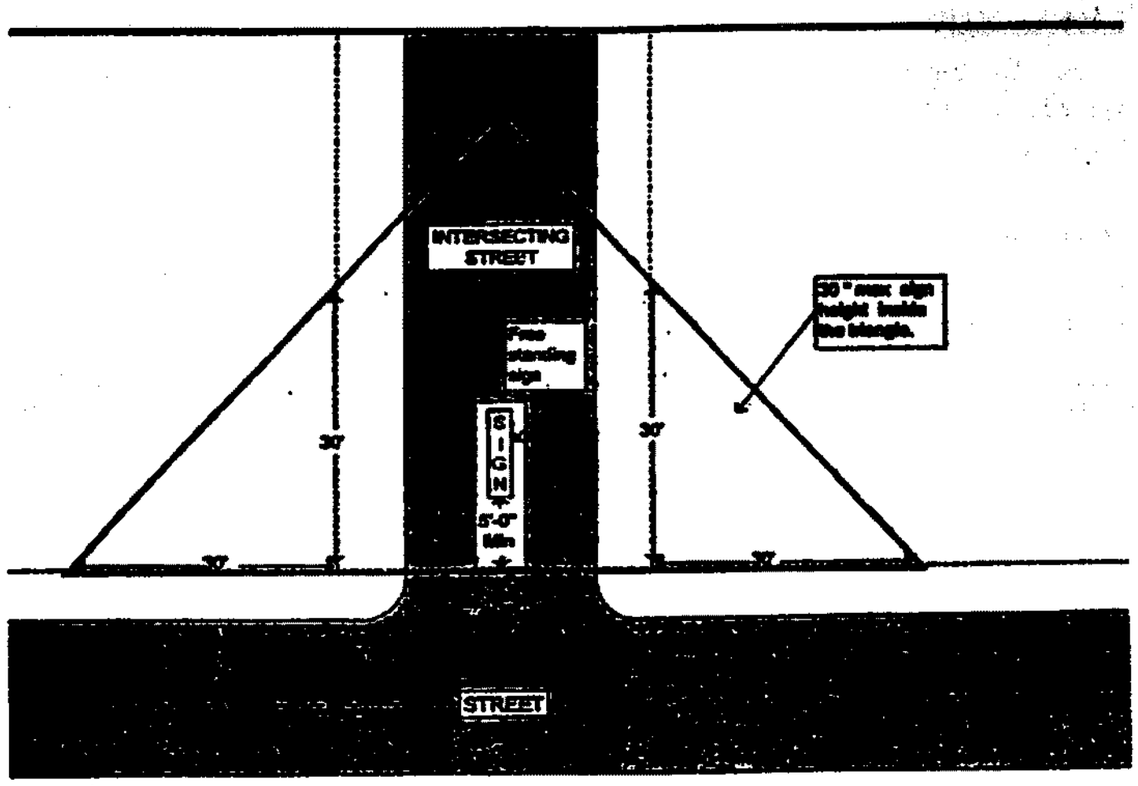
(4) be located in the yard facing the street, driveway, or other vehicular access point and shall be no closer to a street right-of-way than as follows:

(a) where the property borders a right-of-way which is greater than or equal to fifty (50) feet in width, the sign and structure shall be a minimum of two (2) feet inside the property line or utility easement, whichever is greater;

(b) where the property borders a right-of-way which is less than fifty (50) feet in width, the sign and structure shall be a minimum of five (10) feet inside the property line or utility easement or half of the distance between the property line and the front edge of the building, whichever is greater;

(5) comply with the intersection visibility requirement in Section 156.10(A)(5).

INTERSECTION VISIBILITY



At all street intersections, no sign exceeding thirty (30) inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle illustrated above, except that a freestanding sign shall be permitted in a median located within the intersecting street right-of-way, provided that the sign is setback a minimum of five (5) feet from the street right-of-way and is in compliance with the criteria in Section 156.07(B).

(B) Construction Design Standards. Signs or other advertising structures shall be permitted, constructed, and maintained in strict conformity with the Town Fire Protection Code (§ 94), the Town Tree Code (§ 98), the Town Building Code (§ 150), the Town Electrical Code (§ 153), the Town Zoning Code (§ 158), Florida Statutes, and all other applicable regulations. In the event of any of the provisions of this section are in conflict with other sections of this Code or other applicable requirements, the more restrictive requirements shall apply.
(Ord. 95-04, passed 5-1-95)

§ 156.11 VARIANCES.

(A) The Zoning Board of Adjustment is authorized to grant variances to this chapter in accordance with the standards set forth in Zoning Code. Additionally, in reviewing a request for a sign variance, the Zoning Board of Adjustment may consider:

(1) Variances from the height and location provisions of this section in unusual circumstances involving demonstrated hardship;

(2) Variances for the protection of trees and shrubs, but in no case shall visibility of an existing sign serve as the basis for tree removal.

(B) The Zoning Board of Adjustment is authorized to hear and decide appeals where it has been alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter. The appeal shall be heard and decided in the same manner as set forth in Chapter 158.
(Ord. 95-04, passed 5-1-95; Amd. Ord. 97-08, passed 7-7-97)

§ 156.12 NONCONFORMING SIGNS.

A lawfully constructed sign or sign structure existing within the town on the effective date of the ordinance codified in this chapter, which does not conform to the requirements of this chapter, shall hereafter be a legal nonconforming sign. Legal nonconforming signs and sign structures shall be removed or made conforming by the Owner or Lessee of the sign or by the Owner of the property where the sign is located as follows:

(A) All existing temporary signs must be brought into conformity within six months from the adoption of this chapter. All new temporary signs shall comply with this chapter prior to the erection of the temporary sign.

(B) All existing permanent signs must be brought into conformity within three years from the notice of nonconformity after the adoption of this chapter. All sign permit fees for existing permanent signs will be waived for those existing signs that are brought into conformity within 18 months of the adoption of this chapter. All new permanent signs shall comply with this chapter prior to the erection of the permanent sign.

(C) Internally Illuminated Signs erected after January 1, 1994 must be brought into compliance within six months from the adoption of this chapter.
(Ord. 95-04, passed 5-1-95)

2000 TOWN CODE

§ 156.13 MAINTENANCE AND ABANDONMENT.

(A) Maintenance.

(1) Painting, repainting, cleaning or other ordinary repairs and maintenance of any legal sign or sign structure shall not require a permit. Replacement of any structural elements or items that extend or prolong the life of a sign shall require a permit.

(2) A sign permit issued by the Town Manager shall, upon issuance, authorize the removal of the sign, at the expense of said owner, or agent of the sign, if the sign is not properly maintained.

(3) All signs, including their supports, braces, guys, and anchors, shall be maintained so as to present a neat, clean appearance. Painted areas and sign surfaces shall be kept in good condition and illumination shall be maintained in safe and good working order.

(B) Abandonment. An abandoned sign is prohibited and shall be taken down and removed by the owner, agency, or persons having beneficial use of the building, structure or land. (Ord. 95-04, passed 5-1-95)

§ 156.14 VIOLATIONS AND SIGN REMOVAL.

Signs in violation of this chapter are subject to the notice, immediate removal, penalties and fines as follows:

DESCRIPTION OF VIOLATION	NOTICE/PENALTIES/FEES
(A) Erection of prohibited signs; nonexempt signs without a valid permit; temporary signs which fail to display permanent identification tags:	Immediate removal and disposition by the town without notice, administrative fine as provided herein.
(B) Temporary signs erected pursuant to valid permit or exempt signs improperly erected or located:	Subject to immediate removal after notice (actual or or constructive); impounded by the town for a minimum of 30 days during which time the sign owner may recover the sign upon payment of removal and storage costs. After 30 days the sign may be disposed of by the town without recourse and the town may seek an administrative fine.
(C) Permanent signs erected without a valid permit or permanent signs which fail to display permanent identification tags:	Subject to removal by the town upon three days notice (actual or constructive) to the owner, agent, or person having beneficial use of the sign and applicable administrative fines.

(D) Permanent signs erected pursuant to valid permit, properly displaying permanent identification tag, but improperly located or constructed:	Notified by town, allowed 10 days to correct violation. Failure to correct the violation subjects sign to removal and applicable administrative fines.

(E) Unsafe Signs. Should, upon inspection by the Town Manager, any sign be found to be unsafe, insecure, or improperly constructed, the owner or lessee shall be required to make it safe and secure and of proper construction or remove it, within 48 hours from the time of notification in writing from the town. If the notice is not complied with within the time specified, the Town Manager shall cause the sign to be removed at the expense of the owner or lessee. If the delay in repairing or removing the sign is occasioned by circumstances beyond the control of the owner or lessee, the Town Manager may grant additional time for the repair or removal of the sign.

(F) Sign Causing Imminent Danger of Hazard. The Town Manager may cause any sign or other advertising structure which is an immediate hazard to be removed immediately at the expense of the owner, agent, lessee, or other person having beneficial use of the sign, the sign contractor, or the owner or lessee of the land upon which the sign is located.
(Ord. 95-04, passed 5-1-95)

§ 156.15 REVOCATION OF PERMITS.

The Town Manager is hereby authorized and empowered to revoke any permit issued upon failure of the holder to comply with the provisions of the permit or if the permit was issued on the basis of a misstatement of fact or law by the applicant or error by the town, facts or fraud by the applicant.
(Ord. 95-04, passed 5-1-95)

§156.16 ENFORCEMENT AND PENALTIES.

(A) Enforcement. No sign or advertising display shall be permitted to be maintained or used in the town contrary to the provisions of this chapter. The Town Manager, by and through the duly authorized employees of the town, shall enforce the provisions of this chapter; and he is hereby authorized and directed to cause the removal of all signs or advertising displays from areas in which they are prohibited by this chapter or which are maintained or used contrary to the provisions of this chapter.

(B) Penalties.

(1) Any person found to have violated any of the provisions of this chapter may be fined an amount not to exceed $500 per day. Each and every day the violation continues is a separate and specific violation of this chapter.

(2) All permits may be withheld from any applicant concerning property upon which a violation of this chapter has occurred and has not been corrected.

(3) In addition to and not to the exclusion of the remedies contained herein, the town may proceed to the Code Enforcement Board for any violation of this chapter.
(Ord. 95-04, passed 5-1-95)

§ 156.100 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED SIGN. Any sign or sign structure which bears no sign or copy for a period of six consecutive months, or for on site signs that display for a period of six consecutive months, information which incorrectly identifies the business, owner, lessor, or principal activity conducted on the site. Abandoned sign shall also mean any sign on which proper maintenance is not being done; any sign on a parcel that has been vacant or unoccupied for six or more consecutive months except for real estate signs where the property is actively for sale; or any sign which pertains to a time, event or purpose which no longer applies, regardless of the message or lack of message.

ANIMATED SIGN. Any sign which includes action, motion, or the optical illusion of action or motion, or color changes of all or part of the sign area, requiring electrical energy or set into motion by atmospheric movement. Animated signs shall include without limitation flashing signs, moving or rotating signs, electronic changeable copy signs, and electronically controlled message center signs.

AWNING (CANOPY) SIGN. Any shelter, supported partially or entirely from the exterior wall of a building, which is used for advertising. Such sign may be constructed of canvas, plastic, metal, or other material.

BANNER. Any sign intended to be hung either with or without a frame, possessing characters, letters, illustrations or ornamentation applied to paper, flexible plastic, fabric or material of any kind. National flags and flags of political subdivisions whether current or historical, and flags for not-for-profit organizations shall not be considered banners for the purposes of this chapter.

CHANGEABLE COPY SIGN. An integral part of a sign not covering more than 25 percent of the sign area and designed as to readily allow the changing of its message either manually or electronically.

CONSTRUCTION SIGN. Any sign erected only on the site of new construction while active construction is underway, and which denotes only the identification of the firms or the individuals involved in construction of financing, and the character of the building or other purpose for which the construction is intended.

DIRECTIONAL OFF-PREMISES SIGN. A sign which indicates no more than the distance, direction, location, and name of the facility or activity in Longboat Key, Florida.

DIRECTIONAL ON-SITE SIGN. A permanent on site sign which directs traffic within a parcel, or which identifies the location of entrances, exits, restrooms, telephones, freight, etc. Such sign shall not contain advertising.

DIRECTORY SIGN. Sign structure containing individual plates or panels bearing the names of individuals, organizations or businesses.

DOUBLE-FACED SIGN. A device consisting of a single panel with two surfaces, both sides of which are used for advertising or other communication.

ELECTRICAL SIGN. A sign or sign structure in which electrical wiring, connections, or fixtures are used as part of the sign or which themselves constitute a sign.

EXEMPT SIGN. All signs for which permits are not required but which must conform to all other terms and conditions of this chapter.

FESTOON. Any string of ribbons, tinsel, small flags, or pinwheels.

FLASHING SIGN. Any sign on which any electrical lighting by any device is either alternated on and off or raised and lowered in brightness or intensity, or reflects lighting or gives the appearance of flashing.

FREESTANDING SIGN. A sign on or in the ground and not supported by any building. This term shall include ground sign, monument sign, and pole sign.

FRONT OF BUILDING. Those parts of the building which are parallel to the nearest public road, canal, waterway, or other body of water, and where there is no intervening property between the building and the public road, canal, waterway, or other body of water.

FUTURE PROJECT SIGN. A temporary, freestanding sign which advertises a development project which has received site plan approval.

GOVERNMENT SIGN. Any sign erected by or on the order of a public official in the performance of his office or duty such as, but not limited to, traffic control signs, privately erected town approved traffic control signs, street name signs, warning and information signs, public notices or signs of similar nature.

GROUND SIGN. A freestanding sign whose structural system is that other than a pole(s) column(s) or post(s) or other similar type structural system. Ground signs may also be referred to as monument signs; see freestanding sign.

HEIGHT, SIGN. The vertical distance measured from finished grade to the highest point of any of the sign structure. When a sign is located upon a earth berm, the height of the sign shall include the height of the earth berm.

HISTORICAL SIGN. Any sign designated by the Town Commission of Longboat Key, Florida.

IDENTIFICATION SIGN. A sign which indicates no more than the name, address, company logo and location or function of an establishment or premises. Identification signs may also include other messages of a not-for-profit institutional nature such as meeting dates times of service, etc.

ILLEGAL SIGN. Any sign erected unlawfully.

ILLUMINATED SIGN. Any sign which either:

(1) Provides artificial light through exposed bulbs, lamps, or luminous tubes on the sign surface; or

(2) Emits light through transparent or translucent material from a source within the sign; or

(3) Reflects light from a source intentionally directed on it.

MANSARD SIGN. Any sign which attached to a mansard style roof with the face parallel to the structure to which it is attached and which does not project more than eight inches from such structure. Since such sign is to be mounted parallel to and within the limitations of the building wall or mansard roof on which it is to be mounted, a mansard sign shall be considered a wall sign and not a roof sign.

For the purposes of this Chapter, the term "mansard roof" shall mean a single slope roof, usually found along the front of a building, with a maximum angle of 45 degrees measured from the roofing surface upward to the vertical.

MONUMENT SIGN. See freestanding sign.

MOVING SIGN. Any sign or part of a sign which changes physical position by any movement or rotation from a fixed location, or which gives the visual impression of such movement or rotation.

NONCONFORMING SIGN. Any sign which does not conform to this chapter.

OFF-PREMISES SIGN. Any sign not located on the same lot as the business, commodity, service or entertainment to which it relates. This shall include any structure designed primarily for the display of off-site signs. (See, "Signs, Outdoor Advertising")

ON SITE SIGN. Any sign located on the same lot or parcel as, and is accessory to, the business, commodity, service or entertainment to which it relates.

OPEN HOUSE SIGN. A temporary, freestanding sign containing only the words "Open House" and supplementary directional information.

OUTDOOR ADVERTISING SIGN. Any sign structure advertising an establishment, merchandise, service or entertainment which is not sold, produced, manufactured, or furnished at the property on which the sign is located. This shall include, but shall not be limited to, billboards, off-premises signs or off site signs.

PAINTED WALL SIGN. Any sign painted on any outside wall or roof, or on the glass of any building.

PENDANT SIGN. An auxiliary or supplementary sign, affixed or hung below another and supplementing the main sign. These signs are used to indicate "vacancy," "air conditioned," "credit cards accepted," and similar messages.

PENNANT. Any flag-like or streamer-like piece of cloth, plastic, or paper attached to any staff, cord, building, or other structure at only one or two edges with the remainder hanging loose.

PERMANENT SIGN. Any sign which affixed to a building or the ground in accordance with the Town Building Code and any other applicable federal, state or local laws and such manner as to be immobile without the use of extraordinary means such as disassembly.

POLITICAL SIGN. Any temporary sign erected to advocate the candidacy of a party, issues, or an individual for elective office.

PORTABLE SIGN. Any sign which is manifestly designed to be transportable, including transportation by trailer or on its own wheels, even though the wheels or such sign may be removed and the remaining chassis or support, constructed without wheels, is converted to an "A" or "T" frame, or attached temporarily or permanently to the ground, since this characteristic is based on the design of such a sign. It is a characteristic of such a portable sign that the space provided for advertising matter may consist of a changeable copy sign. Signs which are affixed to vehicles which are parked so as to be observed by passerby within 1,000 feet of the business so advertised and parked longer than one hour in a 24-hour period shall be a portable sign. These signs are prohibited in Longboat Key, Florida.

PROJECTING SIGN. Any sign which is attached to and which projects more than eight inches from the outside wall of any building or structure.

REAL ESTATE SIGN. A temporary, non-illuminated sign which exclusively advertises the sale, lease or rental of the parcel upon which it is located.

RESIDENTIAL DEVELOPMENT NAME SIGN. A freestanding sign which identifies the name of a planned unit development, a property with three or more residential dwelling units, or a subdivision containing 10 or more lots located at the principal entrance(s) to the development.

REVOLVING OR ROTATING SIGN. Any sign so erected or constructed as to periodically or continuously change the direction toward which any plane containing the display surface is oriented.

ROOF SIGN. Any sign erected upon or above the roof surface of any building. This term shall not include a mansard sign.

SIGN. Any combination of writing, pictorial presentation, illustration, decoration, symbol, material, color, lighting or other devices which:

(1) Is used to announce, direct attention to, identify, advertise, or otherwise make anything known; and

(2) Is visible from any public way or adjoining property.

SIGN AREA. The entire area within the outer periphery of the smallest single or combination of regular simple geometric shapes. This shall enclose the extreme limits of writing, representation, emblems, and all material, color, or lighting forming an integral part of the

display or used to differentiate it from the background against which it is placed. The sign area is calculated in units of square feet based on one side. However, the maximum total area allowed for all sides shall not exceed twice the allowable sign square footage specified in this chapter.

Sign area shall not include pole covers so long as there is no message, writing, decoration or other display on it. The supports, uprights, or any structure on which any sign is supported shall not be included in determining sign area so long as there is no message, writing, decoration or other display on it.

All permanent structural members (except vertical supports) shall be either concealed or designed to be an integral part of the sign area.

SIGN FACE. The area, display surface, or part of a sign on which the copy of message is placed.

SIGN STRUCTURE. Any structure which is designed specifically for the purpose of supporting a sign, has supported, or is capable of supporting a sign, including any decorative covers, braces, wires, supports, or components attached to or placed around the sign structure.

SINGLE-FACED SIGN. Any sign consisting of a single panel, only one side of which is used for advertising or other communication.

SNIPE SIGN. A sign made of any material which is tacked, nailed, posted, glued, or otherwise attached to any utility pole, tree, fence, fence post, stakes, or other signs or similar objects where the advertising matter appearing thereon is not applicable to the present use of the property upon which such sign is located.

TEMPORARY SIGN. Any sign or advertising display intended to be displayed for a specified and limited period of time. Included in this category are retailer's signs which are temporarily displayed for the purpose of informing the public of a sale or special event.

TOWN MANAGER. The town official approved and appointed as Town Manager pursuant to Article III, Town Charter, or his/her designee.

VEHICLE IDENTIFICATION SIGN. A sign affixed to the vehicle advertising the business of the owner of the vehicle.

VEHICLE OR TRAILER SIGN. A sign which is affixed to a vehicle for the purpose of advertising, except a vehicle identification sign.

WALL SIGN. A sign erected parallel to and extending not more than eight inches from the facade of any building to which it is attached and supported throughout its entire length by the facade of the building.

WINDOW SIGN. Any sign which is painted on the inside of, or attached to the inside of, or is visible through a window, glass wall or other transparent surface, excluding the display of merchandise.

For other definitions see Chapters 150-158.
(Ord. 95-04, passed 5-1-95; Amd. Ord. 96-08, passed 6-3-96; Amd. Ord. 97-08, passed 7-7-97)

CHAPTER 157: SUBDIVISION REGULATIONS

Section

General Provisions

157.01 Title
157.02 Purpose; jurisdiction
157.03 Definitions
157.04 Approval required before utility services permitted
157.05 Approval required before issuance of licenses; permits
157.06 Compliance required for building permit
157.07 Variances
157.08 Amendments
157.09 Conflict with other regulations

Plat Specifications

157.15 Preapplication plans and data
157.16 Preliminary plat specifications
157.17 Final plat specifications
157.18 Plat certificates

Plat Approval

157.25 Submission of plat required; right to appeal
157.26 Approval required before starting construction
157.27 Certification by land surveyor
157.28 Dedication of streets and easements
157.29 Preapplication procedure
157.30 Preliminary plat approval
157.31 Final plat approval

Design Standards

157.40 Suitability of land
157.41 Street access required
157.42 Conformance to other regulations
157.43 Dedication of land to public use
157.44 Blocks
157.45 Lots
157.46 Streets

Required Improvements

157.55 Minimum improvements
157.56 Construction plans and specifications
157.57 Elevation and land filling
157.58 Streets
157.59 Drainage
157.60 Utilities
157.61 Monuments

157.99 Penalty

Cross-reference:
Subdivision fees; temporary use permits, see Ch. 159

GENERAL PROVISIONS

§ 157.01 TITLE.

This chapter shall be known and may be cited as the Town of Longboat Key Subdivision Regulations.
('71 Code, Appendix A, § 1.10)

§ 157.02 PURPOSE; JURISDICTION.

(A) The procedures and standards for the development and subdivision of real estate and for the surveying and platting thereof, adopted and prescribed by this chapter, are hereby found by the town to be necessary and appropriate to do the following.

(1) Protect the public health, safety, comfort, convenience, and general welfare of the residents.

(2) Encourage economically sound and stable land development.

(3) Assure the provision of adequate streets, utilities, and other facilities and services to new land developments in comformance with public improvement needs and plans for the town.

(4) Assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments.

(5) Assure equitable handling of all subdivision plats by providing uniform procedures and standards for observation both by the developers of land and the town.
('71 Code, Appendix A, § 1.20)

(B) This chapter shall be considered to be minimum requirements, for the purpose of promoting the general public health, safety, comfort, convenience, and welfare of the people of the town. ('71 Code, Appendix A, § 9.30)

(C) This chapter shall govern the subdivision of any and all lands located within the incorporated limits of the town. ('71 Code, Appendix A, § 2.10)

§ 157.03 DEFINITIONS.

(A) Except as specifically defined in division (B) below, all words used in this chapter have their customary dictionary definitions. Words in the present tense include the future; words in the singular include the plural number, and words in the plural include the singular; "BUILDING" includes "STRUCTURE"; "SHALL" is mandatory and not directory; "MAY" is permissive. ('71 Code, Appendix A, § 3.10)

(B) For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ALLEY." A facility which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

"BLOCK." A group of lots, including a tier of lots, existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter, or other name through which it may be identified.

"BUILDABLE LOT AREA." Land located within the required front, rear, and side building setback lines as established by the applicable zoning regulations on which a structure may be positioned.

"BUILDING SETBACK LINE." A line across a lot establishing the minimum open space to be provided between the building and the street property lines, shorelines, or other boundaries of a building site.

"COMPREHENSIVE PLAN." A comprehensive plan, which may consist of several maps, data, and other descriptive matter, for the physical development of the town or any portion thereof, including any amendments, extensions, or additions thereto, indicating the general location for major streets, parks or other public utilities, zoning districts, or other similar information. The comprehensive plan shall be based on and include appropriate studies of the location and extent of present and anticipated population, social and economic resources and problems, and other useful data regarding the future development of the town.

"CROSSWALK." A right-of-way within a block dedicated to public use, intended primarily for pedestrians and from which motor-propelled vehicles are excluded, and which is designed to provide pedestrian access to adjacent roads, lots, or public use areas.

"CUL-DE-SAC." A street having one end open to traffic and being permanently terminated within the plat by a vehicular turnaround.

"EASEMENT." A grant by the subdivider for the use by the public, a corporation, or persons, of a strip of land for public utilities, drainage, and other public purposes.

"HEALTH AGENCIES." The Manatee or Sarasota County Health Department, as applicable, and the Department of Environmental Regulations, as applicable, and in accordance with state law and the town ordinances and regulations.

"LOT." A portion of a subdivision or other parcel of land, however designated, intended as a single building site or unit for the transfer of ownership, or for separate use of another, or for

development conforming to this code and the zoning code and requiring no varinace in order to construct an improvement.

(a) "CORNER LOT." A lot abutting on two or more streets at their intersection.

(b) "DOUBLE FRONTAGE LOT" or "THROUGH LOT." An interior lot having frontage on two streets, other than a corner lot.

(c) "INTERIOR LOT." A lot other than a corner lot having frontage on one street.

"MEAN HIGH WATER LINE." The land contour line derived from the intersection of the land surface with a level plane at the elevation of mean high water as established by the laws of Florida.

"PLANNING AND ZONING BOARD." The town Planning and Zoning Board, the legally constituted membership of the "PLANNING AND ZONING BOARD" of the town, as referenced in this chapter.

"PLAT." A map indicating the subdivision or resubdivision of land intended to be filed for record, or developed as regulated elsewhere herein.

(a) "FINAL PLAT." A finished drawing of a subdivision showing completely and accurately all legal and surveying information and certifications necessary for recording.

(b) "PRELIMINARY PLAT." A drawing which shows the proposed layout of a subdivision in sufficient detail to indicate clearly its workability, but not in final form for recording.

"REGISTERED ENGINEERS." A professional engineer registered under F.S.A. Ch. 471, and in good standing with the Florida Board of Engineering Examiners.

"REGISTERED LAND SURVEYOR." A professional land surveyor registered under F.S. Ch. 472, and in good standing with the Florida Board of Engineering Examiners.

"RIGHT-OF-WAY." A strip of ground dedicated or deeded by the owner for public use.

"ROADSIDE DRAINAGEWAY." A channel alongside a street or road for the purpose of drainage.

(a) "ROADSIDE SWALE." A roadside drainageway which does not require a culvert for ordinary vehicular crossing.

(b) "ROADSIDE DITCH." A roadside drainageway which requires a culvert for ordinary vehicular crossing.

"STREET." A public or private right-of-way for vehicular traffic whether designated as a street, highway, thoroughfare,

parkway, avenue, road, boulevard, land, place, or otherwise designated.

(a) "ARTERIAL STREETS." Thoroughfare routes intended to carry moderate to large volumes of traffic through or around major sections of the town and a part of or connecting to the highway thoroughfare network.

(b) "COLLECTOR STREETS." Those streets which carry intermediate volumes of traffic from minor or local streets to arterial streets, including the principal entrance streets of a residential development.

(c) "HIGHWAYS." Those traffic routes officially designated as federal or state highway routes, also referred to as state primary and secondary roads.

(d) "MARGINAL ACCESS STREET" or "SERVICE STREET." Streets which are parallel to and adjacent to highways and arterial streets, and which provide access to abutting properties. These streets are designed to protect the highways and arterial streets from the danger created by numerous points of conflict by driveways and individual access to abutting properties. A marginal access street provides access to property on one side only.

(e) "MINOR STREETS" or "LOCAL STREETS." Those streets, the primary function of which is to provide access and service to abutting properties, including access and services to residential, commercial, and public uses.

(f) "WIDTH OF STREET." The shortest distance between the parallel lines delineating the right-of-way of a street.

"SUBDIVIDER." Any person, individual, firm, partnership, association, corporation, estate, or trust, or any group or combination of the foregoing acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined below.

"SUBDIVISION." Includes all divisions of a tract or parcel of land into two or more lots for the purposes of building development or recording a plat thereof in the public records of Manatee or Sarasota Counties, or any subdivisions of land involving the dedication of a new street or other public way or a change in existing streets or alleys or any division of land. However, public acquisition of land for streets or highway purposes shall not be deemed a subdivision. "SUBDIVISION" includes resubdivision of an existing plat and when appropriate to the context shall relate to the process of subdividing.

"TITLE CERTIFICATION." The certification which accompanies every plat of a subdivision submitted to the Planning and Zoning Board consisting of a title opinion by an attorney-at-law, licensed in the state, or a title insurance company policy conforming that the lands as described and shown on the plat are in the name of the person, persons, or organization executing the dedication as it is shown on the plat and that the developer has apparent title to the lands. The title opinion or policy shall also show all mortgages on the land to be platted. ('71 Code, Appendix A, § 3.20) (Ord. 81-37, passed 11-4-81)

§ 157.04 APPROVAL REQUIRED BEFORE UTILITY SERVICES PERMITTED.

(A) No public utility services shall be provided for any lot or building in a new subdivision until the subdivision is approved by the town. ('71 Code, Appendix A, § 11.10)

(B) No private utility service, including electricity, gas, telephone, or water, shall be provided for any lot or building in a new subdivision until the subdivision is approved by the town. ('71 Code, Appendix A, § 11.20) Penalty, see § 157.99

§ 157.05 APPROVAL REQUIRED BEFORE ISSUANCE OF LICENSES; PERMITS.

No building, electrical, plumbing, or any other permits or licenses as may be required by the town for any construction shall be issued for any building on any lot in a subdivision, until the subdivision is approved by the town. The limitations under this section and § 157.04 are not intended to restrict installation of temporary buildings or utility services to serve as construction offices.
('71 Code, Appendix A, § 11.30)

§ 157.06 COMPLIANCE REQUIRED FOR BUILDING PERMIT.

(A) No building permit shall be issued for, and no building or other structure shall be erected on, any lot, tract, or parcel of real estate unless the lot, tract, or parcel has been subdivided according to the provisions of this chapter. However, any lot, tract, or parcel conveyed and with the deed recorded in the public records prior to the effective date of this chapter (November 6, 1974) is exempted from this provision.

(B) No building permit shall be issued, nor construction allowed, for the construction of more than one structure housing a permitted or permissible principal use on a lot, tract or parcel of real estate, unless the lot, tract or parcel:

(1) Has been subdivided according to the provisions of this chapter; or

(2) Is a condominium created in accordance with Florida Statutes, § 718.104, meeting all lot, yard, bulk, density/intensity, and other requirements of Chapters 150 through 159, the Code for the Town of Longboat Key, for each structure as though it were on an individual and separate lot; or

(3) Is part of a Planned Unit Development ("PUD") approved for deviations from Chapter 158, Zoning Code, lot, yard and bulk regulations.
('71 Code, Appendix A, § 4.60) (Ord. 81-37, passed 11-4-81; Amd. Ord. 94-11, passed 4-21-94)

§ 157.07 VARIANCES.

(A) The Town Commission may authorize a variance from these subdivision regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Town Commission shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, as required below, the Town Commis-

sion shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision on traffic conditions in the vicinity.

(B) No variance shall be granted unless the Town Commission finds that all of the following conditions exist.

(1) There are special circumstances or conditions affecting the property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

(3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.
('71 Code, Appendix A, § 10.10)

§ 157.08 AMENDMENTS.

This chapter may be amended from time to time as deemed necessary. All amendments shall first be reviewed and acted on by the Planning and Zoning Board. The Planning and Zoning Board recommendation shall then be forwarded to the Town Commission for action. However, no amendment to this chapter shall become effective until after a public hearing on each amendment shall be held by the Town Commission.
('71 Code, Appendix A, § 9.10)

§ 157.09 CONFLICT WITH OTHER REGULATIONS.

Where other laws, ordinances, or private restrictive covenants in recorded deeds or any other legally binding agreements impose greater restrictions and limitations than those provided in this chapter, the laws, ordinances, covenants, or agreements shall control.
('71 Code, Appendix A, § 9.40)

PLAT SPECIFICATIONS

§ 157.15 PREAPPLICATION PLANS AND DATA.

(A) General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required in division (B) and (C) below. This information shall include data on land characteristics, available community facilities, and utilities information describing the subdivision proposal such as numbers of lots, typical lot widths and depths, business areas and other public areas, and proposed utilities and street improvements.

(B) The location map shall show the relationship of areas immediately surrounding the proposed subdivision, and shall include the development name and location, title, north arrow, and date.

(C) The sketch plan shall show in simple but relatively accurate sketch form the proposed land usage and arterial and collector street configurations.
('71 Code, Appendix A, § 6.10)

§ 157.16 PRELIMINARY PLAT SPECIFICATIONS.

(A) The submittal for preliminary plat approval shall consist of 15 copies of black- or blue-line prints on white background, and any other documents in sufficient number to meet the requirements of this chapter.

(B) The preliminary plat shall be clearly and legibly drawn to the specifications herein required.

(C) Every subdivision shall be given a name by which it shall be legally known. The name shall not be the same or in any way so similar to any name appearing on any recorded plat in Manatee or Sarasota Counties as applicable so as to confuse the records or to mislead the public to the identity of the subdivision, except where the subdivision is subdivided as an additional unit or section by the same developer or his successors in title. Every subdivision name shall have legible lettering of the same size and type, including the words "section," "unit," "replat," "amended," and the like. The name of the subdivision shall be shown in the dedication and shall coincide exactly with the subdivision name.

(D) The preliminary plat shall be drawn to a scale and on a sheet size as required for final plat submission and shall contain the following information.

(1) Proposed name of subdivision.

(2) Date of survey, north point and graphic scale, source of data, date of plat drawing, and space for revision dates.

(3) Location, size of subdivision in acres, and number of lots.

(4) Location sketch locating the subdivision in relation to the immediately surrounding area with regard to well-known landmarks such as major highways, waterways, or other landmarks.

(5) Name and delineation of former subdivision, if any or all of the area encompassed by the preliminary plat had been previously subdivided.

(6) Preliminary boundary lines of the entire tract to be subdivided eventually.

(7) Contour lines at six-inch intervals or as necessary based on 1929 sea level datum and referenced to established benchmarks.

(8) Natural features within the proposed subdivision and in an area within at least 300 feet beyond the boundary of the proposed subdivision, including drainage channels, bodies of water, existing vegetation, and other significant features. Poorly drained areas or areas subject to storm flooding shall be shown where appropriate.

(9) Cultural features within the proposed subdivision and in an area within at least 300 feet beyond the boundary of the proposed subdivision including right-of-way widths and names of existing and platted streets, bridges, easements, town and county lines, and other significant information.

(10) Preliminary layout, including lot lines with approximate dimensions, basic lot sizes, lot numbers, block letters, street and alley lines with proposed street names, right-of-way widths for public or private streets, sites reserved through covenants, easements, dedication, or otherwise for public or common uses, and all tracts designed for multifamily or commercial use.

(11) Preliminary layout for all utilities including but not limited to sites, easements, or other provisions for water supply and waste water collection.

(12) Drainage plan, with preliminary computations.

(13) Proposed unit division of stage development, if any, as proposed by the subdivider.

(14) All section lines and quarter section lines occurring in the map or plat shall be indicated by lines drawn on the map or plat, with appropriate words and figures. If the description is by metes and bounds, the point of beginning shall be indicated together with all bearings and distances of the boundary lines. If the platted lands are in a land grant or are not included in the

subdivision or government surveys, then the boundaries are to be defined by metes and bounds and courses. The initial point in the description shall be tied to the nearest government corner, or other recorded and well-established corner.

(15) All contiguous properties shall be identified by the subdivision title, plat book, and page or, if unplatted, land shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made; the fact of its being a resubdivision shall be stated as a sub-title following the name of the subdivision wherever it appears on the plat.

(16) Street names as submitted to the post office in a proposed subdivision shall be submitted by the developer to the Town Manager at the preapplication conference for review prior to final street naming.

(17) Streetlighting plan.

(18) The town bulkhead line whenever applicable.
('71 Code, Appendix A, § 6.20)

§ 157.17 FINAL PLAT SPECIFICATIONS.

(A) Every final plat of a subdivision within the town shall be submitted in a manner and form in conformance with F.S.A. Ch. 177, and the requirements of Manatee or Sarasota County, as applicable.

(B) After approval of the final plat, with proper certifications and signatures attached, the subdivider shall furnish the following prints when recording.

(1) Original on tracing cloth or stable base film.

(2) One black-line print.

(C) The final plat shall conform to the approved preliminary plat in all significant respects. It may constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at any one time, provided that the portion represents a reasonable staging procedure acceptable to the town. The final plat shall contain the information as required by F.S.A. Ch. 177. In addition the following information shall be considered necessary for all plats within the town.

(1) Name of subdivision and all street names.

(2) Name of owner or owners of record.

(3) Name of subdivider.

(4) Date of plat drawing, graphic scale, north point, and a boundary description that a surveyor can readily follow for purposes of resurvey with ties to government corners and permanent

reference markers at all angles in boundary and accurate dimensions and bearings.

(5) Location of tract, acres, number of lots, and area of each lot (in square feet).

(6) Name and delineation of former subdivision if any or all of the final plat had been previously subdivided.

(7) Location sketch.

(8) The boundary lines of the subdivision with their accurate lengths and bearings and the exact location of the subdivision within the section or sections by means of accurate angle and distance ties to one boundary of the section.

(9) Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street easement, and all other areas shown on the plat. Lot, block, street, and all other dimensions except to irregular boundaries, shall be shown to a minimum of hundredths of feet. All measurements shall refer to horizontal plane and in accordance with the definition of a foot adopted by the United States Bureau of Standards.

(10) Municipal, county, or government lot lines are to be shown from information available from the appropriate public agency.

(11) Exact locations, widths, and names of all streets and alleys within and immediately adjoining the plat and the exact location and widths of all crosswalks.

(12) Street centerlines showing bearings, radii, length of arcs, chords and chord bearings, and central angles of curves.

(13) Lot lines with distances to the nearest .01 foot, line bearing, necessary internal angles, arcs, central angles, chords and chord bearings, and radii of rounded corners.

(14) All contiguous properties shall be identified by subdivision title, plat book and page or, if unplatted, land shall be so designated.

(15) All section lines and quarter section lines occurring in the map or plat shall be indicated by lines drawn on the map or plat, with appropriate words and figures. If the description is by metes and bounds, the point of beginning shall be indicated together with all bearings and distances of the boundary lines. If the platted lands are in a land grant or are not included in the subdivision of government surveys, then the boundaries are to be defined by metes and bounds and courses. The initial point in the description shall be tied to the nearest government corner, or other recorded and well-established corner.

(16) Lots or sites numbered in numerical order and blocks, if any, lettered alphabetically.

(17) Natural and cultural features to be retained in the proposed subdivision, as itemized in § 157.16 (D)(8) and (9).

(18) Locations, dimensions, and purposes of all rights-of-way and easements for drainage, utilities, and other purposes, including slope easements, if required, and any areas to be reserved, donated, or dedicated to public use or sites for other than residential use with notes stating their purpose or limitations; and areas to be reserved by deed covenant for common uses of all property owners.

(19) Permanent reference monuments shall be placed at each corner or change in direction on the boundary of the lands being platted.

(20) Place for certificates, easements, and other legal statements.

(D) The final plat shall be accompanied by a title opinion by an attorney-at-law, licensed in the state, or a title insurance company policy confirming that the lands as described and shown on the plat are in the name of the person, persons, or organization executing the dedication of streets or other lands as it is shown on the plat and that the developer has apparent title to the lands. The title opinion or policy shall also show all mortgages on the land to be platted. The plat shall be consented to by all mortgagees.
('71 Code, Appendix A, § 6.30)

§ 157.18 PLAT CERTIFICATES.

Each final plat submitted to the town for approval shall carry the certificates as required by Sarasota or Manatee County as applicable. In addition, the following town-required certificates shall be printed thereon substantially as follows, but adjusted as appropriate, subject to town approval.

(A) Surveyor's certificate.

I, the undersigned Registered Land Surveyor, hereby certify that this plat was made under my responsible direction and supervision and is a true representation of the lands described and shown, to the best of my knowledge and belief, and that permanent reference monuments have been placed as required by the Town Code of the Town of Longboat Key, the Sarasota County Subdivision Regulations and the Statutes of the State of Florida thereunto appertaining.

Signature: _____
(Name)
Registered Land Surveyor
Florida Certificate No. _____

Date of Survey: _____

(B) Certificate of ownership and dedication for corporations.

STATE OF FLORIDA)
)SS
COUNTY OF SARASOTA)

_____ a Florida Corporation, by its duly elected President, _____ and by its duly elected Secretary, _____, acting by and with authority of its Board of Directors, certifies ownership by said Corporation of the property described hereon, and does hereby dedicate and set apart all of the streets, walks, alleys, thoroughfares, front, rear parks and side lot line utility and drainage easements, parks and other open spaces, canals and drainage or other easements shown on this plat of _____ for said uses and purposes to the Town of Longboat Key forever.

IN WITNESS WHEREOF, the undersigned corporation has caused these presents to be executed by its President and attested by its Secretary, this _____ day of _____, A.D. 19 ____.

(CORPORATE SEAL) By: _____
President

ATTEST:

_____
Secretary

STATE OF FLORIDA)
)SS
COUNTY OF SARASOTA)

Before me, the undersigned Notary Public, personally appeared _____, President, and _____, Secretary, of _____, a Florida Corporation, to me known to be the individuals described in and who executed the foregoing Certificate of Dedication, and they each duly acknowledged before me that they executed the same, as such officers, for and in behalf of said Corporation.

Witness my hand and official seal at Sarasota County, Florida, this _____ day of _____, A.D. 19 _____.

_____
Notary Public, State of Florida at Large

My Commission Expires: _____

(C) Certificate of ownership and dedication for individual owners.

STATE OF FLORIDA)
)SS
COUNTY OF SARASOTA)

_____ and _____, husband and wife, certify that we are the owners of the property described hereon, do hereby dedicate and set apart all of the streets, alleys, walks, thoroughfares, front, rear and side lot line utility and drainage easements, parks and other open spaces, canals and drainage or other easements shown on this plat of _____ for said uses and purposes to the Town of Longboat Key forever.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ____ day of _____, A.D. 19 ___.

WITNESSES:

_____ _____ (SEAL)
_____ _____ (SEAL)

STATE OF FLORIDA)
)SS
COUNTY OF SARASOTA)

BEFORE ME, the undersigned Notary Public, personally appeared _____ and _____, husband and wife, to me known to be the individuals described in and who executed the foregoing Certificate of Dedication, and they each duly acknowledged before me that they executed the same.

WITNESS my hand and official seal at Sarasota County, Florida, this day of _____, A.D. 19 _____.

_____
NOTARY PUBLIC, State of Florida at Large

My Commission Expires: _____

(D) Approvals.

This plat conforms to the preliminary plat approval provisions made by the Town of Longboat Key Town Commission this ____ day of _____, A.D. 19 _____.

_____
Town Manager, Town of Longboat Key

Approved by the Longboat Key Town Commission this ____ day of _____, A.D. 19 _____.

_____
Mayor

_____
Town Clerk

_____
Town Attorney

Accepted for files and recorded this _____ day of _____, A.D. 19 ____, in Plat Book _____, Page _____.

_____ Clerk of the Circuit Court
_____ County, Florida.

(E) Consent to dedication (corporate).

STATE OF FLORIDA)SS
COUNTY OF SARASOTA)

_____, a _____ corporation, holder of Mortgage dated _____ and recorded in Official Record Book _____ at Page _____, Public Records of Sarasota County, Florida, does hereby consent to, ratify, approve and confirm this Plat and the dedication certificate thereon.

IN WITNESS WHEREOF, the undersigned Corporation has caused these presents to be executed by its _____ President and attested by its Secretary, this _____ day of _____.

_____

By: _____
President

Attest: _____
(Corporate Seal)
Secretary

STATE OF FLORIDA)SS
COUNTY OF SARASOTA)

Before me, the undersigned Notary Public, personally appeared _____, President, and _____, Secretary of _____, a corporation, to me known to be the individuals described in and who executed the foregoing Certificate of Dedication, and they each duly acknowledged before me that they executed the same, as such officers, for and in behalf of said Corporation.

WITNESS my hand and official seal at Sarasota County, Florida, this _____ day of _____, 19__.

_____
Notary Public, State of Florida at Large

My Commission Expires: _____
('71 Code, Appendix A, 6.40) (Ord. 76-2, passed 2-4-76)

2000 TOWN CODE

PLAT APPROVAL

§ 157.25 SUBMISSION OF PLAT REQUIRED; RIGHT TO APPEAL.

(A) Any person proposing to subdivide land within the town shall submit to the Town Manager, or designee plats of the proposed subdivision which shall conform to all the requirements set forth in this chapter and the required fee as set by resolution of the Town Commission.

(B) Any person aggrieved by the enforcement of this subchapter by any administrative official, may file within 30 days after the aggrievement a petition to have his survey or plat reviewed by the Town Commission.
('71 Code, Appendix A, § 4.10) (Ord. 76-28, passed 9-15-76; Amd. Ord. 81-37, passed 11-4-81; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 98-25, passed 7-16-98) Penalty see 157.99

§ 157.26 APPROVAL REQUIRED BEFORE STARTING CONSTRUCTION.

(A) No subdivider shall proceed with any construction work or clearing of land whatsoever on a proposed subdivision or development before obtaining preliminary plat and construction plans approvals from the Town Commission as certified thereon. ('71 Code, Appendix A, § 4.20) (Ord. 81-37, passed 11-4-81)

(B) No subdivision of lands as defined in § 157.03 within the town shall be made without prior approval of a plat thereof by the town, and no plat shall be considered finally approved until it has been submitted and approved by Manatee or Sarasota County, for recording purposes, and dedication of public streets, parks, easements, and places have been accepted by the town.
('71 Code, Appendix A, § 4.50) Penalty, see § 157.99

§ 157.27 CERTIFICATION BY LAND SURVEYOR.

Every subdivision of lands made within the provisions of this chapter shall be made under the responsible direction and supervision of a land surveyor who will certify on the plat that the plat is a true and correct representation of the lands surveyed, that the survey was made under his responsible direction and supervision, and that the survey data complies with all of the requirements of these regulations. The certification shall bear the signature, registration number, and the official seal of the land surveyor.
('71 Code, Appendix A, § 5.11)

§ 157.28 DEDICATION OF STREETS AND EASEMENTS.

The following shall apply to all subdivisions.

(A) Every plat of a subdivision filed for record must contain a dedication of streets or easements by the developer. The dedication shall be executed by all developers and mortgagees having a record interest in the lands subdivided, in the same manner in which deeds are required to be executed.

(B) When a tract or parcel of land has been subdivided and a plat thereof bearing the dedication executed by the developers and mortgagees having a record interest in the lands subdivided, and the approval of the Planning and zoning Board has been secured and recorded in compliance with this chapter, all streets, alleys, easements, rights-of-way, and public areas shown on the plat, unless otherwise stated, shall be deemed to have been dedicated to the public for the uses and purposes thereon stated. However, nothing herein shall be construed as creating an obligation upon the Town Commission to perform any act of construction or maintenance within the dedicated areas except where the obligation is voluntarily and specifically assumed by the Town Commission.
('71 Code, Appendix A, § 5.12) (Ord. 81-37, passed 11-4-81) Penalty, see § 157.99

§ 157.29 PREAPPLICATION PROCEDURE.

The subdivider or his engineer, planner, or land surveyor, prior to the preparation of the preliminary plat, shall informally seek the advice of the Town Manager, or designee and other responsible public agencies, in order that he may become familiar with the subdivision requirements and with the provisions of the comprehensive plan affecting the territory in which the proposed subdivision is located.
('71 Code, Appendix A, § 5.21) (Ord. 98-24, passed 7-16-98)

§ 157.30 PRELIMINARY PLAT APPROVAL.

(A) Following the preapplication conference on the proposed subdivision the applicant shall submit preliminary plat materials which have been prepared in accordance with §157.16, with a processing fee as set by resolution of the Town Commission. The subdivider or his agent shall transmit copies of the preliminary plat and supporting data to the town and all appropriate county, regional, and state agencies including, but not limited to, the Florida Department of Environmental Regulations and the Florida Department of Transportation.

(B) The Planning and Zoning Board shall hold a public hearing on the preliminary plat after satisfaction of required public notice and shall make a recommendation to the Town Commission within 60 days after receipt of the preliminary plat by the town, provided, that the review period may be extended if additional information is requested from the applicant by the Board or by other public agencies.

(C) The Town Commission shall hold a public hearing on the preliminary plat and consider the supporting data along with agency comments and the Planning and Zoning Board recommendations and within 60 days of the receipt of the Planning and Zoning Board's recommendations, and satisfaction of required public notice shall either approve the preliminary plat; conditionally approve the preliminary plat subject to any necessary modifications, the nature of which shall be indicated on the preliminary plat or attached to it in writing; or disapprove the preliminary plat or any portion thereof, stating the reasons for disapproval in written form. The Town Manager, or designee shall notify the applicant of the Town Commission's action in writing within five days.

(D) Approval of the preliminary plat shall be deemed an expression of approval of the layout submitted and of preliminary engineering plans and design concepts, as a guide to the preparation of the final plat and the final construction plans, and shall not constitute advance approval of the final plat or plans. The approval of the preliminary plat shall be for one year within which time subdivider shall submit a final plat for all or a part thereof in accordance with the procedures and requirements of § 157.31 and other applicable provisions, provided, that the town may extend the time of approval of the preliminary plat upon written request of the subdivider. If the approval of the preliminary plat expires, the preliminary plat is null and void and the subdivider shall reapply according to the provisions and requirements of this chapter if he desires to reobtain preliminary plat approval.

(E) Upon approval of a preliminary plat and prior to submission of a final plat or commencement of any work whatsoever to the land, complete construction plans for all required improvements shall be submitted and approved by the town. The construction plans and specifications shall be in a form as specified by the town.
('71 Code, Appendix A, § 5.30) (Ord. 81-37, passed 11-4-81; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98) Penalty, see § 157.99

§ 157.31 FINAL PLAT APPROVAL.

(A) Whenever the provisions of this chapter have been complied with and while the approval of the preliminary plat is in effect and after construction plans and other supporting data and documents that may be required by these regulations or other regulations related thereto have been approved, the applicant shall submit the final plat for approval. The final plat and plans shall conform essentially to the preliminary plat as approved, and, at the option of the subdivider, may constitute only that portion of the approved preliminary plat which he proposes to record or develop at the time, provided, that the portion conforms to all requirements of these regulations. The applicant shall simultaneously pay to the town a fee as set by resolution of the Town Commission to cover the town's expenses for processing, administration, legal, and engineering reviews, and other expenses related thereto.

(B) Prior to or at the time the final plat of a subdivision is executed on behalf of the town, the subdivider shall do or have done one of the following.

(1) Deliver to the town a satisfactory performance bond issued by a recognized surety company licensed to do business in the state, or other security satisfactory to the Town Commission. The surety shall have provisions and meet requirements as set forth below.

(a) The bond or surety shall be for the use of the town and all persons supplying the obligator 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 or surety shall be in the penal sum of 125% of the estimated cost of construction. The cost estimate shall be prepared by a registered engineer retained by the applicant and confirmed by the town, and shall be submitted in detailed written form for town approval.

(c) The bond or surety shall guarantee the performance required in the applicable provisions of this chapter within one year of the date thereof, provided that, the Town Commission, on request, may extend the period of performance to two years from the date thereof.

(d) The bond or surety shall cover all improvements for a period of one year after completion and acceptance of the improvements by the town, provided that if the surety is cash or other liquid security, the town may release a sum equal to 75% of the cost of those improvements completed and accepted by the town after receipt of "as-built" plans for the improvements.

(2) Have constructed the required improvements and performed all required actions as set forth in this chapter and delivered to the town a satisfactory maintenance bond issued by a recognized surety company licensed to do business in the state, or other security satisfactory to the Town Commission. The surety shall have provisions and meet requirements as set forth below.

(a) The bond or surety shall be for a period of one year after acceptance of the improvements by the town and guarantee the repair or replacement of any improvements to the condition required by these regulations and other applicable requirements of the town because of defective materials, engineering, or workmanship.

(b) The bond or surety shall be in the penal sum of 25% of the cost of the improvements as determined by a registered Commission, upon request, may reduce the amount.

(C) Whenever a final plat has been submitted to the Town Commission and is in conformance with the approved preliminary plat and the provisions of these regulations, the Town Commission shall hold a public hearing on the final plat after required public notice and take action on the plat. Final approval by the Town Commission shall not be shown on the final plat until all requirements of these rules and regulations have been met, and the Town Manager, or designee has determined the following:

(1) All improvements and installations to the subdivision required for its approval under the terms of these rules and regulations have been completed in accordance with the appropri-

ate specifications and the provisions of division (B)(2) above and "as-built" construction plans for all required improvements have been filed with the town.

(2) A surety has been provided by the subdivider or developer to satisfy the requirements herein as set forth in division (B) above.

(D) Approval by the Town Commission shall appear on the original tracing. Upon final approval by the Town Commission, the applicant shall submit the original and one copy of the approved final plat to the town, and neither the applicant nor his attorney or other agent shall have custody thereafter. The applicant shall provide the town with the costs of processing and recording, and within 30 days the town shall submit the final plat to the applicable county for approval and recording in the official records.

(E) Approval of the final plat by the Town Commission shall, upon completion of work by the subdivider or developer and submission of an acceptable maintenance bond, be deemed an acceptance of the dedication of the public streets and other public land as shown upon the plat on behalf of the public, unless otherwise provided.
('71 Code, Appendix A, § 5.40) (Ord. 81-37, passed 11-4-81; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98) Penalty, see § 157.99

DESIGN STANDARDS

§ 157.40 SUITABILITY OF LAND.

Land unduly subject to rainstorm or tidal flooding, improper drainage, and erosion, as determined by the town, and any land deemed by the town to be unsuitable for development shall not be platted for any uses as may continue the conditions or increase danger to health, safety, life, or property, unless steps satisfactory to the town are taken to eliminate the above-mentioned hazards, especially as they relate to the construction of buildings thereon.
('71 Code, Appendix A, § 7.11) Penalty see § 137.99

§ 157.41 STREET ACCESS REQUIRED.

(A) No building permit shall be issued for, and no building or other structure shall be erected on, any lot within the town, unless the lot has frontage to a street which shall have been accepted, or opened as, or otherwise shall have received the legal status of a public or private street, or which corresponds in its location and lines with a street shown on a plat approved by the town or a plat made and adopted by the town. ('71 Code, Appendix A, § 4.40)

(B) Every subdivision and every lot within it shall have legal access to a public street or private street constructed in accordance with these regulations. A subdivision shall be designed so as to provide for street access to adjoining parcels of land when appropriate. No subdivision shall be approved unless its improved street system is connected to a public street or highway.
('71 Code, Appendix A, § 7.20) Penalty, see § 157.99

§ 157.42 CONFORMANCE TO OTHER REGULATIONS.

(A) All proposed subdivisions shall conform to the comprehensive plan and development policies in effect at the time of submission. ('71 Code, Appendix A, § 7.31)

(B) Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the zoning code, building code, or other official regulations or resolutions, the most restrictive shall apply unless an application for change is initiated by the subdivider. If uses are proposed that do not conform to the zoning code, the zoning of the platted area proposed for platting must be changed to conform before the plat is filed. ('71 Code, Appendix A, § 7.41)
Penalty, see § 157.99

§ 157.43 DEDICATION OF LAND TO PUBLIC USE.

Whenever the plat proposes the dedication of land to public use and the appropriate agency finds that the land is not required or suitable for public use, the town may either refuse to approve the plat or it may require the rearrangement of lots to include the land. ('71 Code, Appendix A, § 7.32)

§ 157.44 BLOCKS.

(A) The lengths, widths, and shapes of blocks shall be determined with due regard to the following.

(1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.

(2) Zoning requirements as to lot sizes and dimensions unless a planned unit development is contemplated.

(3) Needs for convenient access, circulation, control, and safety of vehicular and pedestrian traffic.

(4) Limitations and opportunities of topography and other natural features.

(B) In general, residential blocks should not be greater than 1,400 feet in length, depending on land configuration. Residential blocks shall be wide enough to provide two tiers of lots, except where fronting on major thoroughfares or prevented by physiographical conditions, size, or configuration of property, in which case the town may require or approve a single tier of lots of minimum depth.
('71 Code, Appendix A, § 7.50) Penalty, see § 157.99

§ 157.45 LOTS.

(A) Insofar as practicable, side lot lines shall be perpendicular or radial to street lines. Each lot shall abut on a dedicated public or private street and conform to this code and the zoning code. Every residential lot shall conform to at least the minimum dimension and area requirement of the zoning code.

(B) Double frontage, unless required by the town, shall be prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography, orientation, and property size. A planting screen reservation of at least 10 feet in width and across which there shall be no right of access, may be required along the line of lots abutting a traffic artery or other disadvantageous use. This reservation shall be in addition to other setback requirements.

(C) Corner lots shall have an extra width at least 15% greater than the required minimum to permit appropriate building setback from and orientation to both streets.

(D) Lot remnants (lots below minimum area or width left over after subdividing tracts of land) shall be prohibited. The remnant areas shall be added to adjacent lots, rather than remain as unusable parcels.

(E) The subdividing of the land shall be such as to provide each lot with direct abutting access to an existing public street or to a street contained within the proposed subdivision, provided that individual lots, except in unusual circumstances, shall not front on an arterial street as defined in § 157.03.
('71 Code, Appendix A, § 7.60) (Ord. 81-37, passed 11-4-81) Penalty, see § 157.99

§ 157.46 STREETS.

(A) The arrangements, character, extent, width, and location of all streets shall conform to the comprehensive plan for the town and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by the streets. Where streets are not shown in the comprehensive plan for the town, the arrangement of streets in a subdivision shall do one of the following.

(1) Provide for the continuation or appropriate projection of existing streets in surrounding areas at the same or greater width, but in no case less than the required minimum width.

(2) Conform to a plan for an area approved by the town to meet a particular situation where natural or other conditions made continuance or conformance to existing streets impracticable.

(B) Minor or local streets shall be so laid out that their use by through traffic will be discouraged.

(C) Cul-de-sacs shall be required for dead-end streets.

(D) Where a subdivision abuts or contains an existing or proposed major street, the town may require marginal access streets, double frontage lots with screen planting contained in a nonaccess reservation along the rear property lines, deep lots with rear service drives, or any other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(E) Street intersections shall be as nearly at right angles as possible, and no intersection shall be at an angle less than 60 degrees. Detailed designs of intersections may be required. Street jogs with centerline off-sets of less than 125 feet shall not be permitted unless the town determines their necessity.

(F) Curb line radius at street intersections shall be at least 30 feet and where the angle of street intersection is less than 90 degrees, the town may require a greater radius.

(G) Cul-de-sac streets shall be designed with a circular turnaround to have a minimum right-of-way radius of 50 feet and a minimum pavement radius of 35 feet.

(H) All streets, public or private, shall have a right-of-way width of at least 50 feet and a pavement width of 22 feet. The following minimum right-of-way and pavement widths shall apply to the following classification of streets as defined. Pavement shall generally be centered within the right-of-way.

Type	Right-of-way	Pavement (Excluding Curb or Gutter)
Highways	100 feet	48 feet total, divided or undivided
Arterial streets	100 feet with divided lanes 80 feet with	48 feet total, divided or undivided undivided lanes
Collector streets	80 feet	36 feet
Minor or local	60 feet, unless 50 feet permitted	22 feet
Marginal access streets	50 feet	22 feet

(I) Alleys orservice drives shall not be provided in residential blocks except where the subdivider produces evidence satisfactory to the town of the need of alleys or service drives. Where alleys or service drives are permitted, minimum right-of-way width shall be 30 feet and improvements shall meet the construction specifications of the town. ('71 Code, Appendix A, § 7.70)

(J) Half streets shall be prohibited. Streets on the boundary of a subdivision shall be of full width.

(K) Reserve strips controlling access to streets, alleys, or public grounds shall not be permitted, except where approved by the town as dedicated public land or a controlled-access strip. ('71 Code, Appendix A, § 7.80)

(L) Street names shall be designated by the subdivider for all streets. No two streets shall have the same name, nor shall any new street have the same name as an existing street in the town. Street names in a proposed subdivision shall be submitted by the developer to the post office for review and approval prior to the submission of the preliminary plat. ('71 Code, Appendix A, § 7.90)

Penalty, see § 157.99

REQUIRED IMPROVEMENTS

§ 157.55 MINIMUM IMPROVEMENTS.

Every subdivider, at his own expense, shall install or have made provisions for installations acceptable to the town, and in accordance with the provisions of this chapter, certain improvements as specified in this subchapter.
('71 Code, Appendix A, § 8.10) Penalty, see § 157.99

§ 157.56 CONSTRUCTION PLANS AND SPECIFICATIONS.

The plans and specifications for the required improvements described in this subchapter shall be prepared by a registered engineer and shall be clear and complete in all respects, at an appropriate scale, and shall conform to good engineering practices where not specifically detailed in these regulations or in other town ordinances or regulations or by county or state regulations, the practices being oriented to the special condition of the town. Allowance shall be made for the Gulf setback requirements established by the town. The required engineer or engineers responsible for the approved plans shall supervise the construction of the improvements and shall provide certified as-built drawings on mylar to the town upon completion.
('71 Code, Appendix A, § 8.20) Penalty, see § 157.99

§ 157.57 ELEVATION AND LAND FILLING.

Filling, dredging, clearing of land, or otherwise changing the character of the site, shall not be permitted until after construction plans have been approved and all local, county, regional, state, and federal provisions, requirements, or permits have been obtained. Elevations of filled land shall be determined in conformance with all town regulations and other applicable provisions, with due allowance for the required elevation of buildings to be erected thereupon.
('71 Code, Appendix A, § 8.30) Penalty, see § 157.99

§ 157.58 STREETS.

(A) No street shall be accepted as part of the town street system or approved for private use and maintenance, nor shall a public street be maintained by the town unless all improvements are constructed and inspected in accordance with the specifications contained herein, and no streets shall be maintained by the town unless accepted by the Town Commission for maintenance. ('71 Code, Appendix A, § 4.30)

(B) All streets shall be laid out and designed in accordance with § 157.46 and other applicable ordinances and regulations of the town. All streets, public or private, shall be constructed to the standards of the town and shall consist of a properly prepared subgrade, an approved road base, and an approved wearing surface. All construction shall be in accordance with the approved plans and specifications but in all cases conform to the town's street construction specifications as adopted and amended from time to time by the town and on file

in the office of the Town Clerk. Any and all tests required by the town shall be at the cost of the subdivider and conducted by an engineering laboratory acceptable to the town.

(C) When curbs are provided at the option of the town, they shall conform to the street construction specifications of the town.

(D) At the discretion of the town and dependent upon potential pedestrian or bicycle traffic, the town may require either sidewalks, bicycle paths, or both. Consideration will be given to a pedestrian and bike circulation system with an alignment that may reduce or eliminate roadside sidewalks and bike paths. If sidewalks or bicycle paths are provided, they shall conform to the street construction specifications of the town.

(E) All streets shall be provided with street name signs and the necessary traffic-control and regulation signs as determined by the town. All signs shall conform to the street construction specifications of the town. ('71 Code, Appendix A, § 8.40) Penalty, see § 157.99

§ 157.59 DRAINAGE.

(A) A complete storm drainage system shall be constructed which provides for proper drainage of all areas including lots, tracts, streets, and other areas. Drainage runoff from areas outside the subdivision which passes over or through areas of the subdivision shall be allowed for in the drainage system design. The storm drainage system shall, in addition to meeting all town requirements, conform with all applicable county and state agency standards and requirements, including those relating to pollution control. Concentrated point discharge directly to the Gulf shall be prohibited.

(B) All drainage systems shall be designed for floods resulting from rainstorms of 10-year intervals, applying the "rational formula" or other acceptable methods commonly employed for drainage work in hydraulic calculations. Rainfall intensity data shall be taken from established references. Ultimate land uses shall be assumed for selection of the proper runoff coefficient whether within the subdivision or not. Weighted runoff coefficients may be applied where different coefficients apply within the area comprising drainage basins. The design shall incorporate infiltration features where a positive, permanent outlet is not available or where percolation may be necessary for pollution control. Percolation testing under the control of a registered engineer may be required by the town to support the computations submitted for approval.

(C) The drainage system including all drainage structures and appurtenances such as pipes, inlets, culverts, headwalls, or weirs shall be constructed in accordance with the storm drainage construction specifications as adopted and amended from time to time by the town and on file in the office of the Town Clerk.
('71 Code, Appendix A, § 8.50) Penalty, see § 157.99

§ 157.60 UTILITIES.

(A) All subdivisions shall include within their design and construction the provision of adequate public and private utilities including, but not limited to, water supply, waste water collection and pumping, electricity, telephone, and cable television, and shall be constructed in accordance with applicable town, county, state, and federal standards and requirements. Utilities shall be located underground unless specifically approved otherwise by the town.

(B) All water supply systems shall be designed and constructed in accordance with relevant town ordinances and the procedures therein, and the water supply system construction specifications as adopted and amended from time to time by the town and on file in the office of the Town Clerk.

(C) All waste water collection and pumping systems shall be designed and constructed in accordance with relevant town ordinances and the procedures therein, and the waste water system construction specifications as adopted and amended from time to time by the town and on file in the office of the Town Clerk.

(D) All other utilities shall be designed and constructed in accordance with relevant town ordinances and all requirements and standards of the appropriate private utility, including the procedures prescribed therein.
('71 Code, Appendix A, § 8.60) Penalty, see § 157.99

§ 157.61 MONUMENTS.

Permanent reference monuments as required by F.S.A. Ch. 177, shall be located and constructed. All points of curvature or tangency shall be clearly marked.
('71 Code, Appendix A, § 8.70)

§ 157.99 PENALTY.

Any person, persons, firms, or corporations convicted of violating the provisions of this chapter or any part hereof shall be punished by a fine of not more than $500 or imprisoned for a period not to exceed 60 days, and each day that the violation continues shall constitute a separate offense.
('71 Code, Appendix A, § 11.40)

Chapter 158: ZONING CODE

Section

Article I. General Provisions

158.001 Title
158.002 Purpose
158.003 Interpretation
158.004 Application
158.005 Relationship to the town's comprehensive plan
158.006 Definitions.
158.007 Zoning map adopted; interpretation
158.008 Establishment of districts
158.009 Description of districts and district policies
158.017 Parks and open space land acquisition

Article II. Administration and Administrative Procedures

Division 1. Administrative Official, Boards and Amendments

158.025 Planning and Zoning Official
158.026 Zoning Board of Adjustment
158.027 Appeals
158.028 Applications for special exception uses
158.029 Variances
158.030 Zoning amendments; review of planning and zoning board
158.031 Right to judicial review
158.032 Vested rights determination
158.049 Penalty

Article III. Site and Development Plans

Division 1. Planned Unit Developments

158.065 Purpose
158.066 Preapplication conference
158.067 Review and approval procedure
158.068 Minimum area
158.069 Open space
158.070 Residential density
158.071 Proposed land uses

Division 2. Site Development Plans

158.095 Required for certain permitted use applications
158.096 Consultants may be retained by town
158.097 Application for site plan approval
158.098 Preapplication conference
158.099 Submission procedure
158.100 Exemptions

158.102 Performance standards for site and development plans
158.103 Grant or denial of applications for site plan approval; findings of fact and conclusions

Article IV. General Regulations

Division 1. Use Regulations

158.125 Schedule of use regulations
158.126 Special exception uses
158.127 Accessory use or building
158.128 Off-street parking
158.129 Off-street loading
158.130 Service stations
158.131 Drive-in facilities
158.132 Tourism uses
158.133 Mobile home parks
158.134 Churches and private clubs
158.135 Home occupations
158.136 Outdoor dining for restaurants
158.137 Proposed land uses, density, conversions of single-family dwellings to multi-family
158.138 Status of nonconformities
158.139 Reconstruction of nonconformities in the event of involuntary destruction or damage
158.140 Conversions to time-share tourism use
158.141 Temporary use and structures: permit required
158.143 Required recreation amenities
158.144 Area transfer

Division 2. Lot, Yard and Bulk Regulations

158.145 Schedule of lot, yard and bulk regulations
158.147 Lot dimensions; reduction prohibited
158.148 Intersection visibility
158.149 Maximum coverage by buildings
158.150 Yard regulations
158.151 Minimum regulations for accessory structures
158.152 Walls, fences, hedges, berms, landscape logs and firewood
158.153 Height regulations
158.154 Screening regulations
158.155 Structures over water
158.156 Lot excavation, grades, and frontage
158.1361 Personal wireless service facilities

Prior history:

'71 Code App. B §§ 1.10 - 4.30, 5.11 - 12.10 and Ord. 74-15; Amd. Ords. 76-26, 77-10, 78-19, 79-10, 80-3, 80-8, 81-1, 81-18, 82-10, 83-8, 83-19, 85-18, 86-9, 86-16, 86-29, 86-36, 87-7, 87-9, 87-24, 87-26, 87-32, 88-4, 88-5, 88-9, 88-22 and 88-25

Appendix: Land use charts and illustrations

ARTICLE I. GENERAL PROVISIONS

§ 158.001 TITLE.

This chapter shall be known and cited as the Town of Longboat Key Zoning Code, which may, in subsequent sections of this chapter, be referred to as the Zoning Code. (Ord. 90-06, passed 3-19-90)

§ 158.002 PURPOSE.

(A) The purpose of this chapter is to establish comprehensive controls for the development of land in the Town based on the comprehensive plan, as defined in Chapter 160, and designed to preserve the unique island character of the town and enacted in order to protect, promote, and improve the public health, safety, comfort, order, appearance, convenience, morals, and general welfare of the people; and to use and strengthen the town's role in establishing and implementing the comprehensive planning process in order to protect natural and man-made resources and to maintain, through orderly growth and development, the character and stability of present and future land use and community development.

(B) The objectives of this chapter are to provide: for efficiency and economy in the process of development; for the appropriate and best use of land, for preservation, protection, development, and conservation of the natural resources of land, water, and air; for convenience of traffic and circulation of people and goods; for the use and occupancy of buildings; to maintain an appropriate balance for the scale of buildings; to promote and protect safety, light, air, access, and enhancement of appearance; for healthful and convenient distribution of population; for adequate public facilities and utilities; for promotion of civic amenities of beauty and visual interest; and for development in accord with comprehensive plan.

(C)(1) Height, number of stories, size, scale, interrelation among buildings and to the adjacent environment, bulk, location, erection, construction, repair, reconstruction, alteration, and use of buildings and other structures, for trade, industry, residence, and other purposes.

(2) Use of land and water for trade, profession, residence, and other purposes.

(3) Size of yards, and other open spaces.

(4) Percentage of lot that may be occupied.

(5) Density.

(6) Conditions under which various classes of nonconformities may continue.

(7) Use and types and sizes of structures in those areas subject to seasonal or periodic flooding so that danger to life and property in those areas will be minimized.

(8) Performance standards for use of property and location of structures thereon.

(D) All regulations shall be uniform throughout each district, but the regulations in one district may differ from those in other districts. Each district shall designate the permitted uses.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 97-09, passed 6-2-97)

§ 158.003 INTERPRETATION.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the protection, promotion, and improvement of the public health, safety, comfort, order, appearance, convenience, morals, and general welfare of the community. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties. However, where this chapter imposes a greater restriction on the use of buildings or premises, or on the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this chapter shall control. If, because of error or omission in the zoning map, any property in the town not shown as being in a zoning district, the classification of the property shall be R-1SF unless changed by amendment to the zoning map or by subsequent zoning ordinances.
(Ord. 90-06, passed 3-19-90)

§ 158.004 APPLICATION.

Except as otherwise provided, the following restriction shall apply:

No building shall be erected and no existing building shall be moved, altered, added to, or enlarged, nor shall any land or building be designed, used, or intended to be used for any purpose or in any manner other than as permitted in the district in which the building or land is located.
(Ord. 90-06, passed 3-19-90)

§ 158.005 RELATIONSHIP TO THE TOWN'S COMPREHENSIVE PLAN.

The Local Government Comprehensive Planning Act of 1975, as amended by the Local Government Planning and Land Development Regulation Act, provide that adopted comprehensive plans have legal status, and that no public or private development be permitted except in conformity with that comprehensive plan. The above referenced acts also assign to local governments the responsibility for implementing adopted comprehensive plans by the adoption of land development regulations. All land development regulations enacted or amended, including this Zoning Code, shall be consistent with the town's adopted Comprehensive Plan or elements, or portion thereof. In the event that the regulations of this Zoning Code are inconsistent with any provisions of the town's Comprehensive Plan, the provisions of the town's Comprehensive Plan shall govern.
(Ord. 90-06, passed 3-19-90)

§ 158.006 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"ACCESS DRIVE." Same as "Driveway."

"ACCESSORY USE OR BUILDING." A subordinate use or building customarily incident to and located on the same lot occupied by the main use or building.

"AISLE." The traveled way by which vehicles enter and depart parking spaces.

"ALLEY." A facility which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

"ANTENNA." Any device used to transmit or receive electromagnetic waves or frequency signals. The term "antenna" includes frequency signals for radio, television, paging, personal communications services, cellular communications services, analog communications services, digital communications services, and microwave communications. The term "antenna" does not include a television antenna, satellite dish, or other type of satellite or video receiving device that is mounted on a single-family residence for use exclusively of the occupants of that single-family home, or that is in compliance with § 158.127(F) and § 158.153 of the Town Zoning Code.

"ARTS AND CRAFTS." The making of artifacts in a single-family dwelling as a home occupation and in compliance with § 158.135.

"AUTO RENTAL LOT." A lot or parcel of land on which passenger automobiles for active rental purposes only are stored or parked.

"AWNING." An accessory structure either temporary or permanent which is supported by an open framework and is covered by cloth material.

"BACKHAUL NETWORK." The lines that connect a provider's tower to one or more cellular telephone switching offices, and/or long distance services to the public switched telephone network.

"BEACH SHELTER." An accessory structure, temporary or permanent, consisting of one or more columns and a roof and not including walls or a floor or facilities of any type.

"BEST MANAGEMENT PRACTICES." Professionally accepted methods or combination of methods to be incorporated into design, construction activities, and maintenance which have been determined to be the most effective.

"BOARD OF ADJUSTMENT." The Board of Adjustment of the town as provided for in this chapter.

"BOAT LIFT." A structure over water designed to lift a boat out of the water.

"BUILDING." See "Structure." Any structure having a roof including a screened pool cage, supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature. Any other structural appendage to a building, including a deck which protrudes more than six inches

above finished grade, shall be considered a building, except that permeable planters shall not be considered a building.

"BUILDING, HEIGHT OF." (1) For the purpose of § 158.145, Bulk, Maximum Height, for structures other than single-family residences, the vertical distance shall be measured from the minimum floor elevation, as established by the town, or from the ceiling of a one-level parking garage, occupying at least 75% of the area under the building, whichever is higher, to the highest point of any portion of the building.

(2) For the purpose of § 158.145, Bulk, Maximum Height, for single-family residences, the vertical distance shall be measured from the minimum habitable floor elevation as established by law to the highest point of any portion of the building.

(3) For the purpose of § 158.102(L), Supplemental Controls, the height of a building shall be measured from the lowest visible elevation under the building to the highest part of the building. Visible elevation shall not include elevator shafts, stairwells and other mechanical equipment areas, so long as such areas do not exceed 10% of the area under the building.

(4) Personal wireless service facilities shall be measured from the ground or base level of the personal wireless facility to the highest point of the personal wireless facility, including, but not limited to, the highest point of the antenna or other telecommunications attachment.

"BUILDING LINE." The line, established by law, beyond which any part of a building shall not extend, except as specifically provided by law.

"BULK." Height and percentage of land coverage of a building.

"CABANA (POOL HOUSE)." An accessory structure usually used in connection with outdoor bathing or recreation providing enclosed space for showering or changing clothes, with recreational cooking or bar facilities including storage facilities, but no sleeping rooms.

"CAMOUFLAGED TOWER." Any tower that due to design, location, or appearance hides, obscures, or conceals the presence of the tower and one or more antennas pursuant to the requirements of the code.

"CHURCH." A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

"CLUB, PRIVATE." Buildings or facilities, not open to the general public, owned and operated by an individual, corporation, or association of persons for social or recreational purposes for members and their bona fide guests, not operated or maintained primarily for the purpose of gaining a profit and not including casinos, nightclubs, bottle clubs or other establishments operated or maintained primarily for the purpose of gaining a profit.

"COLLAPSE ZONE." The area surrounding the personal wireless facility, which, in the event of a structural failure of all, or part, of the personal wireless facility, would result in the

personal wireless service facility falling or collapsing within the boundaries of the property on which the personal wireless service facility is placed.

"COMMERCIAL USE." An activity involving the purchase and sale or exchange of goods, commodities or services carried out primarily for the purpose of gaining a profit.

"COMMUNITY RESIDENTIAL HOME." A dwelling unit licensed to serve clients of the Department of Health and Rehabilitative Services, which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

"COMPREHENSIVE PLAN." A comprehensive plan, which may consist of several maps, data, and other descriptive matter, for the physical development of the town or any portion thereof, including any amendments, extensions, or additions thereto indicating the general location for major streets, parks, or other public utilities, zoning districts, or other similar information. The comprehensive plan shall be based on and include appropriate studies of the location and extent of present and anticipated population, social and economic resources and problems, and other useful data regarding the future development of the town.

"CONTIGUOUS." To physically touch or border upon; or to share a common property line.

"DAVIT." A structure designated to hoist watercraft from a dock, seawall, or from the water.

"DAYLIGHT PLANE." The angle in degrees for single-family homes measured from side lot line boundaries projecting upward toward the center of the parcel beginning at base flood elevation as established by law.

"DENSITY, MAXIMUM GROSS RESIDENTIAL." The maximum allowable number of dwelling or tourism units per acre of gross land area, as determined by this Zoning Code. (See "Gross Land Area.")

"DEVELOPMENT." The carrying out of any building activities or mining operation or the making of any material change in the use or appearance of any structure or land and/or the dividing of land into two or more lots.

"DEVELOPMENT, MAJOR." Any development requiring outline development plan, site plan or special exception review by the Planning and Zoning Board or Town Commission.

"DEVELOPMENT, MINOR." Any development not requiring site plan review by the Planning and Zoning Board or Town Commission including developments processed pursuant to § 158.100.

"DEVELOPMENT ORDER." Any order granting, denying, or granting with conditions an application for a development permit.

"DEVELOPMENT PERMIT." Any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

"DIRECT-TO-HOME SATELLITE SERVICES." The only programming transmitted or broadcasted by satellite directly to the subscribers' premises without the use of ground receiving equipment, except at the subscribers' premises or in the uplink process to the satellite.

"DISH ANTENNA (EARTH STATION)." A dish antenna intended for the purpose of receiving communication from, orbiting satellites and other extraterrestrial sources, a low-noise amplifier (L.N.A.) which is situated at the focal point of the receiving component for the purpose of magnifying and transferring signals, a coaxial cable for the purpose of carrying signals to the interior of a building, or a combination of any of these elements. It does not include a coaxial cable connected to any cable television system franchised by the town.

"DISH ANTENNA HEIGHT." The distance measured vertically from the bottom of the base which supports the dish antenna to its highest point when positioned for operation.

"DOCK." A structure built on piling, flotation devices, or projected over the water which is designed or used to provide mooring for and access to one or more boats. Necessary service such as water and other utilities are considered a part of a dock; however, no cooking, sleeping, or unrelated business activity shall be permitted or conducted on a dock.

"DOCK ACCESS RAMP OR STAIRS." A ramp or stairs located landward of the mean high water line which provides access to a boat dock which is no greater than five feet in width which extends a minimum length into the upland area to provide either access to grade that does not exceed a slope of 1:4 or reasonable clearance over shoreline wetland.

"DRIVEWAY." A private drive connecting a dwelling unit or other building and its adjacent parking area with the street.

"DWELLING." A building or portion thereof designed or used exclusively for residential occupancy.

(1) "MOBILE HOME DWELLING." A vehicle or movable dwelling structure which is designed to be used as a dwelling unit for one family and which stands on wheels, on rigid supports, or on a foundation, but excluding prefabricated homes or sections thereof and travel trailers as defined herein.

(2) "MULTIPLE OR MULTIFAMILY DWELLING." Dwellings, or a dwelling designed for residential occupancy by three or more families living independently of each other, within individual dwelling units for periods of not less than one month. Multiple or multifamily dwelling may also include a dwelling designed for residential occupancy exclusively by one family for periods of not less than one month, and attached to two or more other dwellings of similar design and separated by one or more party walls. The attached dwellings, as defined, constitute a building group.

(3) "SINGLE-FAMILY DWELLING." A detached dwelling designed for residential occupancy by one family on a single lot.

(4) "TWO-FAMILY DWELLING." A dwelling designed for residential occupancy by two families living independently of each other within individual dwelling units on a single lot.

(5) "TOWNHOUSE DWELLING." (See "Multiple or Multifamily Dwelling.")

"DWELLING UNITS (DU)." A dwelling, room, or group of rooms including a kitchen and sanitary facilities designed and used exclusively for residential use as separate living quarters by not more than one family.

2000 TOWN CODE

"ESSENTIAL SERVICES." Public utility facilities related to the water, wastewater, sewer, storm drainage, solid waste, telephone, gas and electric collection, or distribution systems serving the town; but not including cable television, personal wireless services, building housing employees or public safety facilities such as fire or police stations.

"FAMILY." An individual, or two or more persons related by legal adoption, blood, or a licit marriage, or a group of not more than four persons who need not be related by blood or marriage, any of whom are living together as a single housekeeping unit in a dwelling, or a group of not more than 14 unrelated residents plus staff who operate as the functional equivalent of a family in a community residential home.

"FLOOR AREA."

(1) "MINIMUM FLOOR AREA." Minimum floor area relative to residential use means minimum living area of the habitable floors, not including garage.

(2) "TOTAL FLOOR AREA." The sum of the gross enclosed horizontal area of all of the floors of a building except a basement as defined, measured from the exterior faces of exterior walls or supporting columns.

"FLORIST SHOP." A small retail shop which sells cut flowers and other small decorative plants.

"FRONTAGE." All the property on one side of a street between intersecting streets measured along the line of a street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

"GARAGE."

(1) "PRIVATE GARAGE." A building or space used as an accessory to or part of a principal building permitted in any residence district and providing for the storage of motor vehicles and in which no business, occupation, or service for profit is in any way conducted.

(2) "GARAGE, PUBLIC." Any building or premises, other than a private garage, used exclusively for the temporary parking or storage of motor vehicles.

"GRADE."

(1) "FINISHED GRADE." The final elevation of the ground surface after development.

(2) "NATURAL GRADE." The elevation of the ground surface prior to its preparation for development.

"GROSS LAND AREA." Those contiguous land areas under common ownership with the following provisions and exceptions:

(1) In cases where land abuts the tidal waters of the Gulf of Mexico, Sarasota Bay, and all bayous, estuaries, tributaries and manmade canals thereof, the boundary of the land shall be delineated as established by Florida Statutes (Chapter 177, Part II, Coastal Mapping, or as may be amended.)

(2) No submerged land or aquatic areas waterward of the boundary above described shall be included as land under this definition. Submerged land or aquatic areas shall include both tidal waters as well as nontidal rivers, streams, lakes, and lands beneath the same. The upper limit of these water bodies is the mean high tide line in tidal areas and the ordinary high-water line in nontidal areas.

(3) No land areas proposed to be allocated to nonresidential uses shall be included as residential land area under this definition. Such nonresidential land shall not be calculated in density calculations, excepting contiguous areas under unity of title which are stipulated for use as:

(a) Infrastructure required to support the proposed residential development; and

(b) Recreational lands for the primary use of on site residents.

"HOME OCCUPATION." Any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit, and complying with the provisions of § 158.135.

"HOTEL" or "MOTEL." A building or structure under a common or multiple ownership interest and single management which is designed, used, or held out to the public to be a place where sleeping accommodations are supplied for pay to transient guests or tenants. A hotel or motel, with or without individual kitchen or cooking facilities may have one or more dining rooms, restaurants, cafes or cocktail lounges where food and drink are served.

"IMPERMEABLE SURFACE." Any surface which prevents gases and liquids from penetrating into the ground, including but not limited to structures, pools, driveways, walks and parking areas; and excluding trellises, permeable wood decks, walls less than 12 inches in width, fences, and Har-Tru, clay and grass tennis courts.

"INFRASTRUCTURE." Facilities and services needed to sustain industry, residential, and commercial activities.

"LANDSCAPING, REQUIRED." Required landscaping shall consist of those plantings required by this chapter, including beautification strips, hedges, trees, planted ground cover,

sodded and grassed areas, and planted floral installations, all of which must be composed of natural plantings only, as distinguished from artificially manufactured planting reproductions.

"LAWN AND GARDEN CENTER." A retail center for the sale of trees, larger indoor and outdoor plants, seeds, fertilizers and other related supplies.

"LEGAL CONFORMING LOTS OF RECORD." Shall be defined as those single-family lots, excluding lot remnants, as defined herein, which comply with the size and dimension regulations of the current zoning code as may hereafter be amended.

"LEGAL NONCONFORMING LOTS OF RECORD." Shall be defined as those lots, excluding lot remnants, as defined herein, existing at the effective date of the 1984 Comprehensive Plan Amendment which were previously permitted pursuant to then existing town ordinances and, because of changes in said town ordinances, no longer conform.

"LOT." A parcel of land of at least sufficient size to meet minimum zoning requirements, occupied or intended for occupancy by a building together with its accessory buildings, including the open space required under this chapter. For the purpose of this chapter the word "LOT" shall be taken to mean any number of contiguous lots or portions thereof not separated by a street, public way or water body upon which one or more main structures for a single use are erected or are to be erected. Includes "plot" or "tract."

(1) "CORNER LOT." A lot abutting upon two or more streets at their intersection (see § 1 of the appendix following this chapter).

(2) "INTERIOR LOT." A lot other than a corner lot having frontage on one street (see § 1 of the appendix following this chapter).

(3) "THROUGH LOT." An interior lot having frontage on two streets, other than a corner lot (see § 1 of the appendix following this chapter).

"LOT COVERAGE." That percentage of the lot area covered or occupied by the buildings or any part of the buildings, excluding roof overhangs not to exceed three feet. (Ord. 93-18, passed 7-22-93)

"LOT DEPTH." The depth of a lot is the distance measured in the mean direction of the side line of the lot from the midpoint of the front lot line to the midpoint of the opposite mean rear line of the lot.

"LOT LINES." For the purpose of calculating density, lot, yard and bulk requirements, the lines bounding a lot, as herein defined, as established by ownership, except that:

(1) Where a lot line lies within a public or private street, the edge of the street or the right-of-way shall be considered the lot line.

(2) Where a lot line lies within a public or private waterway, the mean high-water line, waterway right-of-way, bulkhead or bulkhead line, whichever is most landward, shall be considered the lot line.

"LOT REMNANTS." Shall be defined as a lot or parcel which is too small to accommodate a building complying with the setback and building area requirements of the current zoning code as hereafter may be amended.

"LOT WIDTH." The width of a lot is the distance measured along the front building line between the side lot lines of a lot.

"LOUNGE." A structure or part of a structure used primarily for the sale or dispensing of liquor by the drink.

"MATURE REPLACEMENT TREE." A tree as defined in § 98.06(B), but having as a minimum, the following dimensions:

(1) A diameter of two inches or more measured four and one-half feet above ground level.

(2) At least 10 feet in height when planted and reach a height of at least 25 feet from ground level and a canopy spread of at least 20 feet at maturity. Three palm trees grouped to create a canopy of not less than 15 feet may be used to replace a shade tree.

"MEAN HIGH WATER LINE." The intersection of the tidal plane of mean high water with the shore (source: Florida Statutes, Chapter 177, Section 177.27(15)).

"MEAN LOW WATER." The average height of the low-waters over a 19-year period. For shorter periods of observation, it is the average height of the low-waters after corrections are applied to eliminate known variables and to reduce the results to the equivalent of a mean 19-year value (source: Florida Statutes, Chapter 177, Section 177.27(16)).

"MEDICAL CLINIC." A building designed or used to house the offices of one or more practitioners of the healing arts where patients are treated on an outpatient basis.

"MOBILE HOME PARK." Any parcel of land which is designed for or contains two or more mobile home dwellings.

"MONOPOLE." A personal wireless service facility support structure of single pole to support antennas and connecting appurtenances.

"MULTIFAMILY." Same as "Dwelling, Multiple or Multifamily Dwelling."

"NONCONFORMING LOT." A lot which does not conform to the schedule of lot regulations of this chapter pertaining to the district in which it is located.

"NONCONFORMING BUILDING OR STRUCTURE." A building or structure which does not conform to the yard or bulk regulations of this chapter pertaining to the district in which it is situated.

"NONCONFORMING USE." A use that does not conform to the regulations of the district in which it is situated.

"OPEN SPACE." Area comprised of permeable open surfaces excluding principal structures and impermeable surfaces.

"OPEN SPACE, COMMON." Land or water, within or related to a development, landward of the established mean high-water line, bulkhead or bulkhead line, whichever is most landward; and comprised of areas not defined as impermeable surface and which are designed and intended for the common use or enjoyment of the residents of the development.

"OPEN SPACE DISTRICT." A zoning district as described in § 158.009(A) of the town code.

"OPEN SPACE MASTER PLAN." An official town inventory of land recommended for acquisition by the town. The map representation may also contain land held in public ownership or held in trust for public purposes by the Audubon Society, the Nature Conservancy or other such organization.

"OUTDOOR DINING AREA." An area abutting an enclosed space, located in either a nonrequired yard, a required street yard, or a required pass, bay or canal waterfront yard, where patrons of a restaurant can enjoy food and drink service.

"PARK." An area designated and used by the public for active and/or passive recreation.

"PARKING LOT." An open area or plot of land used exclusively for the parking of motor vehicles including aisles, either for profit or gratis, for commercial or residential uses.

"PERSON." An individual, a group of individuals, or an association, firm, partnership, corporation or other entity, public or private, whether singular or plural.

"PERSONAL WIRELESS SERVICES." Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access facilities and those defined by the Federal Telecommunications Act of 1996.

"PERSONAL WIRELESS SERVICE FACILITIES." Facilities used for the provision of personal wireless services including any tower or antenna used for the provision of personal wireless services.

"PLANNING AND ZONING BOARD." The Longboat Key Planning and Zoning Board, the legally constituted membership of the Planning and Zoning Board of Longboat Key, Florida, as referenced in this chapter.

"PLANNING AND ZONING OFFICIAL." The official designated by the Town Manager as the individual responsible for the administration and enforcement of these regulations.

"PLANT NURSERY." Any lot, structure or premises used as a commercial enterprise for the purpose of growing or keeping of plants for sale or resale.

"POOL." Same as "Swimming Pool."

"POOL FENCE." An artificially constructed barrier, no more than four feet in height, which has been constructed to be porous and permeable and is erected for the sole purpose of encircling a swimming pool, wading pool or spa for reasons of child safety and liability.

"PRINCIPAL USE OR BUILDING." A use or building in which is conducted the predominant or primary function or activity of the lot on which it is located.

"PUBLIC BEACH." Land, either in private or public ownership, abutting the Gulf of Mexico or Sarasota Bay, designed, used, or held out as a place for one or more persons to participate, actively or passively, in sunning, swimming, camping, picnicking, or other similar activities either for a fee or at no charge; provided however, that such use by an owner or owners and his guests or tenants shall not constitute a public beach.

"RECREATION, ACTIVE." Leisure-time activities, usually of a more formal nature and performed with others, often requiring equipment and taking place at prescribed places, sites, or fields.

"RECREATION, PASSIVE." Any leisure-time activity not considered active.

"REMUNERATION." Compensation, money, rent, reward, bonus, prize or other consideration given by a person or someone on that person's behalf in return for occupancy, possession or use of real property. (Ord. 95-07, passed 5-1-95)

"RESIDENTIAL USE" or "RESIDENTIAL OCCUPANCY." The use of a building, or portion thereof, designed for and used for occupancy periods of not less than 30 days as provided in Section 4 herein. "RESIDENTIAL USE" may allow for occupancy periods of less than 30 days by one family, and only that same family, and shall not preclude visitation by guests, provided that such property is not used as a Tourism Use for remuneration.

"RESTAURANT." A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

"RIPARIAN LINE." The line which defines the limits of the riparian rights of a property which abuts the mean high water line.

"ROOFTOP ANTENNA PLATFORM." A raised structure that is either horizontal or perpendicular to a rooftop and that is capable of placing one or more antennas on the structure.

"SERVICE STATION." A building or lot where gasoline, oil, and greases are supplied and dispensed to the motor vehicle trade, or where battery, tires, or other repair services except body work or painting are rendered.

"SPECIAL EXCEPTION." A use that would not be appropriate generally or without restriction throughout a particular zoning district but would, if controlled as to number, area, location or relation to the neighborhood, would not adversely affect the public health, safety, comfort, good order, appearance, convenience, morals and general welfare.

"STATEMENT OF ZONING COMPLIANCE." A statement issued by the Planning and Zoning Official setting forth that the permitted construction has been completed in compliance with the approved plans and specifications and conforms with all provisions of this chapter.

"STORY." That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

"STREET." A facility, either public or private and either deeded or by easement, which affords the primary access to abutting property and is intended for general traffic circulation. A street includes the entire area between street lines (right-of-way lines.)

"STREET LINE." The line between the street and abutting property; also referred to as right-of-way line.

"STRUCTURAL ALTERATIONS." Any change, except the repair or replacement, in the supporting members of a building, such as walls, columns, beams, or girders or the rearrangement of any interior partitions affecting more than five percent of the floor area of the building.

"STRUCTURE." A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Includes "building". See "Building."

"STRUCTURE, HEIGHT OF." Any structure other than buildings shall be measured from finished grade, except as provided in § 158.152(F).

"SWIMMING POOL." A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 30 inches, designed, used and maintained for swimming or bathing.

"TIME-SHARING." The use of any dwelling or tourism unit under which the exclusive right of use or occupancy of the unit circulates among various occupants in accordance with a fixed time schedule on a periodically recurring basis for a period of time established by the schedule. "Time-sharing" may take the form of a residential use or a tourist use, as defined in this section, depending on the period of occupancy, and will be regulated accordingly.

"TOURISM UNIT (TU)." A building, or portion thereof, including a room or rooms, designed or used for tourism use. Any room or rooms capable of being separated as a self-contained entity by permanent or movable walls or doors with individual access to a public corridor, public access area, or exterior, shall each be counted as one "tourism unit."

"TOURISM USE." Use, or occupancy, or the design for such use or occupancy, by any person, of any property for transient lodging purposes where the term of occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession or tenancy is less than 30 consecutive calendar days or one entire calendar month, whichever is less. (Ord. 95-07, passed 5-1-95)

"TOWER." Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.

"TOWN COMMISSION." The Commission, as legally constituted, of the Town of Longboat Key.

"TRAVEL TRAILER" or "RECREATIONAL VEHICLE." A vehicle used for temporary or recreational living or sleeping purposes, and standing on wheels, whether self-propelled or requiring a separate vehicle for power.

"TRELLIS." A frame structure with frangible latticework with a maximum opacity of 60% on all surfaces.

"UNLICENSED WIRELESS SERVICE." The offering of telecommunications services using authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.

"USED FOR." Includes "designed for."

"VACANT LAND." Any lot or parcel of land which is completely open, has no use associated with or upon it and is not utilized as the required yard area for any adjoining uses.

"VARIANCE." A variance is a departure from the dimensional or numerical requirements of the Zoning Code 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 the chapter would result in unnecessary and undue hardship. A variance is authorized only for height, area, and size of structure or size of yards and open spaces, to the extent that such variance is consistent with the Comprehensive Plan.

"WETLAND AREAS." Generally defined as nonforested, forested, and mixed forested saltwater areas, and nonforested, forested, and mixed forested freshwater areas. For purposes of these regulations, wetland areas must have one or more of the following three attributes: 1.) at least periodically it supports predominantly hydrophytes; 2.) the substrate is predominantly undrained hydric soil; and 3.) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

"WINDWALL." A wall built as a minor structure, not to exceed three feet in height, with minimum penetration into the ground necessary to support the wall.

"YARD." An open space on the same lot with a building unoccupied and unobstructed from the ground upward, except by trees or shrubbery, or improvements and usages as specifically provided herein.

(1) "REQUIRED STREET YARD." A yard across the full width of the lot, extended from the front building line, including open porches, to the front street line of the lot (see § 1 of the appendix following this chapter).

(2) "REQUIRED REAR YARD." A yard extending across the full width of the lot and measured between the rear line of the lot and the rear building line of the main building. In the case of corner lots, the rear yard shall be the yard opposite the yard designated as the front yard (see § 1 of the appendix following this chapter).

(3) "REQUIRED SIDE YARD." A yard on the same lot with a building between the building line and the side line of the lot extending through from the front building line to the rear yard or to the rear line of the lot, where no rear yard is required (see § 1 of the appendix following this chapter).

(4) "REQUIRED WATERFRONT YARD." A yard on lots abutting a waterfront measured from the waterway right-of-way, mean high-water line, bulkhead, bulkhead line, erosion control

line, whichever is most landward, or as otherwise provided in § 158.150 and the closest building line.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 95-07, passed 5-1-95; Amd. Ord. 95-19, passed 1-8-96; Amd. Ord. 96-09, passed 10-8-96; Amd. Ord. 97-09, passed 6-2-97; Amd. Ord. 97-23, passed 11-3-97; Amd. Ord. 99-02, passed 4-5-99; Amd. Ord. 99-17, passed 6-7-99)

§ 158.007 ZONING MAP ADOPTED; INTERPRETATION.

(A) The official zoning map of 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 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 Ordinance No. 90-06 of the Town of Longboat Key, Florida."

(B) The district boundary lines are intended generally to follow the center lines of waterways and streets, existing lot lines, or municipal boundary lines, as shown on the zoning map; but where a district boundary line does not follow such a line, its position is shown on the zoning map by a specific dimension expressing its distance in feet from a street center line or other boundary line as indicated. In case of uncertainty as to the true location of a district boundary line in particular instance, the Planning and Zoning Official shall request the Board of Adjustment to render its determination with respect thereto; provided however, no boundary shall be changed by the Board of Adjustment.
(Ord. 90-06, passed 3-19-90)

§ 158.008 ESTABLISHMENT OF DISTRICTS.

For the purpose of protecting, promoting, and improving the public health, safety, comfort, order, appearance, convenience, morals, and general welfare of the community, the town is hereby divided into the following types of districts.

DISTRICT TYPE (MAXIMUM NUMBER OF DWELLING/TOURIST UNITS)	
OS	Open Space District
INS	Community Facility Institutional District
R-1IP	Island Preserve Residential District (1 D.U./5A.)
R-1SF	Single-Family Low-Density Estate Residential District (1 D.U./A.)
R-2SF	Single-Family Low-Density Residential District (2 D.U./A.)
R-3SF	Single-Family Low-Medium-Density Residential District (3 D.U./A.)
R-4SF	Single-Family Medium-Density Residential District (4 D.U./A.)
R-6SF	Single-Family High-Density Residential District (6 D.U./A.)

2000 TOWN CODE

R-3MX	Low-Medium-Density Mixed Residential District (3 D.U./A.)
R-4MX	Medium-Density Mixed Residential District (4 D.U./A.)
R-6MX	High-Density Mixed Residential District (6 D.U./A.)
PD	Planned Development District (3.26 D.U./A.)

DISTRICT TYPE (MAXIMUM NUMBER OF DWELLING/TOURIST UNITS) (Cont'd)

GPD	Gulf Planned Development District (5.05 D.U./A.)
NPD	Negotiated Planned Development District (4.60 D.U./A.)
OI	Office-Institutional District
C-1	Limited Commercial District
C-2	General Commercial District
C-3	Highway-Oriented Commercial District
M-1	Marine Commercial Service District
T-3	Low-Medium-Density Tourist Resort Commercial District (3 T.U./A.).
T-6	High-Density Tourist Resort Commercial District (6 T.U./A.)

(Ord. 90-06, passed 3-19-90)

Cross reference:
Flood districts, see §§ 154.07, 154.08

§ 158.009 DESCRIPTION OF DISTRICTS AND DISTRICT POLICIES.

(A) Open Space District (OS) - Established for those areas which are identified as environmentally sensitive publicly owned open spaces on the adopted Open Space Master Plan and/or the Comprehensive Plan. These environmentally sensitive areas shall remain in their natural state with little or no disturbance from man.

(B) Community Facility Institutional District (INS) - Established for lands accommodating public and semipublic facilities such as schools, government buildings, civic centers, worship centers, parks and recreation areas, cemeteries, fire, police, marine facilities, nursing homes, and emergency operation center facilities. Public facilities and utilities will be located to best maximize the efficiency of services provided, minimize costs, and minimize impacts on the natural environment.

(C) Island Preserve Residential District (R-1IP) - Established for islands surrounding the core of the barrier island. These areas shall not exceed a development intensity of one dwelling unit per five acres. This policy recognizes the inaccessibility of the area to the mainland, including the lack of any transportation linkage by land and therefore the total lack or any needed emergency services to the respective islands. Development shall be adequately supported by public services and facilities which shall be provided by the developer prior to construction of any habitable structures.

(D) Single-Family Low-Density Estate Residential District (R-1SF) - Established for single-family low-density residential estate development, including community residential homes with six or fewer residents plus staff per dwelling unit, at a density of one per acre and shall

be restricted to development of single-family detached units with a density no greater than one dwelling unit per acre. This district is intended to protect and preserve opportunities for low-density single-family estates at a density of up to one unit per acre. This district is particularly adaptive to highly valued water-oriented sites along the Bay, Bayou or Gulf. It provides for land area for accommodating a unique lifestyle which cannot be accommodated in the more dense residential areas. The district is designed to permit development compatible with the need for preserving an estate character and minimizing potential adverse impacts to fragile natural systems, including estuaries and the dune systems respectively. In areas where existing development is characterized by densities lower than one unit per acre, zoning policy shall be applied which assures that future development or redevelopment of such areas is consistent with prevailing densities. In this manner, opportunities for a range of relatively low estate densities shall be preserved, while minimizing potential disruption to open space and natural systems.

(E) Single-Family Low-Density Residential District (R-2SF) - Established for single-family low-density residential development, including community residential homes with six or fewer residents plus staff per dwelling unit, at a density of two dwelling units per acre and shall be restricted to development of single-family detached structure types with a density of not to exceed two dwelling units per acre. This district is intended to protect and preserve single-family residential areas with a density up to two units per acre. This district is generally adaptive to larger lots located along Gulf of Mexico Drive adjacent to saltwater bodies. It provides for land area for accommodating a unique lifestyle which cannot be accommodated in the more dense residential areas and is designed to permit development compatible with the need for preserving the established density pattern and minimizing potential adverse impacts to fragile natural systems. In areas where existing development is characterized by densities lower than two units per acre, zoning policy shall be applied which assures that future development or redevelopment of such areas is consistent with prevailing densities. In this manner opportunities for a range of relatively low densities shall be preserved while minimizing potential disruption to open space and natural systems.

(F) Single-Family Low-Medium-Density Residential District (R-3SF) - Established for low-medium-density residential development, including community residential homes with six or fewer residents plus staff per dwelling unit, for single-family detached dwelling units only and shall be developed, redeveloped and/or maintained as stable low-medium-density single-family detached residential neighborhoods with a density not to exceed three dwelling units per acre. It is the intent of this district to provide sufficient acreage for medium-density residential development which will be adequately supported by existing or anticipated future public services and facilities. Review of specific development densities shall be directed toward preserving stability of established residential areas. In addition, site plan review of specific development proposals shall provide for smooth transitions in residential densities. Generally, low-medium-density areas are located between the perimeter of low-density residential areas and areas designated for high-density residential concentrations or less restrictive nonresidential uses. Sufficient open space and landscaped screening and buffering systems shall be used to alleviate the potential adverse impacts of land use transition.

(G) Single-Family Medium-Density Residential District (R-4SF) - Established for medium-density residential development, including community residential homes with six or fewer residents plus staff per dwelling unit, for single-family detached units only and shall be developed, redeveloped and/or maintained as stable medium-density single-family detached residential neighborhoods with a density not to exceed four dwelling units per acre. It is the intent of this district to provide sufficient acreage for medium-density residential development which will be adequately supported by existing or anticipated future public services and facilities, with the intention of preserving the stability of established residential areas. Other considerations shall include the need to preserve natural hydrologic cycles and floodplain areas to the greatest reasonable extent. In addition, site plan review of specific development proposals shall provide for smooth transitions in residential densities. Generally, medium-density areas should be located between the perimeter of low-density residential areas and areas designated for high-density residential concentrations or less restrictive nonresidential uses. Sufficient open space and landscaped screening and buffering systems shall be used to alleviate the potential adverse impacts of land use transition.

(H) Single-Family High-Density Residential District (R-6SF) - Established for high-density residential development, including community residential homes with six or fewer residents plus staff per dwelling unit, for single-family detached dwelling units only, ranging up to a maximum of six units per acre. The high-density policy designation is intended to provide for high-density residential development which will be adequately supported by existing or anticipated public services and facilities and compatible with the surrounding area. The specific areas designated for high-density development should be developed to an intensity which is consistent with the carrying capacity of Gulf of Mexico Drive. Similarly, the site shall be provided with requisite urban services to support high density residential development. Development in the district should not be located along the narrow land corridor paralleling the dune system along the Gulf of Mexico, west of Gulf of Mexico Drive and within the highest velocity zone of hurricanes as represented in the Federal Flood Insurance Rate Maps. Specific density of future development proposals within these areas shall provide for smooth transition in residential density, preserve stability of established residential areas, and shall include sufficient open space, parking and landscaping to reinforce goals and objectives for quality living areas.

(I) Low-Medium-Density Mixed Residential District (R-3MX) - Established for low-medium-density residential development, including community residential homes, with mixed structure types and may develop with a mixture of single-family detached dwelling units as well as multiple-family dwelling units with a density not to exceed three dwelling units per acre. It is the intent of this district to provide for sufficient acreage for medium-density residential development which will be adequately supported by existing or anticipated future public services and facilities. Review of specific development densities shall be directed toward preserving stability of established residential areas. In addition, site plan review of specific development proposals shall provide for smooth transitions in residential densities. Generally, low-medium-density areas are located between the perimeter of low-density residential areas and areas designated for high-density residential concentrations or less restrictive nonresi-

dential uses. Sufficient open space and landscaped screening and buffering systems shall be used to alleviate the potential adverse impacts of land use transition.

(J) Medium-Density Mixed Residential District (R-4MX) - Established for medium-density residential development, including community residential homes, with mixed structure types and may develop with detached single-family units, multiple-family units, a mixture of single-family detached dwelling units as well as multiple-family dwelling units with a density not to exceed four dwelling units per acre. It is the density residential development which will be adequately supported by existing or anticipated future public services and facilities, with the intention of preserving the stability of established residential areas. Other considerations shall include the need to [preserve natural hydrologic cycles and floodplain areas to the] greatest reasonable extent. In addition, site plan review of specific development proposals shall provide for smooth transitions in residential densities. Generally, medium-density areas should be located between the perimeter of low-density residential areas and areas designated for high-density residential concentrations or less restrictive nonresidential uses. Sufficient open space and landscaped screening and buffering systems shall be used to alleviate the potential adverse impacts of land use transition.

(K) High-Density Mixed Residential District (R-6MX) - Established for high-density residential development, including community residential homes, with mixed structure types and may develop with detached single-family units, multiple-family units, a mixture of single-family detached dwelling units as well as multiple-family dwelling units ranging up to a maximum of six units per acre. The high-density policy designation is intended to provide for high-density residential development which will be adequately supported by existing or anticipated public services and facilities, and compatible with the surrounding area. The specific areas designated for high-density development should be developed to an intensity which is consistent with the carrying capacity of Gulf of Mexico Drive. Similarly, the site shall be provided with requisite urban services to support high-density residential development. Development in the district shall not be located along the narrow land corridor paralleling the dune system along the Gulf of Mexico, west of Gulf of Mexico Drive and within the highest velocity zone of hurricanes as represented in the Federal Flood Insurance Rate Maps, except as otherwise provided for in this chapter. Specific density of future development proposals within these areas shall provide for smooth transition in residential density, preserve stability of established residential areas, and shall include sufficient open space, parking and landscaping to reinforce goals and objectives for quality living areas.

(L) Planned Development District (PD), Gulf Planned Development District (GPD), and Negotiated Planned Development District (NPD) - Established for areas which may be developed pursuant to special conditions of a resolution or other legal instruments duly approved by the Town Commission pursuant to this chapter. The density for the respective Planned Development Districts reflect the following density schedule after considering vested rights issues:

District Designation	Density
Planned Development (PD)	3.26
Gulf Planned Development (GPD)	5.05
Negotiated Planned Development (NPD)	4.80

Such PUD's may include a mix of land uses as identified in the regulations of this chapter, including community residential homes, and such regulations shall not be interpreted as prohibiting mixed uses in duly approved PUD's. The following standards for regulating residential development in planned unit developments shall be used and is intended to accommodate planned unit developments with or without mixed uses:

(1) The respective densities for the PD and the GPD Districts reflect the average overall density per acre of all properties included within such districts, including recreational areas, open space areas, road rights-of-way, wetland areas and other nonresidential lands. It is understood that under these zoning regulations, the density of development sites within the PUD may vary.

(2) The density reflected above for the NPD is the average overall maximum density of both the dedicated site and the receiving site determined by dividing the total number of units approved by the town for the receiving site by the total number of acres of both the dedicated site and the receiving site, but in no event shall the density of the receiving site exceed a maximum average density of 11.26 dwelling units per acre.

(M) Office-Institutional District (OI) - Established for mixed land uses to accommodate development of offices, and institutional uses, including but not limited to banks and financial institutions. This district is intended to provide additional land development options for office and institutional land uses. Due to their generally close proximity to residential uses, these facilities shall provide a solid masonry fence and/or a berm with landscaping in order to reduce adverse impacts on adjacent residential development. The design including the material, height and screening characteristics shall satisfy sign requirements of Chapter 156 and this Zoning Code.

(N) Limited Commercial District (C-1) - Established for commercial sites accessible to major thoroughfares near residential neighborhoods. Such development is intended to provide essential tourist or household services in locations highly accessible to residential areas. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as selected resort commercial uses. Such shops generally cater to the following markets: 1) neighborhood residential markets within the immediate vicinity as opposed to town-wide or regional markets; 2) a specialized market with customized market demands; or 3) a tourist- or resort-oriented market in the immediate vicinity.

Commercial development within this district shall generally be restricted to any uses which are permitted in the office-institutional (OI) designated areas as well as the following uses: neighborhood convenience stores; small limited item shops and stores restricted to retail sales of convenience items and services including barber, beauty care, and other personal services; small-scale drugstores, laundry and dry cleaning pickup stations; florist shops and

other specialty shops; and small-scale tourist-oriented activities associated with safeguarding the stability and integrity of adjacent residential areas.

Areas designated for limited commercial development are not intended to accommodate large-scale retail sales, service, and market. Such stores would usually differ from limited commercial shops since the former would usually require a large floor area, carry a relatively larger inventory and require a substantially greater parking area. Uses which are not permitted within the limited commercial district include but are not limited to the following: large-scale discount stores; health spas; supermarkets; department stores; wholesale and warehousing activities; general appliance shops; printing shops; sales, service or repair of motor vehicles; machine equipment or accessory parts, including tire and battery shops, gas and automotive service centers; commercial amusements; lawn and garden centers and plant nurseries; fast food establishments primarily serving in disposable containers and/or providing drive-in facilities; and other similar services to be expressly defined in the zoning regulations of this chapter.

(O) General Commercial District (C-2) - Established for purposes of accommodating general retail sales and services, including lawn and garden centers.

These areas are located in highly accessible areas adjacent to major or minor arterials which possess necessary location and market requirements. Zoning policy shall stipulate provisions for distributing various levels of shopping facilities.

Uses which are not permitted within the general commercial district include but are not limited to the following: heavy vehicular sales, services or maintenance activities; wholesaling; warehousing; uses requiring extensive outside storage; plant nurseries; or other activities or trades which may generate nuisance impacts, including glare, smoke or other air pollutants, noise vibration or major fire hazards.

The areas designated for general commercial development are specifically not adaptive to permanent residential housing, and such residential uses shall be located in other areas designated for residential development.

(P) Highway-Oriented Commercial District (C-3) - Established for strategically located sites adjacent to major arterials having sufficient size, including frontage and depth, to accommodate not only the intended use but also sufficient area for implementing an efficient system of internal vehicular circulation, including consideration of space required for queuing of vehicles on site, off-street parking and maneuvering, landscaping, screening and buffering from abutting residential development or less intensive commercial use, and efficient location and design of curb cuts.

Highway-oriented commercial uses include vehicular service stations limited to minor fuel sales, service, and minor repair which shall exclude body repair and finishings; hotel, [motel and restaurant accommodations; lawn and garden centers, but] not plant nurseries; and other retail sales and services oriented to the motoring public or transient resident. Lands designated for highway-oriented commercial services should not be located adjacent to residential development.

(Q) Marine Commercial Service District (M-1) - Established for the allocation of land resources for existing and anticipated future commercial service such as marine repair and services, employee services, storage, and commercial support services.

Marine and commercial service areas are not adaptive to residential use. Therefore, residential uses shall not be located in these districts. This provision shall not prohibit residences for night watchmen or custodians whose presence on such sites is necessary for security purposes. Such a use may be permitted as an accessory use through appropriate zoning procedures.

Industry requiring a broad-based labor market, convenient access to a regional transportation system, relatively high demand for water and wastewater services, and other uniquely characteristic needs of industry, shall not be located within the barrier islands of the Town of Longboat Key. Such activities conflict with goals, objectives, and policies of the Comprehensive Plan for Longboat Key and are generally inconsistent with sound planning principles and practices for managing development, redevelopment, and resource conservation activities on the narrow, environmentally fragile barrier islands with substantially limited access to industrial labor, resource, and product markets.

(R) Low-Medium-Density Tourist Resort Commercial District (T-3) and High-Density Tourist Resort Commercial District (T-6) - Established to accommodate the unique land needs for resort-oriented facilities. These facilities generally are marketed as vacation accommodations for tourists and other transients seeking an environment with a high level of amenities. The low-medium-density tourist resort commercial district and the high-density tourist resort commercial district are allocated to sites which shall accommodate densities not to exceed three tourist units per acre and six tourist units per acre respectively. Regulations shall be provided to minimize adverse impact on the transportation system, realizing that trip generation for transient residential facilities is generally higher than year-round accommodations. Similarly, the regulations shall provide for recreation and open space amenities on site, consistent with the purpose and intent of these districts. All commercially provided recreational activities requiring shoreline or near-shore water utilization shall be concentrated at the commercial hotel facilities.
(Ord. 90-06, passed 3-19-90)

§ 158.017 PARKS AND OPEN SPACE LAND ACQUISITION.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(1) "DEVELOPER." Any person, partnership, corporation, or trustee undertaking any development as defined in this section.

(2) "DEVELOPMENT." Any subdivision, whether or not the recording of a plat is required; any land on which a multiple-family dwelling unit, residential building, or grouping of the buildings or villas is to be built, including but not limited to rental cooperative or

condominium units and including land to be used for commercial condominiums, tourism uses, or individual dwellings, the latter including the construction of a single-family lot or lots.

(B) This section is enacted to ensure that future land development within the town preserves or provides land in its natural state for parks and open space required by the Longboat Key Comprehensive Plan, and are more particularly set forth in the "Open Space Master Plan" concurrently adopted in subsection (C) below. Developers and landowners, including builders of residences on single-family lots, must provide for parks and open space. The scope of this section is further to set forth certain regulations pertaining to land development and construction within the town, providing for parks and open space, which regulations shall be in addition to all other applicable building, subdivision, zoning and other regulations established by the town ordinances. This section shall apply to and be enforced in all areas of the town; and no persons shall develop land, nor construct any single-family residence, anywhere in the town except in conformity with this section and other applicable regulations of the code of ordinances and amendments thereto.

(C) The map entitled "Open Space Master Plan" is made a part of this chapter and hereby adopted. This map properly attested shall be on file in the office of the Town Clerk inventorying land recommended for acquisition by the town.

(D) As a condition precedent to the grant of any permits following approval of final development plans, site plans, subdivision plats, or issuance of a building permit, the developer shall deed land to the town, pay a money fee in lieu thereof, or provide a combination of the above, at the option of the Town Commission, to be used for parks and open space specified in this section and according to the standards and formula set forth in this section.

(1) General standard; formula

(a) It is hereby found and determined that the public interest, convenience, health, welfare, and safety require that 12 acres of land or equivalent money value be deeded or paid to the town for each potential 1,000 persons residing in the town to be devoted for the park and open space purposes of this section as implemented by paragraph (b) below.

(b) In order to achieve the open space goals of the Town of Longboat Key for its projected maximum population, in recognition of the current inventory of open space lands held by the town, and to require a developer to pay an amount roughly proportional to the demand the development places upon open space within the town; five acres of land or equivalent money value will be deeded or paid to the town for each potential 1,000 persons residing in the town to be devoted for parks and open space purposes of this section.

(c) To determine the amount of land for parks and open space to be conveyed in accordance with the general standard, the following shall be used:

Average number of persons per dwelling or tourism unit divided by 1,000 population, multiplied by acres of land required, equals acreage requirement per dwelling or tourism unit. Example: For single dwelling or tourism unit: 2.01 divided by 1,000 × 5 = .010 per dwelling or tourism unit.

(d) The following basis is to be followed in determining the amount of land to be included:

Unit Type	Acreage Requirement/D.U. or T.U.
Single-Family	.01
Duplex	.01
Multifamily	.01
Tourism	.01

(e) For land zoned for multifamily or tourism uses, the land dedication basis shall be applied to the number of dwelling and tourism units included in the final development plan.

(f) The land to be conveyed to the town may be located either within or outside of the boundaries of the property proposed for development.

(2) Formula for fees in lieu of land conveyance:

(a) If it is determined that the proposed development does not include any land designated by the Open Space Master Plan as open space, to serve the immediate and future needs of the town residents and the developer is unwilling or unable to deed to the town lands outside the proposed development that are so designated, then the developer shall, in lieu of conveying land, pay a fee to the town equal to the value of the land acreage that would otherwise have been required to be conveyed as determined by the formula herein, and in an amount determined in accordance with the provisions set out below, the fee to be used by the town for acquisition of land and parks and open space which is intended to exclusively serve the residents of the town.

(b) The provisions of this subsection shall automatically apply to all developments of 25 dwelling or tourism units or less.

(E) In any development of over 25 dwelling or tourism units, the developer may be required to convey land and pay a fee in accordance with the following formula:

(1) When only a portion of the land which the developer is required to convey for parks and open space is to be conveyed, that portion shall be conveyed for parks or local open space and a fee computed pursuant to the provisions set out herein shall be paid to the town for any additional land that the developer would otherwise have been required to convey hereunder.

(2) When most of the land designated as parks and open space in the vicinity of the proposed development has already been acquired by the town and only a small remaining portion of the land in the proposed development is needed to complete the site, that remaining portion shall be conveyed by the developer and a fee shall be paid by the developer in lieu of conveying the additional land which would otherwise have been required to be conveyed. The

fees shall be in an amount equal to the value of the additional land which the developer would otherwise be required to convey, and the fees shall be used for the improvement of other town parks and open space land in the area serving the development.

(F) If the developer objects to the fair market value determination, he may submit an appraisal from a state certified appraiser showing the fair market value of the lands required to be donated; and final determination of the market value per acre of the land shall be made by the Town Commission based upon such information submitted by the developer. Should the developer's state certified appraisal not be acceptable to the town, the town shall appoint another state certified appraiser. The town's state certified appraiser and the developer's state certified appraiser shall select a third state certified appraiser; and the fair market value of the lands required to be conveyed, as determined by the three appraisers, shall be binding upon the developer and the town. The cost of an appraisal shall be a credit against any fees.

(G) The Town Commission shall determine whether to accept land or require payment of the fee in lieu thereof, after consideration of the following:

(1) Topography, geology, access, and location of land in the development available for dedication.

(2) Size and shape of the development and land available.

(3) The feasibility of conveyance.

(4) Availability of previously acquired parks and open space property.

(5) Whether the developer owns or controls other land designated in the "Open Space Master Plan" or other lands.

(H) Where private or public open space is provided in a proposed or existing planned unit development or district in excess of the then requirement of § 158.069, or any amendment thereof, of the Zoning Code, partial credit, not to exceed 50% of the amount of land required to be conveyed, may be given against the requirements of land to be conveyed or payment of fees in lieu thereof if the Town Commission finds it is in the required zoning and building ordinances.

(I) In the case of a subdivision for which a plat is required to be recorded, as a condition of preliminary plat approval, the developer shall agree in writing to convey land for parks and open space, pay a fee in lieu thereof, or both, at the option of the Town Commission at the time and according to the standards and formula in this section after a recommendation from the Town Manager, or designee and approved by the Town Commission at the time of approval of the subdivision preliminary plat. At the time of approval of the final subdivision plat, the developer shall convey the land and pay the fees as previously determined by the Town Commission, but not later than issuance of a building permit.

(J) The fees collected under this section shall be paid to the town at Town Hall, 501 Bay Isles Road, Longboat Key, Florida. All such fees, including any fees collected pursuant to Ordinances 79-7, 80-1, 80-9 and 81-27, shall be placed in a reserve account in trust within the general fund and shall be known as the reserve for lands for parks land open space. Monies

in the reserve account shall be used and expended solely for the acquisition, improvement, and expansion of town parks and open space land.
(Ord 90-06, passed 3-19-90; Ord. 94-28, passed 12-15-94; Amd. Ord. 98-24, passed 7-16-98)

ARTICLE II. ADMINISTRATION AND ADMINISTRATIVE PROCEDURES

DIVISION 1. ADMINISTRATIVE OFFICIAL, BOARDS AND AMENDMENTS

§ 158.025 PLANNING AND ZONING OFFICIAL.

This chapter shall be enforced by the Planning and Zoning Official of the town. No building permit, certificate of occupancy, or statement of zoning compliance shall be issued except where all the provisions of this chapter and Chapter 159 have been complied with.
(Ord. 90-06, passed 3-19-90)

§ 158.026 ZONING BOARD OF ADJUSTMENT.

(A) (1) There is hereby established a Zoning Board of Adjustment, hereinafter referred to as a Board of Adjustment. The Board of Adjustment shall consist of seven members who are registered voters and residents of the Town of Longboat Key who shall be appointed by the Town Commission. The Board shall elect a Chairman annually from among its members. No member of the Board of Adjustment shall be an elected official or employee of the town. A person appointed to this Board may not serve concurrently on any of the following Town Boards: Code Enforcement Board, Ethics Commission or Planning and Zoning Board.

(2) The term of office shall be for three years and shall be staggered so that not more than three terms expire within any one year. All terms of office shall expire on the second Wednesday of May of the year in which the term is set to expire. Any member who fails to attend three consecutive scheduled and called regular meetings shall automatically forfeit his appointment and the Town Commission shall promptly fill the vacancy. Appointments to fill vacancies shall be for the unexpired term of the member whose term becomes vacant.

(3), (4) [Repealed by Amd. Ord. of 93-11, passed 7-6-93]

(B) The Board of Adjustment shall establish rules and regulations for its own operation not inconsistent with the provisions of applicable state statutes or of this chapter.

(C) The Board of Adjustment shall elect a chairman, a vice-chairman, and a secretary from among its members. The chairman shall be the presiding member of the Board, and the vice-chairman shall be the presiding member in the chairman's absence or disqualification. The Board of Adjustment may elect other officers as they deem necessary. The terms of all officers shall be for one year, with eligibility for reelection.

(D) The Board of Adjustment shall meet at the call of the chairman, at the written request of three or more regular members, or within 30 days after receipt of a matter to be acted upon by the Board. Four members of the Board shall constitute a quorum. All meetings of the Board of Adjustment shall be public. A record of all its resolutions, transactions, findings, and determinations shall be made, which shall be a public record on file in the office of the Town Clerk.

(E) The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Planning and Zoning Official or to decide in favor of the appellant in respect to any matter on which it is required to pass under the terms of this chapter or to effect any variations of this chapter. Should a petition to the Board of Adjustment receive a vote of less than four members, but affirmative votes of enough when added to the absent members to make four, the petition shall be rescheduled from meeting to meeting until the matter can be decided by a concurring vote of four or more members of the Board.

(F) The Board of Adjustment shall have the following powers and duties:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter.

(2) To hear and decide special exceptions to the terms of this chapter on which the Board is required to pass as required in this section.

(3) To hear and decide waivers from the daylight plane regulations of this code pursuant to the procedures established for appeals as set forth in § 158.027. In determining whether to grant a waiver, the Zoning Board of Adjustment shall review the waiver application including both site and schematic design drawings and shall consider: (a) impacts to view of neighbors and neighborhood; (b) uniqueness of the configuration of the lot upon which the structure is proposed; and (c) special circumstances or conditions affecting the property, such that the strict application of the daylight plane requirements would inordinately burden the property owner and would deprive the property owner of a reasonable design for the building as it relates to its environs. If the Zoning Board of Adjustment determines that a waiver is appropriate it may increase the angle for the daylight plane, with or without conditions. Such waiver, if approved, shall apply to the building only and shall not terminate upon the destruction of the building.

(4) To authorize upon appeal in specific cases and where not otherwise prohibited by the terms of this chapter a variance from the terms of this chapter as will not be contrary to the public interest, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. As used in this chapter a variance can be authorized only for height, area, and size of structure or size of yards and open spaces; but in no event may a variance be granted by the Board of Adjustment that would allow an increase in density.

(5) The Board of Adjustment shall not consider any matter when in the opinion presented by the Town Attorney the matter presented is not within the jurisdiction of the Board as set

forth in this chapter.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 91-26, passed 11-4-91; Amd. Ord. 93-11, passed 7-6-93; Amd. Ord. 94-30, passed 1-9-95; Amd. Ord. 97-09, passed 6-2-97)

§ 158.027 APPEALS.

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, board, or commission of the town affected by any decision of the administrative council under any provision of this chapter.

(A) An appeal to the Board of Adjustment stays all work on the premises and all proceedings in furtherance of the action appealed for unless the official from whom the appeal was taken shall certify to the Board of Adjustment, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In this case, proceedings or work shall not be stayed except by a restraining order which may be granted by the Board of Adjustment or a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(B) Any person appealing any decision of an administrative official shall make the appeal within 30 days after rendition of the order, requirement, decision, or determination appealed from in writing to the Board of Adjustment and file with the Planning and Zoning Official the appeal, an application fee as set by resolution of the Town Commission, and a sufficient number of copies of supporting facts and data to satisfy administrative needs as determined by the Town Manager, or designee. This does not, however, restrict the filing of a request for a special exception or variance by any person at any time as provided for elsewhere in this chapter.

(C) Upon receipt of the appeal, the Planning and Zoning Official shall forthwith examine the appeal or request application and endorse his weighted options thereon together with all documents, plans, papers, or other materials constituting the record on which the action appealed was taken and transmit it to the Board of Adjustment. Concurrently, the Planning and Zoning Official shall transmit a copy of the appeal together with all documents, plans, papers, or other materials constituting the record to the Town Attorney for his review and opinion. The Town Attorney shall present his opinion to the Board of Adjustment with respect to two items, as to whether the appeal is in fact an appeal and within the jurisdiction of the Board of Adjustment, and the merits of the appeal proper if requested by the Board. Based on past opinions of the Town Attorney, the Town Manager, or designee may make such determinations.

(D) Before rendering a decision on an appeal, the Board of Adjustment shall hold a public hearing. The Board shall fix a reasonable time of day for the hearing and cause public notice to be given at the petitioner's expense. Notice of public hearings of the Board shall, at least seven days prior to hearing, be:

(1) Prominently posted by the applicant by a sign provided by the town on the property which is the subject of the application or petition. The posted notice shall be:

(a) Placed in a location in conformance with Chapter 156;

(b) Placed in a location unobstructed to the view of passersby;

(c) Maintained by the applicant until required to be removed and if damaged, destroyed or removed, shall be replaced as soon as possible by the applicant with another sign provided by the town;

(d) Modified by the applicant to reflect any errors or changes in scheduling of the applicable public hearings so as to ensure accurate information;

(e) Removed by the applicant within 48 hours after conclusion of the public hearing; and

(f) Inspected by the Planning, Zoning and Building Department to ensure compliance with these posting requirements.

(2) Posted by the town at Town Hall.

(3) Published in a newspaper of general circulation within the town; and

(E) A copy of the legal notice sent by certified mail 14 days prior to the hearing by the petitioners to all owners of property involved in the petition or application, and to all owners of property immediately adjacent to and within 500 feet of the perimeter of the subject property, and to each homeowners', property owners' or condominium association which annually registers with the Planning, Zoning and Building Department to receive such notice by first class mail. The guide for the mailing requirement to owners shall be the most current town or county assessment roll.

(F) At the hearing, any party may appear in person, by agent or by attorney. With respect to condominiums or cooperatives, notice required by this section will be deemed notice to its property owners when notice is sent or delivered to the secretary and the president of the condominium or cooperative association, unless the offices are not filled, in which event notice to the agent designated for the service of process will be sufficient compliance with the notice requirements of this section. However, in the discretion of the Zoning Board of Adjustment, notice may be required to be given to each condominium owner or cooperative unit owner. (Ord. 90-06, passed 3-19-90; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 97-24, passed 11-3-97; Amd. Ord. 98-24, passed 7-16-98)

§ 158.028 APPLICATIONS FOR SPECIAL EXCEPTION USES.

(A) The Planning and Zoning Board and the Board of Adjustment shall hear and decide applications for special exceptions. The Board of Adjustment shall hear and decide applications for special exceptions for home occupations, and windwalls. The Planning and Zoning Board shall hear all other applications for special exceptions. The Planning and Zoning Board and the Board of Adjustment shall decide questions that are involved in determining when special exceptions should be granted or denied and grant special exceptions with appropriate conditions and safeguards, or deny special exceptions when not in harmony with the purpose and intent

of this chapter. (Ord. 95-14, passed 10-2-95)

(B) In granting any special exception, the Planning and Zoning Board and the Board of Adjustment shall find that the grant will not adversely affect the public interest. The decision shall be reached only after the holding of a public hearing conducted in the manner set forth in § 158.027(D).

(C) In granting any special exception, the Planning and Zoning Board and the Board of Adjustment in addition to the standards enumerated in § 158.126, may prescribe appropriate conditions and safeguards in conformity with the provisions of this chapter. Violation of the conditions and safeguards when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter. The Planning and Zoning Board or the Board of Adjustment may prescribe a reasonable time limit within which the action for which the special exception is required shall be begun or completed or both.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 95-14, passed 10-2-95)

§ 158.029 VARIANCES.

(A) Upon receipt of a complete application and application fee as set by resolution of the Town Commission the Board of Adjustment may authorize upon appeal a variance from the terms of this chapter as will not be contrary to the public interest and as set forth in § 158.026(F), where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the Board of Adjustment must and shall find the following:

(1) The variance is in fact a variance as set forth within this chapter and within the jurisdiction of the Board based upon the opinion of the Town Attorney.

(2) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

(3) The special conditions and circumstances do not result from the actions of the applicant.

(4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures in the same zoning district.

(5) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.

(6) The variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and the variance will not be injurious to the area involved or otherwise

detrimental to the public welfare.

(B) An applicant for a variance shall have the burden of establishing both that a literal enforcement of the provisions of this chapter will result in unnecessary hardship, as that term is defined by law, including court decisions; and that allowance of the variance shall not be contrary to the public interest.

(C) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of the conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. The Board of Adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both. Under no circumstances, except as permitted above, shall the Board of Adjustment grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of this chapter in the zoning district. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

(D) In granting any variance, the Board of Adjustment shall hold a public hearing as set forth in § 158.027(D) and (E) and shall make specific findings of fact which establish that a literal enforcement of this Zoning Code will result in unnecessary and undue hardship. The Board of Adjustment shall also make specific findings of fact that each of the criteria set forth in subsection (A) of this section have been met. The findings of fact as required by this subsection shall be incorporated in the minutes of the meeting.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 98-25, passed 7-16-98)

§ 158.030 ZONING AMENDMENTS; REVIEW OF PLANNING AND ZONING BOARD.

(A) The Town Commission may, from time to time, amend, supplement, or repeal the regulations and provisions of this chapter after public notice and hearings as provided by the Charter and upon initiation by one of the following ways:

(1) On its own motion.

(2) On petition from the owners of 51% or more of the area involved in the proposed change.

(3) On recommendation of the Planning and Zoning Board.

(B) The Planning and Zoning Board, regardless of the source of the proposed change, shall hold a public hearing thereon, with due public notice, but shall in any case if any change is to be considered by the Planning and Zoning Board, submit in writing its recommendation on the proposed change to the governing body for official action. The Town Commission shall then proceed to amend, supplement, repeal, or leave unchanged the regulations in accordance with applicable provisions of the Charter and this code. If the recommendation of the Planning and

Zoning Board is adverse to the proposed change, such change shall not become effective except by an affirmative vote of four members of the Town Commission, after due public notice.

(C) Whenever the fee simple owner of any property desires a change in zoning classification, a change of the conditions or regulations of any district or any other provision of this chapter, he shall make written application to the Planning and Zoning Official on a form as provided by the Town Staff together with full payment of an application fee as set forth by resolution of the Town Commission the written application to be signed by the owner or his agent. The application shall be accompanied by any necessary information or documentation supporting the request and shall be reviewed in accordance with the provisions of this chapter and the Charter.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 98-25, passed 7-16-98)

Cross reference:
Planning and Zoning Board, see § 33.20 through § 33.25

§ 158.031 RIGHT TO JUDICIAL REVIEW.

Any person or persons, jointly or severally, aggrieved by a decision of the Board of Adjustment or any officer, department, board, or commission of the town, or by a decision of the Town Attorney that the Board of Adjustment has no jurisdiction, may apply to the circuit court for judicial relief within 30 days after rendition of the decision by the Board of Adjustment.
(Ord. 90-06, passed 3-19-90)

§ 158.032 VESTED RIGHTS DETERMINATION.

If any person is in doubt whether rights have vested for a proposed development on property owned by that person, based on the granting of any development order by the town or any of its commissions, agencies or departments, the property owner may request a determination from the Town Commission. For the purposes of this provision the term "vested rights" shall be interpreted to include those rights obtained by a property owner who: 1) in good faith; 2) upon some act or omission of the government; 3) has made such a substantial change in position by incurring such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the acquired right. In making its determination the Town Commission shall hold a public hearing after full payment of an application fee as set forth by resolution of the Town Commission and required public notice and assess each request for a vested rights interpretation on the particular facts relating to that case. Notwithstanding anything in this provision to the contrary, if the Town of Longboat Key shows that a new peril to the health, safety, morals or general welfare of the residents or property in the Town of Longboat Key has arisen subsequent to the approval of any development order, the development order may be revoked.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 98-25, passed 7-16-98)

§ 158.049 PENALTY.

Any person, firms or corporations violating the provisions of this chapter or any part hereof, upon conviction in the applicable court for the town, shall be fined not more than $500 or imprisoned for a period not to exceed 60 days; and each day that the violation continues shall constitute a separate offense.
(Ord. 90-06, passed 3-19-90)

ARTICLE III. SITE AND DEVELOPMENT PLANS

DIVISION 1. PLANNED UNIT DEVELOPMENTS

§ 158.065 PURPOSE.

The purpose of planned unit development regulations is to encourage flexibility in the design and development of land in order to promote its most appropriate use; to facilitate the adequate and economical provision of streets, utilities, and public spaces; and to preserve the natural and scenic qualities of open areas. The procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety, comfort, order, appearance, convenience, morals, and general welfare, both in the use and occupancy of buildings and facilities in planned groups.
(Ord. 90-06, passed 3-19-90)

§ 158.066 PREAPPLICATION CONFERENCE.

In order to expedite the review of a planned unit development, coordinate its local review in respect to the provisions of this chapter with the necessary county, state, and federal agency reviews, and to inform the town of a planned unit development in preparation, one or more preapplication conferences between the applicant and the Planning and Zoning Official is required. The preapplication conference, while informal, will serve several purposes and focus on the following items:

(A) To inform the town of any planned unit development plans in progress together with the scale and character of the plan so that the town may recognize the proposed development in any of its physical or facility planning for the entire town.

(B) To inform the applicant of the town's informal response as to the scale and character of the proposed development and to alert the applicant to any specific areas of concern that the town may have for that specific site or proposed plan.

(C) To clarify and inform the applicant in respect to the outline development plan approval procedure and submission requirements, including an anticipated application time and review period as specifically set forth in § 158.067.

(D) To enable the applicant to inform the town of the requirements, procedure, and status of the various county, state, and federal agency reviews.
(Ord. 90-06, passed 3-19-90)

§ 158.067 REVIEW AND APPROVAL PROCEDURE.

(A) Planned unit developments are a permitted use with review, and shall be subject to the approval of the Town Commission after a review and report by the Planning and Zoning Board and after a public hearing is held by the Town Commission in accordance with law. The review by the Planning and Zoning Board shall be to make findings pursuant to the provisions of site plan review § 158.102 and other applicable sections of this chapter, and to make recommendations thereon.

(B) In order to provide an expeditious method for processing a plan for a planned unit development, under the terms of this chapter, it is hereby declared to be in the public interest that all procedures with respect to the approval or disapproval of a plan for a planned unit development, and the continuing administration thereof, shall be consistent with the following provisions:

(1) An application for an outline development plan approval for a planned unit development, including full payment of an application fee as set forth by resolution of the Town Commission, shall be filed and signed by or on behalf of the landowner by an authorized agent, with the Planning and Zoning Official. The purpose of the outline development plan is to provide the town with information in respect to the type, character, scale, and intensity of development as well as the time phasing of the proposed planned unit development in order for the town to evaluate the impact of the development on the town. Any application for outline development approval shall be submitted on a form provided by the town and in addition shall include at least the following information, unless the Planning and Zoning Official determines that one or more of the following elements do not apply to the particular development:

(a) The relationship of the site to existing development in the area, including streets, utilities, residential and commercial development, and important physical features in and adjoining the project, including ecological features.

(b) The approximate location and dimensions of all boundary lines of the development, and of any contiguous lands, including those separated only by a street, canal, or similar feature, in which the developer or property owner presently has any legal interest.

(c) Verified statement, including a certificate of ownership, showing each and every individual person having a legal ownership interest in the subject property except publicly held corporations whose stock is traded on a nationally recognized stock exchange, in which case the name and address of the corporation and principal executive officers will be sufficient.

(d) The approximate location, nature and extent of all existing easements, streets, buildings, land uses, zoning, tree groupings, watercourses and topographic contours (i.e., at six-inch intervals with reference to mean sea level), on the site; the existing zoning and land use for all contiguous property; and flood protection elevation data and flood zones delineated, if

applicable.

(e) Tabulations by acreage and percentage as to the amount of the site that is uplands and wetlands, indicating those wetlands landward and seaward of the mean high-water line (MHWL). Additional related information shall include the extent and type of wetlands in accordance with the town's Comprehensive Plan.

(f) The approximate locations, intensity and acreages of general land uses (proposed), including dwelling types and general types of nonresidential uses, open spaces, recreational facilities, and other proposed uses.

(g) A traffic impact analysis shall be provided to ensure that the adopted level of service standards are not exceeded before capacity-related improvements are implemented. In addition, a circulation facilities plan indicating approximate locations and types of proposed streets and pedestrian walks, emergency vehicle access points, including all curb cuts, driveways, off-street parking and loading areas and off-street vehicular surfaces available for maneuvering.

(h) Total project acreage and proposed densities for each dwelling unit type and total number of dwelling units by type.

(i) Floor area ratios for all land uses and approximate square footage of gross area for all nonresidential buildings by general type (e.g., offices, neighborhood commercial, etc.)

(j) Proposed development schedule indicating approximate starting and completion dates for the entire project and any phases thereof, together with appropriate identification and description of such phases.

(k) Such additional data, maps, plans or statements as may be required for the particular uses or activity involved.

(l) Such additional data, as the applicant may believe is pertinent to the development plan.

(m) Such additional material and information the town may reasonably require.

(n) A written statement by the landowner or any other entity having a cognizable interest in the land, describing fully the character and intended use of the planned unit development and setting forth the reasons why, in his opinion, a planned unit development would be in the public interest and would be consistent with the town's statement of purposes on planned unit development.

(o) A statement specifically indicating departures from the requirements of this code of ordinances which would otherwise be applicable to the project if a planned unit development were not granted by the town and a clear and specific statement of any hardship which might exist making the departure from the code necessary or a clear and specific statement of how the departures are necessary or desirable to accomplish one or more of the stated purposes of the planned unit development as set forth in § 158.065.

(2) The application for an outline development plan of a planned unit development shall be filed with the Planning and Zoning Official. Upon receipt of the application the Planning and Zoning Official shall review the application to determine its appropriateness and completeness and accept or reject it in writing. Upon acceptance of the application, the town's administrative staff shall refer the application, together with all supporting documentation and their weighted options, to the Planning and Zoning Board for their review and recommendations. The Planning and Zoning Board and Town Commission shall not receive, review, make recommendations or act on applications for outline development plan approval except during the town's annual site and development plan season. For purposes of this chapter, the annual site and development plan season shall include the months of September, October, November, December, January, February, March, April, May and June of each year. For purposes of calculating the required processing times set forth in this section for the Planning and Zoning Board and the Town Commission, the period of time between July 1 through August 31 shall not be counted in said computation. Upon receipt of the application from the Planning and Zoning Official, the Planning and Zoning Board shall review the outline development plan and make recommendations to the Town Commission together with their findings in respect to the proposed development as set forth in § 158.102. The Board shall either approve the application as submitted, approve the application with changes or special conditions, or disapprove the application. For purposes of this section the Planning and Zoning Board shall receive an outline development plan application from the Planning and Zoning Official at the Board's next regular meeting where a quorum is present following the Planning and Zoning Official's submittal of the application to the Board. The Planning and Zoning Board is specifically authorized to continue its deliberations, request additional materials and elicit expert testimony to aid in its deliberations.

(C) A public hearing on the planned unit development application shall be held by the Town Commission upon the Commission's receipt of the application from the Planning and Zoning Board, public notice of which shall be given in accordance with the provisions of the Charter and this chapter. For purposes of this section, the Town Commission shall receive an outline development plan application from the Planning and Zoning Board at the Commission's next regular meeting where a quorum is present, following the submittal of the Board's action on the application to the Commission. A transcript of the hearing may be caused to be made by the Town Commission at the cost of the applicant, copies of which shall be made available at cost to any party to the proceedings; and all exhibits accepted in evidence shall be identified and duly preserved, or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record. During the review process, the town may retain consultants to assist in the review of an outline development plan. The cost of retaining the consultants shall be borne by the applicant. The Town Commission is specifically authorized to continue its deliberations, request additional materials and elicit expert testimony to aid in its deliberations, and may, at its sole discretion, remand the application to the Planning and Zoning Board for additional hearing and consideration.

(D) The Town Commission shall, following the conclusion of the public hearing, review the outline development plan application and either approve it as submitted, approve it with

changes or special conditions, or disapprove it. The action taken by the Town Commission shall be by ordinance. The Town Commission may unilaterally extend the time for final action where the Commission determines additional time is necessary to properly and completely review the outline development plan application.

(1) In the event approval is granted, the Town Commission shall, as part of its ordinance, specify the drawings, specifications, and form of performance and maintenance bonds that shall accompany an application for final approval.

(2) In the event approval is granted subject to changes or special conditions, the applicant shall, within 30 calendar days after receiving a copy of the ordinance of the Town Commission, notify the Town Commission in writing of his acceptance or refusal of all the conditions. In the event the applicant refuses to accept all the conditions or fails to reply within 30 calendar days, the applicant shall be deemed to have withdrawn the plan. Nothing contained herein shall prevent the Town Commission and the applicant from mutually agreeing to a change in the conditions, or an extension of the time during which the applicant shall notify the Town Commission of acceptance or refusal of the conditions.

(3) The grant of approval or disapproval by ordinance shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant of approval, with or without changes or special conditions, or for the disapproval, and the ordinance shall set forth with particularity in what respects the plan would not be in the public interest, including but not limited to findings of fact and conclusions as to the standards set forth in § 158.102 and on the following:

(a) In what respects the plan is or is not consistent with the statement of objectives of the planned unit development and the town's Comprehensive Plan.

(b) The extent to which the plan departs from zoning and subdivision regulations otherwise applicable to the subject property.

(c) The purpose, location, and amount of the common open space in the planned unit development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of development.

(d) The physical design of the plan and the manner in which the design does or does not make adequate provision for public services, provide adequate control over vehicular traffic and parking, and further the amenities of light and air, recreation, and visual enjoyment.

(e) The relationship, beneficial or adverse, of the proposed planned unit development to the neighborhood in which it is proposed to be established.

(f) In the case of a plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interest of the public and of the residents and owners of the planned unit development in the integrity of the plan.

(g) Departures from the code of ordinances which would otherwise be applicable to the planned unit development if the plan were not approved (or if in the PD, GPD or NPD

district, departures from the requirement of a zoning district most similar to the use approved for the proposed project) and a statement of any existing hardship and/or a clear and specific statement of how the code departures are necessary or desirable to accomplish one or more of the stated purposes of the planned unit development as set forth in § 158.065.

(4) In the event an outline development plan is granted approval, with or without changes or special conditions, the Town Commission shall set forth in the ordinance the time within which an application for final approval of the plan shall be filed or, in the case of a plan which provides for development over a period of years, the periods of time within which applications for final approval of an outline development plan and an application for final approval shall not be less than three months and, in the case of developments over a period of years, the time between applications for final approval of each part of a plan shall not be less than six months. However, nothing herein contained shall be construed to limit an applicant from the presentation of any application for final approval earlier than the time period herein set forth.

(E) Within seven days after the adoption of the ordinance provided for in subsection (D) above, it shall be certified by the Town Clerk and shall be filed in his office, and a certified copy shall be mailed to the applicant. Where approval of an outline development plan has been granted, the same shall be noted on the zoning map maintained in the office of the Town Clerk. An outline development plan upon approval and acceptance, as provided herein, is defined as running with the land; however, an applicant may apply for a revision to the outline development plan in accordance with the procedures for an original submission, review, and approval. Approval of an outline development plan shall not qualify a plat of the planned unit development for recording purposes or authorize development or the issuance of any building permits. An outline development plan which has been given approval as submitted, or which has been given approval with changes or special conditions which have been accepted by the applicant (and provided that the applicant has not defaulted or violated any of the conditions of the approval), shall not be modified, revoked, or otherwise impaired by action of the town pending an application for final approval, without the consent of the applicant, provided an application for final approval is filed or, in the case of development over a period of years, provided applications are filed within the periods of time specified in the ordinance granting approval of the outline development plan. Approval of an outline development plan, with or without changes or special conditions, shall represent the zoning of that area contained within the plan and shall apply to the land in a manner consistent with zoning unaffected by the sale or transfer of ownership of the land. Upon approval and acceptance, if applicable, the Town Clerk shall file with the Clerk of the Court the outline development plan for recordation in the official records of the county in which the property is located.

(F) An application for final approval (i.e. site development plan approval) may be for all the land included in a plan, or to the extent set forth in the outline development plan approval, for a section thereof. The application shall include any drawings, specifications, covenants, easements, conditions, and form of performance and maintenance bonds as were set forth by written resolution of the Town Commission at the time of approval of the outline development plan and required by § 157.31(B). The submission, review, and approval of an application for

final approval shall be subject to the procedures and provisions of a site plan review as set forth within §§ 158.095 through 158.103.

(G) A plan submitted for final approval of a portion of an outline development plan shall be deemed to be in substantial compliance with the outline development plan previously given approval provided any modification by the applicant does not change the maximum gross residential density, decrease the amount of open space, or change other provisions of the total planned unit development and any portion thereof does not do the following:

(1) Vary the proposed intensity of use by more than 10%, however in no instance shall the overall intensity of use, as approved by the outline development plan, be increased.

(2) Involve a reduction of the area set aside for common open space nor the substantial relocation of the area.

(3) Increase by more than five percent the floor area proposed for nonresidential use.

(4) Increase by more than five percent the total ground areas covered by buildings nor involve a substantial change in the height of buildings.

(5) Require the modification of any buffers or screening of adjoining properties.

(H) The procedure for reviewing an outline development plan shall not be held on an application for final approval of a plan when the plan as submitted for final approval is in substantial compliance with the outline development plan. The burden shall nevertheless be on the applicant to show the Town Commission good cause for any variation between the plan as submitted for final approval and the outline development plan. If the application for final approval is in substantial compliance with the outline development plan the town shall not unreasonably withhold their approval provided that the provisions of §§ 158.095 through 158.103 are complied with.

(I) A plan or any part thereof which has been given final approval by the Town Commission shall be so certified without delay by the Town Clerk and a record plan may be filed on record forthwith in the office of the appropriate county clerk in accordance with the state plat law or other applicable state statutes and Chapter 157 before any development whatsoever shall take place in accordance therewith. Pending completion within five years of the planned unit development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of the plan, or part thereof, as finally approved, shall be made nor shall it be impaired by act of the town except with the consent of the applicant or successors.

(J) In the event that a plan, or a section thereof, is given final approval, the approval shall become null and void if: 1) the applicant shall abandon the plan or the section thereof that has been finally approved, and shall so notify the Town Commission in writing, or 2) the applicant shall fail to file a complete application for a building permit within 12 months of final approval and a building permit issued, or 3) a final certificate of occupancy for all phases of the project has not been issued three years from the date set for receipt of an application for building permit for the final building or development phase of the project.

(K) The Town Commission shall approve the planned unit development only if it finds that the planned unit development satisfies all of the requirements as set forth in § 158.095 through § 158.103 and the following standards:

(1) The planned unit development shall be consistent in all respects with the regulations governing planned unit developments as set forth within this chapter.

(2) The planned unit development plan shall be consistent in all respects with the regulations governing planned unit developments as set forth within this chapter.

(3) The planned unit development shall provide for an effective and unified treatment of the development possibilities on the project site making appropriate provision for the preservation of scenic features and amenities of the site and the surrounding areas.

(4) The planned unit development shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the project site.

(L) The planned unit development shall conform with Chapter 157 and all applicable ordinances in respect to the design, construction, and guarantee of completion and maintenance of all required physical improvements, including but not limited to streets, drainage, water supply, and sewage collection.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 94-15, passed 11-17-94; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98; Amd. Ord. 99-15, passed 9-13-99)

Cross reference:
Zoning fees, see § 159.01, § 159.03

§ 158.068 MINIMUM AREA.

A planned unit development shall include not less than 10 acres of contiguous land in any residential zoning district, and not less than two acres for all other zoning districts.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 95-20, passed 12-4-95)

§ 158.069 OPEN SPACE.

All residential planned unit developments shall preserve a minimum of 50% of the gross land area as open space. Of the required 50% open space, only a maximum of 60% of the total required open space acreage may be comprised of a golf course. Relative to nonresidential planned unit developments, all such developments consisting of tourist resort/commercial facilities shall provide a minimum of 50% of the gross land area as open space. Wetland and landlocked water bodies may be used in calculating open space, as long as a minimum of 40% of the upland property is comprised of open space. In other types of nonresidential planned unit developments a minimum of 20% of the gross land area shall be preserved as open space. Wetlands and landlocked water bodies may be used in calculating open space, as long as a minimum of 15% of the upland property is comprised of open space. For all mixed use planned unit developments, a minimum of 50% of the residential and 20% of the nonresidential gross

land area shall be preserved as open space. In all of the above cases, parking areas and vehicle access facilities shall not be considered in calculating open space.
(Ord. 90-06, passed 3-19-90)

§ 158.070 RESIDENTIAL DENSITY.

(A) Planned unit developments shall have densities no greater than that permitted for a PUD within the district in which it is located as shown below.

Districts	Maximum PUD Density
R-1IP	.75 dwelling unit/5 acres
R-1SF	.75 dwelling unit/acre
R-2SF	1.5 dwelling units/acre
R-3SF	2.25 dwelling units/acre
R-4SF	3.0 dwelling units/acre
R-6SF	4.5 dwelling units/acre
R-3MX	2.25 dwelling units/acre
R-4MX	3.0 dwelling units/acre
R-6MX	4.5 dwelling units/acre
PD	3.26 dwelling units/acre
GPD	5.05 dwelling units/acre
NPD	11.26 dwelling units/acre
T-3	2.25 dwelling units/acre
T-6	4.5 dwelling units/acre

(B) In any event a planned unit development shall be consistent with the comprehensive plan for the town and the zoning district in which it is located in respect to design compatibility, use and height regulations.
(Ord. 90-06, passed 3-19-90)

§ 158.071 PROPOSED LAND USES.

(A) (1) Proposed land uses shall not adversely affect surrounding development and shall be consistent with the town's comprehensive plan.

(2) Where mixed uses, residential and nonresidential, are proposed, nonresidential development may be permitted to occupy up to 5% of the gross area of the planned unit

development, except that commercial uses shall not be permitted in a PUD overlay unless they are permitted uses within the underlying zoning district.

(3) Outdoor recreation areas shall not be included in the computation of permitted nonresidential areas of a planned unit development, except that recreation buildings, parking areas required for such recreation buildings and accessory buildings shall be included in such computation.

(B) In cases where land is proposed for planned unit development and where the existing zoning districts comprising the land area of the proposed planned unit development are both residential and nonresidential, the following will apply:

(1) Nonresidential development may be permitted to occupy up to 5% of the gross area of the planned unit development except that the Town Commission may approve and require nonresidential development within a planned unit development in an amount up to 100% of the gross area with existing nonresidential zoning. Commercial uses shall not be permitted in a PUD overlay unless they are permitted uses within the underlying zoning district.

(2) Any land with an existing nonresidential zoning classification but not proposed and approved for a nonresidential use may be considered as residentially zoned at a minimum density at one dwelling unit per two acres to a maximum density of three dwelling units per acre. However, land area with an existing nonresidential zoning classification shall not require any residential density solely by its inclusion in a planned unit development.

(C) In cases where land is proposed for planned unit development and where the existing zoning district(s) comprising the entire land area of the planned unit development is nonresidential, a nonresidential planned unit development overlay may be permitted so long as the proposed uses for the planned unit development are consistent with the permitted uses with site plan review, accessory uses, and special exception uses of the underlying zoning district(s). (Ord. 90-06, passed 3-19-90; Amd. Ord. 95-20, passed 12-4-95)

DIVISION 2. SITE DEVELOPMENT PLANS

§ 158.095 REQUIRED FOR CERTAIN PERMITTED USE APPLICATIONS.

Applications for all permitted uses with site plan review shall require the submission of a site development plan in accordance with the provisions of this chapter. If not exempted pursuant to § 158.100, applications for accessory uses shall require the submission of a site development plan, as provided for in this chapter. No certificate of occupancy shall be issued for any building unless all facilities included in the approved site plan have been provided in accordance with Chapter 150. The town may, prior to approving a certificate of occupancy, require evidence of the filing of record documents establishing the form of organization owning or maintaining any common open space and may also require evidence of the filing of record, covenants, grants or easement, or other restrictions imposed on the use of the land. The town may require copies of such recorded documents.
(Ord. 90-06, passed 3-19-90)

2000 TOWN CODE

§ 158.096 CONSULTANTS MAY BE RETAINED BY TOWN.

The town may, if in its opinion it is necessary, retain consultants to assist in the review of an application for site plan review. The cost of retaining the consultants shall be borne by the applicant. The applicant shall be responsible for making timely payment of all said consultant fees charged. Failure to do so will result in the town being relieved of its obligation to continue processing the application until the required payment(s) is/are made. The payment of all outstanding consultant fees shall be a condition of site plan approval and payment is a condition precedent to the town's obligation to issue a building permit.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 98-25, passed 7-16-98; Amd. Ord. 99-15, passed 9-13-99)

§ 158.097 APPLICATION FOR SITE PLAN APPROVAL.

Any application for site plan approval shall be submitted on a form provided by the town together with full payment of an application fee as set forth by resolution of the Town Commission and in addition shall include at least the following information, unless the Planning and Zoning Official determines that one or more of the following elements do not apply to the particular development:

(A) The character of use and the location and size of the site, including a current land survey with a complete legal description prepared and certified by a registered surveyor.

(B) Site plan with the title of the project, its lot configuration, finished ground floor elevations, contours (i.e., at six-inch intervals with reference to mean sea level), and designating number of dwelling units, square footage paved areas and open area, and dimensioned setbacks to scale indicating compliance with regulations.

(C) Verified statement, including a certificate of ownership, showing each and every individual person having a legal ownership, interest in the subject property except publicly held corporations whose stock is traded on a nationally recognized stock exchange, in which case the name and address of the corporation and principal executive officers will be sufficient.

(D) The relationship of the site to existing development in the area including streets, utilities, residential and commercial development, and important physical features in and adjoining the project, including ecological features.

(E) The density or intensity of land use(s) to be allocated to all parts of the site to be developed together with tabulations by acreage and percentage thereof itemized by use and density.

(F) Tabulations by acreage and percentage as to the amount of the site that is uplands and wetlands, indicating those wetlands landward and seaward of the mean high-water line (MHWL). Additional related information should include the extent and type of wetlands in accordance with the town's Comprehensive Plan.

(G) Architectural definitions for buildings in the development, include use, height, daylight plane, exterior construction material, exact number of dwelling units, sizes and types of building and dwelling units, together with typical floor plans of each type. The floor plans should

indicate uses and square footage of each proposed use within each building or structure and all exterior dimensions of each type of building or structure.

(H) The type and location of all existing trees protected by town regulations, including a plan how the removal of such vegetation would be avoided and/or replanted or replaced.

(I) Location, design and character of all utilities.

(J) Location, height and general character of perimeter and ornamental walls, fences, landscaping, including berms and other required screening devices and any other plans for protecting adjacent property owners.

(K) Location of all pedestrian walks, malls and bike paths.

(L) Location and character of recreation areas and facilities and the disposition of all open space indicated on drawings. This information should include calculations indicating how the town's open space requirements are being met. If common facilities (such as recreation areas or structures, private streets, common open space, etc.) are to be provided for the development, statements as to how such common facilities are to be provided and permanently maintained. Such statements may take the form of proposed deed restrictions, deeds of trust, homeowners associations, surety arrangements, or other legal instruments providing adequate guarantees to the town that such common facilities will not become a future liability of the town.

(M) Location and character of all outside facilities for waste disposal, storage areas, or display.

(N) A traffic impact analysis shall be provided to ensure that the adopted level of service standards are not exceeded before capacity-related improvements are implemented. In addition, the locations and dimensions of all curb cuts, driveways, including the number of parking spaces with their location and dimension; details of off-street parking, including interior parking areas and loading areas, all off-street vehicular surfaces available for maneuvering, surface materials, number of employees and number and type of vehicles owned by the establishment.

(O) Flood protection elevation data and flood zones delineated. A surface water management plan based on best management practices and in accordance with the Sanitary Sewer, Potable Water, Solid Waste, and Drainage Element of the town's Comprehensive Plan.

(P) A soil erosion and sedimentation plan in accordance with of the town's Comprehensive Plan and best management practices.

(Q) All applications for permits and supporting documentation, correspondence and any other material submitted to any outside permitting agencies or received from such agencies.

(R) Such additional data, maps, plans or statements as may be required for the particular use or activity involved.

(S) Such additional data, as the applicant may believe is pertinent to the site development plan.

(T) Such additional material and information the town may reasonably require.

(U) A list of all departures from the supplement controls set forth in § 158.157 and a clear description of the nature and extent of the departure and a statement specifically indicating the factual basis for any hardship claimed by the applicant and/or a statement of the facts constituting the basis for a request for a waiver of the supplemental controls as set forth in § 158.157.

(V) If the project is in a planned unit development, a statement specifically listing any departures from provisions of the code of ordinances which would otherwise be applicable to the project if the project was not in a planned unit development. If the project is in the GPD, PD or NPD district, departures should be based upon the requirements of a zoning district most similar to the use approved for the parcel being considered as determined by the town.

(W) (1) In addition to the applicable provisions for site plan approval enumerated above, the following will be required for consideration of site plan approval or site plan exemption for personal wireless service facilities classified as rooftop antennas or antennas placed on the exterior of buildings or structures which meet the requirements of § 158.1361 of this chapter.

(a) The name of the applicant;

(b) Whether the applicant is an individual, partnership, limited partnership, limited liability corporation, professional corporation, professional association, governmental entity, or some other type of legal group or association;

(c) A complete, thorough, and accurate description of the proposed antenna, including where necessary, a scale drawing or model of the proposed antenna;

(d) The type of structure on which the antenna is proposed to be located;

(e) Certification that the proposed antenna will comply with all applicable federal radiation standards in effect at the time of the application;

(f) The proposed use of the antenna;

(g) The proposed location of the antenna with a map in sufficient detail to indicate the location with precision;

(h) The zoning/land use designation of the site for the proposed antenna;

(i) The height of the proposed antenna;

(j) Where applicable, a lighting plan, that is consistent with all federal, state, and local requirements;

(k) Documentation that the proposed antenna and any appurtenances will withstand wind speeds as set forth in §158.1361;

(l) A thorough plan detailing the steps to visually blend the proposed antenna with surrounding structures and facilities;

(m) The estimated completion date for constructing and/or locating the antenna, and any structures necessary for the backhaul network; and

(n) The identity and location of any land-line/backhaul connections to each antenna or tower location at the time of filing for a building permit.

(2) The following will be required for conditions of site plan approval and a special exception permit for personal wireless service facilities not governed by subsection (W)(1) above, including, but not limited to, towers:

(a) The name of the applicant;

(b) Whether the applicant is an individual, partnership, limited partnership, limited liability corporation, professional corporation, professional association, governmental entity, or some other type of legal group or association;

(c) A complete, thorough, and accurate description of the proposed personal wireless service facility, including where necessary, a scale drawing or model of the proposed personal wireless service facility;

(d) The proposed use of the proposed tower;

(e) If applicable, an acknowledgment that the applicant has a contract, license, lease, letter of understanding, agreement in principle, or other type of agreement with another entity for use of an antenna or antennas on the tower and a summary of the agreement or arrangement;

(f) The proposed location of the tower together with both a legal description of the location, and a map in sufficient detail to indicate the location with precision;

(g) The zoning/land use designation for the proposed tower;

(h) The proposed type of tower or structure;

(i) The height of the proposed tower;

(j) An engineering analysis and/or other data and/or documents that certify that in the event of catastrophic failure, fall, or collapse of the tower, said tower would fall or collapse within the collapse zone of the proposed tower and would not damage or negatively impact the real or personal property of the surrounding property owners;

(k) Documentation that the proposed tower can support and locate the antennas or other type of personal wireless service facilities as provided in § 158.1361;

(l) Documentation that any existing tower or structure (whether owned by the applicant or not) located within a seven-mile radius of the proposed location is physically unable to support co-location of one or more antennas on the existing tower, the height of the existing tower is insufficient or that the existing tower does not meet the engineering requirements of the applicant;

(m) Documentation that the proposed tower will be constructed in a manner to withstand wind speeds as set forth in § 158.1361;

(n) A detailed description of the construction methods to be used in constructing and/or modifying a tower;

(o) A description of the proposed steps to be taken to ensure that the aesthetic requirements are met and/or exceeded;

(p) A detailed plan for camouflaging or minimizing the visual obtrusion of the tower, which shall include the following documentation:

1. An accurate colorized pictorial representation, artist's rendering, three dimensional rendering, or the like, of the tower,

2. Design specifications which include total height, diameter, and colorations,

3. A corresponding statement that explains the nature and character of the area within which the camouflaged tower is proposed with respect to land use, surrounding environment, building heights and designs, and building/environment density,

4. A corresponding statement that explains how the proposed camouflaged agent will blend and harmonize with the nature and character of the area;

(q) A detailed plan for landscaping the perimeter of the tower, noting that the landscaping shall be native, xeriscape plants only;

(r) A detailed plan for landscaping the perimeter of any mechanical/electronic equipment buildings that adjoin or are attached to the tower, in such a manner that the landscaping shall shield the buildings or structures from the view of adjoining parcels, noting that the landscaping described shall be native, xeriscape plants only;

(s) A detailed plan for sufficient, unobtrusive lighting, which is consistent with all federal, state, and local requirements;

(t) A detailed plan outlining the proposed security measures, including the proposed means to limit access to the tower, in order to reduce the likelihood of trespass, damage, and/or injury to children and others;

(u) A detailed plan for ingress and egress, including where needed, special ingress and egress routes for emergency vehicles such as emergency medical transport, fire, police, and other law enforcement vehicles, and ambulances;

(v) A detailed preventive maintenance program that meets minimum maintenance standards;

(w) Documentation of having conducted a balloon test, together with a visual impact analysis of such test, which test consists of a balloon, red or orange in color, no less than four feet in diameter, anchored to the ground, and flown at a height which is the same height as the proposed tower. The balloon shall be flown continuously for at least 10 hours per day (between 8:00 a.m. and 6:00 p.m.) on three consecutive days. The applicant shall document the balloon test with photographic evidence depicting the balloon in its relationship and proximity to the neighboring property, land, and uses;

(x) Certification by a professional engineer, with qualifications as a Soil Engineer that a topographical survey has been conducted, and that the subsurface, substrata, and the proposed drainage are adequate to assure stability to the tower;

(y) Certification by a professional engineer that the proposed design of the antennas located upon a tower will comply with nonionizing electromagnetic radiation standards in effect at the time of the application;

(z) Certification by a professional engineer that the proposed design of the antennas and tower demonstrates compliance with applicable Telecommunications Industry Association/Electronic Industries Association 222 standards in effect at the time of the application;

(aa) The estimated completion date for the location and/or construction or modification of the tower, and any structures necessary for the backhaul network;

(bb) The identity and location of any land-line backhaul connections to each tower location;

(cc) A map noting all personal wireless service facilities within a seven-mile radius of the proposed location, and supporting documentation that lists or notes the identification of the classification of personal wireless service facility (antenna, tower, structure, or other type), its height, location, address, current location, and current use;

(dd) A listing, if applicable, of municipalities or local governments within Manatee County and Sarasota County (including the counties) where the applicant, within one year preceding the current application, sought any permit (or similar or equivalent authorization) to locate, construct, and/or modify a tower or antenna, and, if so, what was the ultimate disposition of the application;

(ee) Whether the applicant, within a seven-mile radius of the proposed location, has ever had any permit (or similar or equivalent authorization) revoked, rescinded, canceled, or terminated which authorized the placement, construction, and/or modification of the tower or antenna, and, if so, what were the reasons surrounding such revocation;

(ff) An acknowledgment that the applicant has read, understands, and intends to comply with the applicable rules and regulations governing the issuance and enforcement of special exception permits for personal wireless service facilities.

(Ord. 90-06, passed 3-19-90; Amd. Ord. 97-09, passed 6-2-97; Amd. Ord. 97-23, passed 11-3-97; Amd. Ord. 98-25, passed 7-16-98)

§ 158.098 PREAPPLICATION CONFERENCE.

In order to expedite the review of a site plan, coordinate its local review in respect to the provisions of this chapter with the necessary outside agency reviews, and to inform the town of a site plan in preparation, one or more preapplication conferences between the applicant and the Planning and Zoning Official is required to informally discuss the applicable requirements and procedures. In cases of minor development proposals and/or changes, the Planning and Zoning Official may determine a preapplication conference is not necessary. For the purposes outlined above, the developer should provide such information as necessary to describe the proposed development. Formal application or filing of a site plan with the Planning and Zoning Official is not required for the preapplication conference.

(Ord. 90-06, passed 3-19-90)

§ 158.099 SUBMISSION PROCEDURE.

(A) An application for a site plan review shall be made to the Planning and Zoning Official prior to an application for a building permit, and the application for a site plan review will only be approved if all other ordinances and provisions of the town where a public hearing is required have been complied with and a pre-application conference has been conducted in accordance with § 158.098. For development requiring subdivision approval under Chapter 157 of this code, final subdivision plat approval must be obtained prior to site plan approval.

(1) All required county, regional, state or federal agency approvals shall be obtained prior to submission of an application for site plan review except as set forth in subsection (2) below or as otherwise required by law or administrative procedures.

(2) At the applicant's request, the processing of required county, regional, state and federal permit applications may proceed coincidentally with the processing of final site plan review subject to the following conditions:

(a) The applicant shall immediately provide the town with copies of all applications for permits and supporting documentation, correspondence and any other material submitted to any outside permitting agencies or received from such agencies and the town will be afforded every opportunity to fully participate in the permitting process (e.g., invited to all field trips and meetings).

(b) The permitting agencies positions will not limit the town from applying more stringent requirements to the project nor will the town's participation in the permitting process be deemed to be an endorsement or approval of the permitting agencies' decisions. The applicant shall process concurrent applications at its own risk, and the town shall not be responsible for any expense or cost suffered by applicant as a result of applicant's decision to process concurrent applications.

(c) If, in the judgment of the town the applicant fails to comply with subsection (a) above, the town may immediately disapprove the application for final site plan approval (regardless of the status of the processing); and the applicant shall not resubmit an application for final site plan approval until such time as all outside agency permits have been obtained.

(d) Final site plan approval may be delayed until all outside agency permits have been received. The town shall take action on the site plan application within a reasonable time after all agency permits have been received.

(B) Upon receipt of the site plan application, the Planning and Zoning Official shall determine the appropriateness and completeness and accept or reject the application in writing. Once the Planning and Zoning Official determines the application is appropriate and complete, the applicant shall submit additional copies of the application as necessary for review by all town agencies. Within a reasonable period of time after the application is found appropriate and complete, the Planning and Zoning Official shall refer the application, together with all supporting documentation and staff weighted options, to the Planning and Zoning Board for their review. The Planning and Zoning Board shall not receive, review, make recommendations or act on applications for site plan approval except during the town's annual site and develop-

ment plan season. For purposes of this chapter, the annual site and development plan season shall include the months of September, October, November, December, January, February, March, April, May and June of each year. For purposes of calculating the processing times set forth in this section for the Planning and Zoning Board, the period of time between July 1 through August 31 shall not be counted in said computation.

(C) Upon receipt of the application from the Planning and Zoning Official the Planning and Zoning Board shall review the site plan and make findings with respect to the proposed development as set forth in § 158.102. The Board shall either approve the application as submitted, approve the application with changes or special conditions, or disapprove the application. For purposes of this section, the Planning and Zoning Board shall receive a site plan application from the Planning and Zoning Official at the Board's next regular meeting where a quorum is present following the Planning and Zoning Official's submittal of the application to the Board. Appeals of the Planning and Zoning Board's decision shall be in accordance with § 158.031.

(D) The applicant may elect to revise the site plan submission at any time in the review process prior to the public hearing before the Planning and Zoning Board. The applicant shall submit a letter of intent to revise to the Planning and Zoning Official who, upon receipt of the letter, will halt the normal review processing. Within a reasonable period of time after receiving the revised documents, the town's Planning and Zoning Official will review the revisions and forward his comments and weighted options to the Planning and Zoning Board.

(1) If the revision is received before the Planning and Zoning Board has held a public hearing on the original submission, the comments and weighted options of the Planning and Zoning Official may be forwarded to that Board. If the revision is received after the Planning and Zoning Board has held a public hearing on the original submission, and the revision, as determined by the town's Planning and Zoning Official, is a substantial departure from the application reviewed by the Planning and Zoning Board at the public hearing the revised submission will be renoticed for public hearing before the Planning and Zoning Board. If the matter is renoticed, time calculations under this subsection shall be stayed pending that review.

(E) Upon the granting of approval, either as submitted or with changes or special conditions, the town shall, upon receipt of a complete application, issue a building permit for a portion of all of the proposed development after finding that the application is in compliance with Chapter 157 and all other town, county, state, and federal requirements which may include the establishment of bonding, or other performance requirements as determined by the town. An approved site plan becomes null and void if:

(1) The applicant shall abandon the plan or the section thereof that has been finally approved, and shall so notify the town; or

(2) Within 12 months of the date of approval of an application for site plan review, a complete application for building permit has not been submitted to the town and a building permit issued; or

(3) A final certificate of occupancy for all phases of the project has not been issued within three years from the date set for receipt of a complete application for building permit for the final building or development phase of the project.

The town may extend the period of approval only if special conditions and circumstances exist which do not result from the voluntary actions of the applicant, his representatives or agents, which have caused an unforeseeable delay in the ability of the applicant to submit a complete application for a building permit. Economic conditions form the basis for an extension of the period of approval. The Planning and Zoning Board, however, may extend the period of approval if it determines that no material benefit would be derived to the town by requesting the applicant to resubmit an application for site plan approval, in accordance with Division 2 of this chapter.

(F) Any changes or amendments to an approved site plan shall require a resubmission in accordance with the provisions of this chapter.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 93-23, passed 10-21-93; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 99-15, passed 9-13-99)

§ 158.100 EXEMPTIONS.

(A) Upon a determination by the Planning and Zoning Official that the following development proposals and/or changes are in accord with all of the elements of the town's Comprehensive Plan, this chapter, and the town's site and development plan performance standards, they may be determined to be minor development proposals and/or changes which are exempt from the site plan submission requirements specified in § 158.099. The applicant shall submit a site plan sketch and provide such information as necessary to describe such development proposals and/or changes at one or more preapplication conferences with the Planning and Zoning Official. Such minor development proposals and/or changes are as follows:

(1) Addition of awnings, canopies or other ornamental structures; redesign and different location of pools, parking spaces, drives and driveways; or modifications in stairs or elevations of decks, porches, terraces and fencing;

(2) Addition to parking spaces not to exceed 20%, including fractions thereof, of the total number of existing parking spaces or 10 spaces, whichever is the lesser amount; when such addition does not occur in R-1SF zoning district;

(3) The paving, with a nonporous material, of existing parking areas, which are presently composed of porous material;

(4) Attached or detached additions to buildings which do not increase the floor area in excess of 5% of the ground floor area of the principal structure or 1,000 square feet, whichever is the lesser amount;

(5) The installation of utility system improvements including buildings not exceeding 100 square feet;

(6) Any changes of use to existing structures when such change is a permitted use, permitted use with site plan review, for the zoning district it lies within, in accordance with the Schedule of Use Regulations in this chapter, § 158.125, and includes only minor changes, as per this section;

(7) Such minor accessory uses which include but are not limited to the following uses or structures: personal wireless service facilities classified as rooftop or building or structure mounted antennas, davits, doghouses, carports, sheds, private garages, porches, gazebos, private swimming pools; and

(8) Temporary uses.

(B) The Planning and Zoning Official may impose such conditions or limitations on projects reviewed pursuant to this section in order to ensure compliance with all applicable standards and policies of the town.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 97-23, passed 11-3-97; Amd. Ord. 98-25, passed 7-16-98; Amd. Ord. 99-15, passed 9-13-99)

Cross reference:
Zoning fees, see § 159.01

§ 158.102 PERFORMANCE STANDARDS FOR SITE AND DEVELOPMENT PLANS.

The following standards shall be used by the town in reviewing any site or development plan:

(A) Site Location and Character of Use. The Comprehensive Plan together with the Zoning Code, including size and dimension regulations, general provisions, performance standards, and the list of permitted and conditional uses, off-street parking, landscaping, required open spaces, yards and building setbacks, shall collectively be the principal guides in determining the suitability of the location and design of the proposed use. If the proposed use is a community residential home for seven to 14 residents, then it shall also be reviewed in accordance with Florida state law.

(B) Appearance of Site and Structures. The appearance of site and structures shall be coordinated for the purpose of creating a pleasing and harmonious overall effect. The choice of building materials, plant materials, lighting and other building and site improvements shall be commensurate with the objectives of the subject use without generating adverse visual impact on surrounding properties or transportation corridors. Architectural style or design is not restricted. Evaluation of the appearance of a project shall be based on the quality of its overall design and relationship to the impacted area considering the following factors:

(1) Exterior appearance. The exterior of buildings and structures, including mass, facade and materials, shall be in harmony with the site and the impacted area. Awnings or ornamental features shall be designed in a manner harmonious with the building design and shall be of appropriate scale, shape, and pattern in order to reinforce good design principles. Similarly, awnings or ornamental features shall not use incompatible or extraordinary scale, shapes, color schemes, patterns or other extraordinary features for purposes of attracting attention. Except

for buildings listed on the Florida Master Site File or the National Register of Historic Buildings, i.e. historic buildings, the appearance of buildings and structures shall be disapproved under this section in extreme cases only and reasonable doubt shall be resolved in favor of the applicant. Exterior alterations to historic buildings may be denied by the Building Department if not in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation.

(2) Design and arrangement of buildings.

(a) Adequate provision shall be made for light, air, access, and privacy in the arrangement of the buildings to each other. Each living space shall have sufficient exterior exposures. Adequate laundry facilities, including space and connections for washing machines and clothes dryers, shall be available for multifamily dwellings on the premises.

(b) All buildings in the layout and design shall be an integral part of the development and have convenient access to and from adjacent uses.

(c) Individual buildings shall be related to each other in design, masses, materials, placement, and connections to provide a visually and physically integrated development.

(d) Treatment of the sides and rear of all buildings within the development shall be comparable in amenity and appearance to the treatment given to street frontage of these same buildings.

(e) The design of buildings and the parking facilities shall take advantage of the natural features and topography of the project site.

(f) All building walls shall be so oriented as to ensure adequate light and air exposures to the room within.

(g) All buildings shall be arranged so as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.

(h) All buildings shall be arranged so as to be accessible to emergency vehicles.

(3) Screening of mechanical equipment. Mechanical equipment or other utility hardware shall be harmonious with the building and shall be screened from the public way as well as from view of tenants within adjacent buildings by use of either landscaping or architectural features or a combination of both. Mechanical equipment and utilities in or adjacent to residential areas shall be designed in a manner which minimizes nuisance impacts, such as noise and odor, and shall be landscaped and screened in order to minimize adverse visual impacts and enhance their general appearance and to preserve the stability and integrity of adjacent residential areas.

(4) Maintenance of activities within enclosed building. All businesses or services should be conducted within completely enclosed buildings in all zoning districts, except as provided for in the town code of ordinances.

(5) Exterior lighting. Exterior lighting shall be so arranged as to shield or deflect the light from adjoining properties and public streets.

(C) Maximum Floor Area Ratio.

(1) The total square footage of floor area permitted in any zone shall be determined as a ratio to the total square footage of the land area of the site. The ratio in residential or tourism facilities shall be determined from the table shown in subsection (C)(2) below, and shall be based on the maximum gross residential density (see § 158.006) of the site. The floor area shall be the sum of areas for residential and tourism use on all floors of the building measured from the outside faces of the exterior walls, including halls, lobbies, stairways, elevator shafts, enclosed porches and balconies, and below-grade floor areas used for habitation and residential access, excluding parking garages. Commercial space and nonresidential space such as open terraces, garages, common use areas, and nonhabitable basement spaces are noncountable.

(2) For the purpose of the table below, the following definitions shall apply:

"OPEN SPACE RATIO." A minimum square footage of lot area not covered by buildings (excluding parking structures) required for each square foot of floor area.

"LIVING SPACE RATIO." The minimum square footage of nonvehicular outdoor space required for each square foot of floor area.

"RECREATION SPACE RATIO." The minimum square footage of active recreation space required for each square foot of floor area. Active recreation space shall be measured as the area contained within the limits of physical recreation facilities such as swimming pools and decks, tennis courts, shuffleboard courts, and the like.

LAND USE INTENSITY TABLE

UNITS PER ACRE	4	5	6	8	11	14/NPD
Floor area ratio	0.22	0.27	0.32	0.44	0.59	0.76
Open space ratio	3.2	2.7	2.2	1.6	1.2	1.2
Living space ratio	2.2	1.7	1.5	0.90	0.65	0.65
Recreation space ratio	0.17	0.16	0.15	0.13	0.11	0.11

(D) Parking, Internal Circulation, and Access to Public or Private Streets. Driveways and areas for parking and internal circulation of vehicles shall be located, designed and controlled so as to provide for safe and convenient circulation within the site and safe and convenient access from adjoining streets. Parking requirements of the Zoning Code shall be applied for calculating required off-street parking. Among factors to be considered shall be the number and location of access drives from adjacent streets, the location and width of driveways and access aisles to parking spaces, the arrangement of parking areas and means of access to buildings for fire-fighting apparatus and other emergency vehicles. All nonresidential and residential development and uses except for single-family homes, shall be required to provide adequate off-street parking and facilities for on-site backup and turnaround movements. Parking areas and driveways shall be clearly identified and separated from principal pedestrian routes and recreation areas by curbs, pavement markings, planting areas, fences or similar features designed to promote pedestrian safety.

(E) Traffic Impacts. A traffic impact analysis shall be required pursuant to standards, procedures and criteria defined herein for Future Land Use Plan map amendments, outline development plans including amendments thereto, and zoning amendments when the change will increase the total number of trips generated for any of the above application types. If a specific land use is not known at the time of a Future Land Use Plan map amendment, outline development plan application, or zoning amendment the highest trip generation rate of all the permitted uses shall be used in the calculation. A traffic impact analysis shall also be required for all major and minor development except as provided herein, pursuant to standards, procedures and criteria defined herein. The traffic impact analysis shall be performed by a qualified Florida registered engineer employed by the town at the applicant's expense. The traffic impact analysis is designed to achieve objectives stipulated in the Traffic Circulation element of the Comprehensive Plan.

(1) Applicability. A transportation impact study shall be required if:

(a) A proposed development generates more than 100 trips per day. Such development shall maintain a Level of Service C for peak season, peak hour for local and collector

roads, and Level of Service E for peak season, peak hour conditions along Gulf of Mexico Drive. All intersections on Gulf of Mexico Drive within the town will operate at Level of Service E or better in the peak season peak hour. All other intersections within the town will operate at LOS D or better in the peak season peak hour. The peak season adjustment factor will be determined annually through coordination with the FDOT, District 1 office. The trip generation rate shall be based on the Institute of Transportation Engineers Trip Generation Manual (4th Edition) or the most recent edition of that data as provided by the Institute of Transportation Engineers, unless the applicant can demonstrate that unique development characteristics will result in substantially different rates.

(2) Impact study areas. The transportation impact study area shall include all arterial and collector streets within one-half mile of the site entrance and/or shall include the nearest arterial roads that will be impacted by the development. For developments which generate between 250 and 1,000 trips during the peak hour or over 1,000 trips during the peak hour, the study area shall be one and three miles respectively. Estimates of peak hour trip generation shall be determined by the town's Florida registered engineer. Peak hour traffic impact shall be assessed, with and without the development, for all collector and arterial road segments and their respective intersections with other collector and arterial roadways within the designated service area. If additional traffic counts are warranted, they shall be undertaken at the direction of the town's Florida registered engineer at the applicant's expense.

(3) Contents. The transportation impact analysis report shall contain the following:

(a) A detailed description of the collector and arterial road network within the impact study area, including existing and proposed roadway widths and right-of-way widths; existing and proposed traffic signals and traffic-control devices; existing and proposed ingress and egress locations, including existing or proposed acceleration or deceleration lanes or turning lane improvements.

(b) A detailed description of the existing and proposed land uses within the impacted study area.

(c) A detailed Level of Service C condition analysis of all local and collector roads and a detailed Service Level E condition analysis of arterial roadways and intersections within the study area based on procedures outlined in the 1985 Highway Capacity Manual.

(d) A description of all the existing collector and arterial roadways and intersections that are at or below the Service Level C condition (Service Levels C, D, E, or F).

(e) A detailed analysis of traffic impact of the development, including trip generations (peak season peak hour), internal and external trips, trip absorptions and trip distributions over all collector and arterial roads within the study area. The trip generation shall be based on the table referenced in this subsection unless a qualified traffic engineer demonstrates that unique qualities of the development will result in different rates. All methodology and assumptions must be clearly stated.

(f) A detailed cumulative transportation impact of the existing traffic conditions, including traffic from the development, normal increases in traffic and increases from allocation

of road capacity to already approved projects. This analysis must identify projected peak season peak hour volumes for all the local, collector and arterial roads and must describe all the roadways and intersections that will be at or below the adopted Level of Service.

(4) Traffic study and traffic data inventory and file. The town Planning and Zoning Official shall keep a file on all traffic studies including the future capacity allocated for each project. In determining the projected demand in subsection (f) above, the impact analysis shall include all trips already allocated in previous development proposals. Should a project's development plan expire pursuant to other provisions of this chapter, the allocated capacity of each affected facility shall become reallocable coincident with the expiration of the development plan. The town shall provide information when available and where appropriate data already exists in order to prevent duplication of efforts and unnecessary costs.

(5) Improvements to roadways and/or traffic-control devices. Transportation improvements such as intersection improvements; additional turning, acceleration or deceleration lanes; modified land delineations; new or improved traffic-control devices; or other such improvements may be required in order to maintain the required Level of Service. In such case, the applicant for a development permit may be required to fund and/or install the necessary improvements or provide a legal assurance, such as a performance bond or other surety approved by the Town Attorney, prior to the receipt of a building permit. Where the traffic impact does not generate traffic volume that substantiates the total improvement needs, the Planning and Zoning Board shall determine an equitable participation in the required improvement. The participation by the applicant may, at the discretion of the Planning and Zoning Board, consist of a pro rata dollar share of improvement costs.

(F) Open Space and Landscape. Open space for the purpose of calculating residential, nonresidential, and mixed use open space requirements of this subsection shall be defined as those areas not defined as impermeable surface as provided for in § 158.006. Active recreation areas may be counted as open space as provided for in § 158.006. Parking lots and driveways, whether paved or unpaved, shall not be included as open space. Swimming pools shall not count as open space. Other active recreation areas which are not defined as impermeable surface as provided for in § 158.006 and not covered by an impermeable structure shall be included as open space.

(1) Residential open space requirement. All residential development shall preserve a minimum of 50% of the gross land areas as open space. Of the required 50% open space only a maximum of 60% of the total required open space acreage may be comprised of a golf course. The intent is to maximize usable active and passive open space and recreation area and to require good principles of urban design, including walkway systems which provide access to unique open spaces, courtyards, sitting areas, and other usable areas near the principal residential structures. Wetlands and landlocked water bodies may be used in calculating open space, as long as minimum of 40% of the upland property is comprised of open space.

(2) Nonresidential open space requirement. All tourist accommodations including motels, hotels, and tourist resort facilities, shall provide a minimum of 50% of the gross land area as open space. Wetlands and landlocked water bodies may be used in calculating open space as long as a minimum of 40% of the upland property is comprised of open space. Other more conventional forms of nonresidential development shall provide a minimum of 20% open space. Wetlands and landlocked water bodies may be used in calculating open space as long as minimum of 15% of the upland property is comprised of open space.

(3) Mixed use open space requirement. Where residential and nonresidential development is permitted pursuant to this chapter, the following pro rata open space requirements shall be enforced:

$$OS = \frac{NRA}{TA} \times .2\ TA + \frac{RA}{TA} \times .5\ TA$$

OS	Open space
NRA	Nonresidential acreage
RA	Residential and resort facilities acreage
TA	Total area

(4) Use of open space. Open space and spaces between buildings required by this chapter shall be located and improved so as to reasonably serve the purposes for which the requirements are intended. These purposes include provisions of adequate light and air, appropriate separation between buildings and uses, enhancement of privacy, sufficient area for recreation and leisure pursuits (in residential areas) and to facilitate surface water drainage.

(5) Preserve Natural Landscape, Native Vegetation, and Significant Wildlife Species and Their Habitats. Any development proposal that threatens mortality to rare, endangered, and/or threatened wildlife, marine life, and/or plant life or species of special concern, or alters the natural processes of wetlands will not be approved by the town. The natural landscape of the site shall be preserved as much as possible for purposes of enhancing the general appearance of the site as well as to prevent excessive stormwater runoff, erosion, siltation and dust. Sand dunes and natural landscape barriers fronting on the Gulf of Mexico shall be preserved, enhanced and restored to the greatest extent possible through the land development process. In landscaping efforts, priority is given to removing nuisance exotics, maintaining native trees, and using vegetation that is dry season and wet season tolerant. Every effort shall be made to avoid the removal of native vegetation. Wherever such native vegetation has to be removed however (i.e., having a diameter of four inches or more), the applicant shall either replant or replace each tree on the site at the rate of at least two mature trees for every tree removed. All landscaping activities and work resulting from this condition shall be incorporated into a landscaping plan to be submitted to the town. All landscaping work shall not only meet the conditions of this development order but also the provisions of the town's tree ordinance.

(a) Specimen or habitat of terrestrial species on the appropriate lists shall not be altered by a development proposal unless equivalent mitigation is offered, and review by the

Florida Game and Freshwater Fish Commission or the Florida Department of Environmental Regulation indicates it is acceptable.

(b) Specimen or habitat of Bayside marine species on the appropriate lists shall not be altered by new dredging activity, while existing channels may be maintained only to their original dimension.

(c) Specimens or habitat of Gulfside marine species on the appropriate lists may be affected by beach restoration efforts, but only after such efforts are assessed and adequate mitigation programs are instituted for the affected species.

(d) All private docking facilities accommodating six or more boats, and all public and private boating access facilities (including, but not limited to marinas, mooring areas, and boat ramps) shall post signage requiring boats to operate at slow speed from the access point to Sarasota Bay, proper. The aforementioned facilities shall erect permanent educational displays explaining appropriate manatee protection actions, while providing general knowledge about the species.

(G) Wetland Development Restrictions. Site specific investigations shall confirm the existence of wetland areas (see § 158.006) based on on-site soil and vegetative analysis with assistance of appropriate representatives of the State Department of Environmental Regulation, the Southwest Florida Water Management District, the U.S. Soil Conservation Service and the U.S. Army Corps of Engineers. No development activity shall be allowed in a wetland area unless "competent evidence" indicates that:

(1) Dominant vegetation is no longer comprised of wetland types.

(2) The water regime has been permanently altered artificially or naturally in a manner to preclude its associated watershed areas from functioning as wetlands and cannot function as part of the stormwater management system for the site. Applicants for site plan review shall have an opportunity to demonstrate that any wetland designations within the confines of their property no longer functions as wetlands, including its function as part of the stormwater management system, as defined above. The urban forester, the soil conservationist, as well as representatives of the State Department of Environmental Regulation, the Southwest Florida Water Management District, and the U.S. Army Corps of Engineers, shall be made a part of the site plan review process to assist in identifying and delineating wetlands. The applicant may request a waiver of the provisions of this section for docks or relatively small isolated marginal wetlands for which the developer shall provide viable compensatory preserve areas which mitigate against a loss of viable wetland systems. Subject to the provisions of this section, no development shall be permitted in wetlands. However, where land is held under unity of title (common ownership) and such properties include both uplands and wetlands, density credit may be granted for wetland acreage with approval of the Town Commission subject to provisions to be established in the Land Development Code. However, in calculating credit for density in wetland areas, landward of the mean high-water line, in no case shall density credits exceed half the gross density assigned to the wetland area pursuant to the Comprehensive Plan Land Use Map. No credit for density shall be given for wetland

areas seaward of the mean high-water line. Furthermore, the net residential density in the upland area shall not exceed 1.5 times the gross density assigned to the site.

(H) Surface Water Management. All stormwater runoff from development sites and construction sites shall meet applicable Southwest Florida Water Management District (SWFWMD) and Florida Department of Environmental Regulations (FDER) applicable stormwater and wastewater discharge requirements; and all development and construction applications shall be reviewed to assure adequate drainage, flood prevention, and protection of water quality. The developer/owner of any site will be responsible for the on-site management of runoff in such a manner that post-development discharge rates will not exceed pre-development conditions/requirements. No stormwater should be discharged directly into Sarasota Bay or the Gulf of Mexico unless it has been detained on site in accordance with local and state regulations and conveyed to the open water in an acceptable manner. (Ord. 93-17, passed 10-21-93)

(1) Flood-control policies. The flood-control ordinance, surface water drainage and flood-control policies of the subdivision ordinance and other applicable rules and regulations of the Town of Longboat Key together with the flood-management criteria and the Stormwater Treatment and Storage Regulations of the Southwest Florida Water Management District shall be used as a basis for reviewing surface water management plans. In case of conflict the more restrictive provision shall govern.

(2) Surface water management plans. Surface water management plans shall be submitted by the applicant as part of all site plan reviews and shall be approved pursuant to procedures included in the town's Land Development Code, prior to the issuance of a building permit for any construction, including construction incidental to a new or changed use or major expansion. The intent is that criteria within the town's subdivision ordinance for managing surface waters shall also be applied in review of development proposed for site plan review. Furthermore, the intent is to assure to the greatest feasible extent that all future development occurs at an intensity which will not impede or adversely impact natural hydrologic systems. The intent is that new development, redevelopment, and expanded or changed uses to be planned, designed, and constructed to include design features necessary to achieve the following objectives: 1) prevent or restrict the construction of buildings in the most frequently flooded areas; 2) require the elevation or floodproofing of buildings in less frequently flooded areas; 3) restrict interference with the normal movement of floodwaters; and 4) restrict increases in the rate or volume of surface water discharge.

(3) Runoff from construction sites. Construction activities shall implement proper erosion and sediment control practices at construction sites to minimize the amount of pollutant entering the stormwater system. (Ord. 93-17, passed 10-21-93)

(4) Domestic wastewater. There shall be no connection to a storm system, or man-made or natural waterway from any domestic wastewater systems such as wastewater collection and transmission systems or septic tank systems. Prohibited connections may consist of piping connections, exfiltration, infiltration, seepage, leaks, or ditching. (Ord. 93-17, passed 10-21-93)

(5) Surface water management criteria. The town may waive this requirement for minor construction as shall be hereafter defined by the town. Criteria for managing such waiver procedures shall be established as a departmental operations policy and shall be adopted by resolution of the town commission. All publications incorporated in the Southwest Florida Water Management District (SWFWMD) criteria for review of surface water management shall be used in planning and reviewing surface water management within the Town of Longboat Key. New or updated criteria approved for use by the Southwest Florida Water Management District or by the town may be used to review and adequately manage water quality and drainage system improvements. The owner of any facility which fails to comply with these criteria will be required to cease all discharges to the storm sewer system unless such discharges are in strict conformity with all federal, state or town permits, or other local law or regulation. (Ord. 93-17, passed 10-21-93)

(6) Surface water management review coordination. The town shall coordinate the surface water management review process with the SWFWMD to prevent unnecessary duplication of effort. The town may maintain more restrictive standards for review in order to adequately assess and manage surface water drainage within the town limits. (Ord. 93-17, passed 10-21-93)

(I) Available Potable Water. All new and existing development shall be required to connect to the town's public water system except that development on islands geographically separated from the main island of the town may be exempted from this requirement. Any water service systems improvements required by proposed development or redevelopment shall be designed to satisfy performance standards of the state, county and/or the Town of Longboat Key.

(J) Wastewater Service. All new and existing development shall be required to connect to the town's central wastewater utility except that development on islands geographically separated from the main island of the town may be exempted from this requirement. Any wastewater service systems shall be designed to satisfy performance standards of the state, county, and/or Town of Longboat Key.

(K) Soil Erosion and Sedimentation Control.

(1) Applicability. In order to prevent both soil erosion and sedimentation, a soil erosion and sedimentation control plan shall be required as a part of an application for site plan review whenever a development will involve any clearing, grading, transporting, or other form of disturbing land by the movement of earth, including the mining of minerals, sand and gravel, provided that any one of the following descriptions applies to said movement:

(a) Excavation, fill, or any combination thereof will exceed 250 cubic yards.

(b) Fill will exceed three feet in vertical depth at its deepest point as measured from the natural ground surface.

(c) Excavation will exceed four feet in vertical depth at its deepest point as measured from the natural ground surface.

(d) Excavation, fill or any combination thereof will exceed an area of 5,000 square feet.

(e) Plant and/or tree cover is to be removed from an area exceeding 5,000 square feet on any parcel of land.

(f) Whenever any land located in a stream, stream channel, or body of water is disturbed, a soil erosion and sedimentation control plan shall be provided.

(2) Definitions. For the purposes of this subsection, the following definitions are provided:

(a) "SOIL EROSION." Any removal and/or loss of soil by the action of water, gravity, or wind. Erosion includes both the detachment and transport of soil particles.

(b) "SEDIMENTATION." The settling out of the soil particles which are transported by water or wind. Sedimentation occurs when the velocity of water or wind in which soil particles are suspended is slowed to a sufficient degree and for a sufficient period of time to allow the particles to settle out of suspension or when the degree of slope is lessened to achieve the same result.

(c) "ERODABLE SLOPE." All slopes with inclines in excess of 4% unless modified by the Public Works Director based on consideration of specific soil conditions.

(d) "LARGE FLAT SURFACE AREA (UNPAVED)." An area which is flat or whose slope is less than 4% and which consists of more than 1,000 square feet of exposed soil.

(3) Erosion-control measures. All measures necessary to minimize soil erosion and to control sedimentation in the disturbed land area shall be implemented. Soil erosion and sedimentation by wind and water shall be minimized by retaining or restoring vegetation during and after construction. The following protection shall be provided for all disturbed areas: minimize velocities of water runoff, maximize protection of disturbed areas from stormwater runoff, and retain sedimentation within the development site as early as possible following disturbances. A list of major problem areas for erosion and sedimentation control follows. For each one, the purpose(s) of requiring control is described. Soil erosion and sedimentation control measures for all such areas shall be provided with a view toward achieving the specific purpose listed below for which a control plan is required:

(a) Erodable slopes: Prevent detachment and transportation of soil particles from slope.

(b) Streams, streambeds, streambanks, bodies of water, lake shorelines: Prevent detachment and transportation of soil particles.

(c) Drainageways: Prevent detachment and transportation of soil particles (which would otherwise deposit in streams, bodies of water, or wetlands); promote deposit or sediment loads (traversing these areas) before these reach bodies of water.

(d) Land adjacent to the Gulf, Bay, tributaries, and wetlands: Prevent detachment and transportation of soil particles.

(e) Enclosed drainage structure: Prevent sedimentation in structure, erosion at outfall of system, and deposit of sediment loads within system or beyond it.

(f) Large flat surface areas (unpaved): Prevent detachment of soil particles and their off-site transportation.

(g) Impervious surfaces: Prevent the detachment and transportation of soil (in response to an increase in the rate and/or volume of runoff of the site or its concentration caused by impervious surfaces).

(h) Borrow and stockpile areas: Divert runoff from face of slopes which are exposed in the excavation process; convey runoff in stabilized channels to stable disposal points; leave borrow areas and stockpiles in stable condition.

(i) Adjacent properties: Prevent their erosion and/or being deposited with sediment.

(L) Supplemental Controls for Multifamily Residential or Tourism Uses. In reviewing the proposed site plan for 10 or more multifamily or tourism units, the town shall be guided by the following controls. The supplemental control relating to the maximum length of buildings, as provided for in paragraph (3) of this subsection, shall be taken as a mandatory requirement which cannot be waived by the Planning and Zoning Board. The remaining controls in this section shall be taken as mandatory requirements, except that the Town Commission may waive one or more of these requirements where it deems a hardship exists or such waiver is necessary to ensure a more strict adherence to those performance standards set forth herein, which are deemed most critical, notwithstanding any other provisions of this ordinance to the contrary.

In any development order approving a site plan, the Planning and Zoning Board shall make specific findings of facts constituting a hardship, if a hardship is found to exist, and shall make specific findings of any facts constituting the basis for a waiver of these supplemental controls and shall specifically state the performance standards as set forth herein which are deemed most critical and are being more strictly adhered to by granting the waiver.

The provisions of § 158.029 shall apply in determining whether a waiver shall be granted upon a finding that a hardship exists, except that the Planning and Zoning Board, rather than the Zoning Board of Adjustment, shall determine whether a hardship exists or not. The facts forming the basis for the grant of a waiver under the provisions of this section shall be specifically set forth in the development order.

(1) Setback. The distance measured perpendicularly from any front lot line to the nearest surface of a building shall not be less than twice the height of the building, which height shall be measured from the lowest visible elevation under the building to the highest part of the building.

(2) Distance between buildings. No building shall be located closer to another building on the same lot than a distance equal to half the sum of the heights of both buildings (measured from the lowest visible elevation under each building), nor shall any structure be located closer to a site lot line than a distance equal to 70% of the building height (measured from the lowest visible elevation under the building). In addition, the front or rear of any building may be no closer to the front or rear of any other building than 40 feet. The side of any building should be no closer to the side, front, or rear of any other building than 30 feet.

As to (1) and (2), "visible elevation" shall not include elevator shafts, stairwells and other mechanical equipment areas, so long as such areas do not exceed 10% of the area under the building.

(3) Maximum length. No portion of any individual building shall extend beyond a line drawn from the front lot line 30 degrees either side of a line centered on the building and perpendicular to the front lot line.

(4) Distance between buildings and driveways. No driveway or parking lot should be closer than 25 feet to the front of any building or 10 feet to the side or rear of any building

except where parking under or within the building is proposed or in the case of a front entrance to a building.

(5) Off-street parking spaces. There shall be provided on the site of the development an area devoted to the parking of automobiles. The number and their provision shall be provided for as required by § 158.128.

(M) Other Performance Standards. Other performance standards used by the town in reviewing any site or development plan shall include such other standards as may be imposed by this Zoning Code on the particular use or activity involved.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 99-15, passed 9-13-99)

§ 158.103 GRANT OR DENIAL OF APPLICATIONS FOR SITE PLAN APPROVAL; FINDINGS OF FACT AND CONCLUSIONS.

The granting or denial of approval of applications for site plan approval by written resolution shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without changes or special conditions, or for the disapproval. The resolution shall set forth with particularity in what respects the plan would or would not be in the public interest, including but not limited to findings of fact and conclusions on the following:

(A) In what respects the plan is or is not consistent with the comprehensive plan and the purpose and intent of the zoning district in which it is located.

(B) In what respects the plan is or is not in conformance with all applicable regulations of the zoning district in which it is located.

(C) In what respects the plan is or is not in conformance with the town's subdivision regulations, Chapter 157, and all other applicable town requirements, including the design, adequacy, and construction of streets, drainage, utility facilities, and other essential services.

(D) In what respects the plan is or is not consistent with good design standards in respect to all external relationships, including but not limited to relationship to adjoining properties; internal circulation, both vehicular and pedestrian; disposition and use of open space, provision of screening and buffering, and preservation of existing natural features, including trees; size and apparent bulk of structures; and building arrangements both between buildings in the proposed development and those adjoining the site.

(E) In what respects the plan is or is not in conformance with town policy in respect to sufficiency of ownership, guarantees for completion of all required improvements, and, if private, the guarantees for continued maintenance.
(Ord. 90-06, passed 3-19-90)

2000 SUPPLEMENT

ARTICLE IV. GENERAL REGULATIONS

DIVISION 1. USE REGULATIONS

§ 158.125 SCHEDULE OF USE REGULATIONS.

The restrictions and controls intended to regulate development in each zoning district are set forth in the schedule below and in the schedule in § 158.145, which are supplemented by other sections of this chapter.
(Amd. Ord. 97-23, passed 11-3-97; Amd. Ord. 98-09, passed 4-6-98; Amd. Ord. 99-02, passed 4-5-99; Amd. Ord. 99-17, passed 6-7-99)

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(OS) Open Space District	The purpose of this district is to delineate environmentally sensitive town- or county-owned open spaces.	1. Bird and wildlife sanctuaries and nature areas. 2. Public open areas for passive recreational activities. 3. Essential services.	1. Supporting facilities for public passive recreational activities.	1. Accessory uses customarily incident to a permitted use or permitted with a site plan review use.	1. Windwalls. 2. Trellis, subject to the standards contained in § 158.152(J). 3. Boat dock in excess of 500 square feet.
(INE) Community Facility Facility Institutional District	The purpose of this district is to delineate those areas suitable for public and semipublic facilities.	1. Essential services.	1. Churches, synagogues and other houses of worship. 2. Government buildings and services, such as fire stations, public works buildings, and emergency operation center facilities and libraries. 3. Public parks and recreation areas. 4. Town-owned or town-operated marine facilities. 5. Personal wireless services rooftop antennas and building or structure mounted antennas.	1. Off-street parking and loading facilities. 2. Other accessory uses customarily incident to a use permitted with site plan review or special exception use. 3. Private noncommercial dish antennas.	1. Continuing education centers. 2. Civic centers. 3. Nursing homes. 4. Nonprofit cultural centers. 5. Cemeteries. 6. Worship centers. 7. Private clubs. 8. Windwalls. 9. Personal wireless services towers with site plan review. 10. Trellis, subject to the standards contained in § 158.152(J) 11. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(R-1IP) Island Preserve	The purpose of this district is to delineate Jewfish Key and Sister Keys for limited residential development of an estate character together with the associated accessory uses while recognizing environmental constraints, the inaccessibility of the area to the mainland, and requiring developer provided public services and facilities prior to construction of any habitable structures.	1. Single-family dwellings. 2. Essential services.	1. Planned unit development overlays (see §§ 158.065 through 158.071)	1. Private swimming pools or cabanas and related structures. 2. Private docks. 3. Private garages. 4. Private noncommercial dish antennas. 5. Other accessory uses customarily incident to a permitted use, use permitted with a site plan review or special exception use.	1. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95) 2. Trellis, subject to the standards contained in § 158.152(J) 3. Boat dock in excess of 500 square feet.
(R-1SF) Single-Family Low-Density Estate Residential District (1 D.U./A.)	The purpose of this district is to delineate those areas suitable for residential development of a spacious character together with the associated accessory uses.	1. Single-family dwellings. 2. Essential services. 3. Community residential homes with six or fewer residents plus staff.	1. Planned unit development overlays (see §§ 158.065 through 158.071)	1. Private swimming pools or cabanas and related structures. 2. Private docks. 3. Private garages. 4. Other accessory uses customarily incident to a permitted use, use permitted with a site plan review, or special exception use. 5. Private noncommercial dish antennas.	1. Windwalls. 2. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95) 3. Trellis, subject to the standards contained in § 158.152(J). 4. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(R-2SF) Single-Family Low-Density Residential District (2 D.U./A.)	The purpose of this district is to delineate those areas suitable for residential development of a low-density character together with the associated accessory uses.	1. Single-family dwellings. 2. Essential services. 3. Community residential homes with six or fewer residents plus staff.	1. Planned unit development overlays (see §§ 158.065 through 158.071).	1. Private swimming pools or cabanas and related structures. 2. Private docks. 3. Private garages. 4. Other accessory uses customarily incident to a permitted use, use permitted with site plan review or special exception use. 5. Private noncommercial dish antennas.	1. Windwalls. 2. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95) 3. Trellis, subject to the standards contained in § 158.152(J). 4. Boat dock in excess of 500 square feet.
(R-3SF) Single-Family Low-Medium-Density Residential District (3 D.U./A.)	The purpose of this district is to delineate those areas suitable for residential development of a low-density character together with the associated accessory uses.	1. Single-family dwellings. 2. Essential services. 3. Community residential homes with six or fewer residents plus staff.	1. Planned unit development overlays (see §§ 158.065 through 158.071).	1. Private swimming pools or cabanas and related structures. 2. Private docks. 3. Private garages. 4. Other accessory uses customarily incident to a permitted use, use permitted with site plan review or special exception use. 5. Private noncommercial dish antennas.	1. Windwalls. 2. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95) 3. Trellis, subject to the standards contained in § 158.152(J). 4. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(R-4SF) Single-Family Medium-Density Residential District (4 D.U./A.)	The purpose of this district is to delineate those areas suitable for single-family residential development of a medium density character together with the associated accessory uses.	1. Single-family dwellings. 2. Essential services. 3. Community residential homes with six or fewer residents plus staff.	1. Planned unit development overlays (see §§ 158.065 through 158.071).	1. Private swimming pools or cabanas and related structures. 2. Private docks. 3. Private garages. 4. Other accessory uses customarily incident to a permitted use, use permitted with site plan review or special exception use. 5. Private noncommercial dish antennas.	1. Windwalls. 2. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95) 3. Trellis, subject to the standards contained in § 158.152(J). 4. Boat dock in excess of 500 square feet.
(R-6SF) Single-Family High-Density Residential District (6 D.U./A.)	The purpose of this district is to delineate those areas suitable for single-family residential development of a high-density character together with the associated accessory uses.	1. Single-family dwellings. 2. Essential services. 3. Community residential homes with six or fewer residents plus staff.	1. Planned unit development overlays (see §§ 158.065 through 158.071).	1. Private swimming pools or cabanas and related structures. 2. Private docks. 3. Private garages. 4. Other accessory uses customarily incident to a permitted use, use permitted with site plan review or special exception use. 5. Private noncommercial dish antennas.	1. Nonprofit cultural centers. 2. Public/private pre-schools or elementary schools. 3. Child care services. 4. Government buildings and services. 5. Public parks and recreation areas. 6. Windwalls. 7. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95) 8. Trellis, subject to the standards contained in § 158.152(J). 9. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(R-3MX) Low-Medium-Density Residential District (3 D.U./A.)	The purpose of this district is to delineate those areas suitable for mixed residential development of a low-medium-density character together with the associated accessory uses.	1. Single-family dwellings. 2. Two-family dwellings. 3. Multifamily developments with less than 10 dwelling units. 4. Essential services. 5. Community residential homes with six or fewer residents plus staff.	1. Planned unit development overlays (see §§ 158.065 through 158.071). 2. Multifamily development with 10 or more dwelling units. 3. Community residential homes. 4. Personal wireless services rooftop antennas and building or structure mounted antennas.	1. Private swimming pools or cabanas and related structures. 2. Private recreational facilities designed for the exclusive use of occupants of a permitted use, use permitted with site plan review, or special exception use. 3. Private docks. 4. Off-street parking. 5. Other accessory uses customarily incident to a permitted use, use permitted with site plan review or special exception use. 6. Private noncommercial dish antennas.	1. Home occupations, in single-family dwellings. 2. Government buildings and services. 3. Windwalls. 4. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95) 5. Trellis, subject to the standards contained in § 158.152(J). 6. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(R-4MX) Medium-Density Mixed Residential District (4 D.U./A.)	The purpose of this district is to delineate those areas suitable for mixed residential development of a medium-density character together with the associated accessory uses.	1. Single-family dwellings. 2. Two-family dwellings. 3. Multifamily developments with less than 10 dwelling units. 4. Essential services. 5. Community residential homes with six or fewer residents plus staff.	1. Planned unit development overlays (see §§ 158.065 through 158.071). 2. Multifamily developments with 10 or more dwelling units. 3. Community residential homes. 4. Personal wireless services rooftop antennas and building or structure mounted antennas.	1. Private swimming pools or cabanas and related structures. 2. Private recreational facilities designed for the exclusive use of occupants of a permitted use, use permitted with site plan review or special exception use. 3. Off-street parking. 4. Other accessory uses customarily incident to a permitted use, use permitted with site plan review or special exception use. 5. Private noncommercial dish antennas.	1. Home occupations, in single-family dwellings. 2. Government buildings and services. 3. Public parks and recreation areas. 4. Windwalls. 5. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95) 6. Trellis, subject to the standards contained in § 158.152(J). 7. Boat dock in excess of 500 square feet.
(R-6MX) High-Density Mixed Residential District (6 D.U./A.)	The purpose of this district is to delineate those areas suitable for mixed residential development of a high-density character together with the associated accessory uses.	1. Single-family dwellings. 2. Two-family dwellings. 3. Multifamily developments with less than 10 dwelling units. 4. Essential services. 5. Community residential homes with six or fewer residents plus staff.	1. Planned unit development overlays (see §§ 158.065 through 158.071). 2. Multifamily developments with 10 or more dwelling units. 3. Community residential homes. 4. Personal wireless services rooftop antennas and building or structure mounted antennas.	1. Private swimming pools or cabanas and related structures. 2. Private recreational facilities designated for the exclusive use of occupants of a permitted use, use permitted with site plan review or special exception use. 3. Private noncommercial dish antennas.	1. Home occupations. 2. Public/private pre-schools or elementary schools. 3. Government buildings and services. 4. Group home and foster care facilities. 5. Public parks and recreation areas. 6. Mobile home parks. 7. Windwalls. 8. Parks and recreation areas. (Ord. 93-13, passed 6-24-93) 9. Trellis, subject to the standards contained in § 158.152(J). 10. Boat dock, in excess of 500 square feet.

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(PD) Planned Development District (3.96 D.U./A.)	The purpose of this district is to recognize a key area of the town suitable for a planned unit development, and to provide for its submission and development in accordance with the town's Comprehensive Plan.	1. Essential services. 2. Community residential homes with six or fewer residents plus staff.	1. Planned unit development overlays (see §§ 158.065 through 158.071). 2. Government buildings and services. 3. Community residential homes. 4. Personal wireless services rooftop antennas and building or structure mounted antennas.	1. Other accessory uses customarily incident to a use permitted with the plan review or special exception use. 2. Private noncommercial dish antennas.	1. Windwalls. 2. Trellis, subject to the standards contained in § 158.152(J). 3. Boat dock in excess of 500 square feet.
(GPD) Gulf Planned Development District (5.06 D.U./A.)	The purpose of this district is to recognize a key area of the town suitable for a planned unit development, and to provide for its submission and ultimate development in accordance with the town's Comprehensive Plan.	1. Essential services. 2. Community residential homes with six or fewer residents plus staff.	1. Planned unit development overlays (see §§ 158.065 through 158.071). 2. Community residential homes. 3. Personal wireless services rooftop antennas and building or structure mounted antennas.	1. Other accessory uses customarily incident to a use permitted with the plan review or special exception use. 2. Private noncommercial dish antennas.	1. Windwalls. 2. Trellis, subject to the standards contained in § 158.152(J). 3. Boat dock in excess of 500 square feet.
(NPD) Negotiated Planned Development District (4.80 D.U./A.)	The purpose of this district is to recognize a key area of the town suitable for a planned unit development, and to provide for its submission and development in accordance with the town's Comprehensive Plan and a negotiated transfer of density.	1. Essential services. 2. Community residential homes with six or fewer residents plus staff.	1. Planned unit development overlays (see §§ 158.065 through 158.071). 2. Community residential homes. 3. Personal wireless services rooftop antennas and building or structure mounted antennas.	1. Other accessory uses customarily incident to a use permitted with the plan review or special exception use. 2. Private noncommercial dish antennas.	1. Windwalls. 2. Trellis, subject to the standards contained in § 158.152(J). 3. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(OI) Office-Industrial District	The purpose of this district is to delineate those areas, which, by their location, are suitable to accommodate offices and institutional uses but must be in harmony with residential development in close [proximity].	1. Essential services.	1. Business and professional offices. 2. Government buildings and services. 3. Public parks and recreation areas. 4. Banks and other financial institutions. 5. Personal wireless services rooftop antennas and building or structure mounted antennas.	1. Off-street parking and loading. 2. Other accessory uses customarily incident to use permitted with site plan review use or special exception use. 3. Private noncommercial dish antennas.	1. Worship centers. 2. Medical and dental clinics. 3. Windwalls. 4. Trellis, subject to the standards contained in § 158.152(J). 5. Boat dock in excess of 500 square feet.
(C-1) Limited Commercial District	The purpose of this district is to delineate those areas suitable for neighborhood-serving commercial and related uses.	1. Essential services.	1. Uses permitted with site plan review and special exception uses in OI districts Residential uses are excluded. 2. Neighborhood convenience store. 3. Small limited-item shop and stores restricted to retail sales of convenience items and services including barber-beauty care and other personal services. 4. Small-scale drugstores and specialty shops. 5. Photography, art or music studios. 6. Youth recreation centers. (continued)	1. Off-street parking and loading. 2. One dwelling unit for use by owner, employee, or lessee which shall be attached to the principal structure. 3. Other accessory uses customarily incident to use permitted with site plan review use or special exception use. 4. Private noncommercial dish antennas.	1. Restaurants (but no drive-in restaurants) including restaurants with lounges or outdoor dining (subject to the standards contained in § 158.136). (Ord. 95-19, passed 1-8-96) 2. Grocery stores. 3. Continuing education centers. 4. Laundry and dry cleaning pickup stations. 5. Private noncommercial dish antennas. 6. Windwalls. 7. Trellis, subject to the standards contained in § 158.152(J). 8. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(C-1) Limited Commercial District (Cont'd)			7. Florist shops. 8. Personal wireless services rooftop antennas and building or structure mounted antennas.		
(C-2) General Commercial District	The purpose of this district is to delineate those areas suitable for general commercial and related uses.	1. Essential services.	1. Permitted uses with site plan review and special exception uses in OI and C1 districts. Residential uses are excluded. 2. General retail sales and services such as grocery stores, restaurants, including restaurants with lounges, laundry and dry cleaning pickup stations, and small-scale tourist-oriented facilities. 3. Child-care services. 4. Personal wireless services rooftop antennas and building or structure mounted antennas.	1. Off-street parking and loading. 2. Other accessory uses customarily incident to use permitted with site plan review use or special exception use. 3. Private non-commercial dish antennas.	1. Government buildings and services. 2. Lounges. 3. Windwalls. 4. Lawn and garden centers. 5. Trellis, subject to the standards contained in § 158.152(J). 6. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(C-3) Highway-Oriented Commercial District	The purpose of this district is to delineate those areas suitable for highway-oriented commercial and related uses.	1. Essential services.	1. Permitted uses with site plan review and special exception uses in OI, C-1 and C-2 districts. Residential uses are excluded. 2. Service stations and other minor retail sales, services and repairs oriented to the motoring public, excluding body repair and finishing. 3. Personal wireless services rooftop antennas and building or structure mounted antennas.	1. Off-street parking and loading. 2. Other accessory uses customarily incident to use permitted with site plan review use or special exception use. 3. Private non-commercial dish antennas.	1. Hotel, motel accommodations, not exceeding three tourism units per acre. 2. Windwalls. 3. Trellis, subject to the standards contained in § 158.152(J). 4. Boat dock in excess of 500 square feet.

DISTRICT	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(Maximum Gross Residential Density)					
(M-1) Marine Commercial Service District	The purpose of this district is to delineate those areas suitable for marine commercial services and related uses. Commercial passenger operations are excluded.	1. Essential services.	1. Uses permitted with site plan review in C-3 districts. Residential uses are excluded except as provided for as an accessory use. 2. Marina facilities, including rental of wet storage, sale of marine fuels, boat or motor rental or maintenance, sale of bait and fishing equipment and storage or dry-docking of boats. Boat construction is not a permitted use. 3. Other marine commercial services such as waterfront or marine-related specialty shops. (continued)	1. Off-street parking and loading. 2. One dwelling unit or use by owner/employee or lessee, which shall be located on the same lot. 3. Other accessory uses customarily incident to a use permitted with site plan review or special exception use. 4. Privilege noncommercial dish antennas.	1. Windwalls. 2. Trellis, subject to the standards contained in § 158.152(J). 3. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(M-1) Marine Commercial Service District (Con't)			4. Charter fishing. 5. Personal wireless services rooftop antennas and building or structure mounted antennas.		
(T-3) Low-Medium-Density Tourist Resort Commercial District (3 T.U. or D.U./A.)	The purpose of this district is to implement the comprehensive plan through delineation of those areas suitable for low-medium-density tourist resort oriented facilities and multifamily residential uses.	1. Multifamily developments with less than 10 dwelling units. other tourism and 2. Essential services. 3. Community residential homes with six or fewer residents plus staff.	1. Multifamily developments with 10 or more dwelling units. 2. Hotels, motels, and 3. Community resitime-share tourism units. 3. Community residential homes. 4. Personal wireless services rooftop antennas and building or structure mounted antennas.	1. Private swimming pools or cabanas and related structures. 2. Private recreational facilities designed for the exclusive use of occupants. 3. Private docks, including the dockage and rental of boats and the sale of marine fuels limited to use of residents and guests only. 4. Off-street parking. 5. Other accessory uses customarily incident to permitted use, use permitted with site plan review use or special exception use. (continued)	1. Windwalls. 2. Trellis, subject to the standards contained in § 158.152(J). 3. Boat dock in excess of 500 square feet.

DISTRICT (Maximum Gross Residential Density)	PURPOSE	PERMITTED USES WITHOUT SITE PLAN REVIEW	PERMITTED USES WITH SITE PLAN REVIEW	ACCESSORY USES	SPECIAL EXCEPTION USES
(T-3) Low-Medium-Density Tourist Resort Commercial District (3 T.U. or D.U./A.) (Con't)				6. Private noncommercial dish antennas.	
(T-6) High-Density Tourist Resort Commercial District (6 T.U. or D.U./A.)	The purpose of this district is to implement the comprehensive plan through delineation of those areas suitable for high-density tourist resort oriented facilities and multifamily residential uses.	1. Multifamily developments with less than 10 dwelling units. 2. Essential services. 3. Community residential homes with six or fewer residents plus staff.	1. Permitted uses with site plan review in T-3 districts. 2. Multifamily developments with 10 or more dwelling units. 3. Hotels, motels, and other tourism and time-share tourism units. 4. Community residential homes. 5. Personal wireless services rooftop antennas and building or structure mounted antennas.	1. Private swimming pools or cabanas and related structures. 2. Private recreational facilities designed for the exclusive use of occupants. 3. Private docks, including the dockage and rental of boats and the sale of marine fuels limited to use of residents and guests only. 4. Off-street parking. 5. Other accessory uses customarily incident to permitted use, use permitted with site plan review use or special exception use. 6. Private noncommercial dish antennas.	1. Windwalls. 2. Trellis, subject to the standards contained in § 158.152(J). 3. Boat dock in excess of 500 square feet.

§ 158.126 SPECIAL EXCEPTION USES.

Special exception uses, as enumerated in the schedule in § 158.125, shall be permitted only upon authorization by the Planning and Zoning Board or the Board of Adjustment pursuant to the provisions of § 158.028, and upon public hearing, based upon the following pertinent requirements and other applicable requirements set forth in §§ 158.095 through 158.102; provided that such uses shall be found by the Planning and Zoning Board or Board of Adjustment, as appropriate, to comply with the following requirements and other applicable requirements as set forth in § 158.028. A special exception application, including full payment of an application fee as set forth by resolution of the Town Commission, shall be submitted to the Planning and Zoning Official for appropriateness and completeness and review in accordance with the procedure set forth in § 158.099(A) and (B). The Planning and Zoning Board and Zoning Board of Adjustment shall not receive, review, make recommendations or act on applications for special exceptions except during the town's annual site and development plan season. For purposes of this chapter, the annual site and development plan season shall include the months of September, October, November, December, January, February, March, April, May and June of each year. For purposes of calculating the required processing times set forth in this section for the Planning and Zoning Board and the Zoning Board of Adjustment, the period of time from July 1 through August 31 shall not be counted in said computation. Upon receipt of the application, from the Planning and Zoning Official, the Planning and Zoning Board, or the Zoning Board of Adjustment shall, within 60 calendar days, review the special exception application making their findings in respect to the special exception proposal, as set forth in this section. For purposes of this section the Planning and Zoning Board and the Zoning Board of Adjustment shall receive a special exception application from the Planning and Zoning Official at the Board's next regular meeting where a quorum is present following the Planning and Zoning Official's submittal of the application to the Board. Special exception applications reviewed by the Planning and Zoning Board or the Zoning Board of Adjustment shall require site plan review, except for home occupations, in accordance with §§ 158.095 through 158.103.

(A) Findings. Before any special exception shall be granted, the Planning and Zoning Board/Zoning Board of Adjustment shall make a written finding that the granting of the special exception will not adversely affect the public interest and certifying that the specific requirements governing the individual special exception, if any, have been met by the petitioner and that, further, satisfactory provision and arrangement has been made concerning the following matters, where applicable:

(1) Compliance with all elements of the Comprehensive Plan.

(2) That the use is a permitted special exception use as set forth in the Schedule of Use Regulations.

(3) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

(4) Off-street parking and loading areas, where required, with particular attention to the items in (3) above and the economic, noise, glare, or other effects of the special exception on adjoining properties and properties generally in the district.

(5) Refuse and service areas, with particular reference to items in (3) and (4) above.

(6) Utilities, with reference to locations, availability, and compatibility.

(7) Screening and buffering with reference to type, dimensions and character.

(8) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district.

(9) Required yards and other open space.

(10) That the use conforms with all applicable regulations governing the district where located.

(11) Considerations relating to general compatibility with adjacent properties and other property in the district, including but not being limited to:

(a) Whether the proposed use would be contrary to the land use plan and would have an adverse effect on the Comprehensive Plan.

(b) Whether the proposed use would be compatible with the established land use pattern.

(c) Whether the proposed use would materially alter the population density pattern and thereby increase or overtax the load on public facilities such as schools, utilities and streets.

(d) Whether changed or changing conditions find the proposed use to be advantageous to the community and the neighborhood.

(e) Whether the proposed use would adversely influence living conditions in the neighborhood.

(f) Whether the proposed use would create or excessively increase traffic congestion or otherwise affect public safety.

(g) Whether the proposed use would create a drainage problem.

(h) Whether the proposed use would seriously reduce the flows of light and air to adjacent areas.

(i) Whether the proposed use would adversely affect property values in the adjacent area.

(j) Whether the proposed use would be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

(k) Whether the proposed use would be out of scale with the needs of the neighborhood or the town.

(B) Expiration. Any special exception shall expire 12 months from the date of grant, unless appealed and extended by action of the Town Commission, if by that date the use for which the special exception was granted has not been commenced. An appeal for extension shall show that commencement of the use is being actively pursued by evidence of an application for a building permit, preliminary plat, or site and development plan, or other evidence satisfactory to the Town Commission; said extension shall not exceed six months.

(C) Discontinuance. Any special exception shall expire 12 months following the discontinuance of the use for which the special exception was granted.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 98-25, passed 7-16-98)

§ 158.127 ACCESSORY USE OR BUILDING.

(A) Accessory uses shall be clearly supplementary and incidental to the principal use of the lot and shall be located on the same lot as the principal use to which it is subordinate except as provided for in §§ 158.151(F) (beach shelters), 158.128(E) (location of parking spaces), or § 158.152 (walls, fences, hedges, berms, landscape logs and firewood). No permit shall be issued for any accessory use or building, excluding davits, docks, or boat lifts, until the principal use or building has been established or constructed. This provision shall not be applicable to seawalls or other duly authorized erosion control structures. No commercial accessory use will be permitted in an R District except in accordance with § 158.135 (home occupations). Where a principal use within a T District is other than a tourism use, no commercial accessory use will be permitted. In addition, no permit shall be issued for any accessory use until a determination is made by the Planning and Zoning Official that such use is in accord with applicable site land development plan performance standards set out in § 158.102.

(B) Swimming Pools.

(1) Swimming pools, not to be enclosed by a structure other than fences or screening (§ 158.154) as required or permitted by the town, may be constructed within the required yard areas, except the required street yard as prescribed by this chapter. However, no part of the pool structure may protrude more than six inches above finished grade in the required yard (excluding gulf side or pass waterfront yards), and the pool walls shall be at least eight feet from the lot lines. No swimming pools shall be permitted within the required gulf or required pass waterfront yards unless:

(a) The swimming pool shall meet the requirements of the Department of Natural Resources; and

(b) The swimming pool location must be a minimum of 100 feet from the mean high-water line.

Swimming pools may be permitted within required bay or required canal waterfront yards but shall not be located within 20 feet of the mean high-water line in required bay waterfront yards and 15 feet of the mean high-water line in a required canal waterfront yard, except in the "Special Canal Waterfront Yard Area" illustrated in the Appendix: Land Use Charts and Illustrations, Section 6, where swimming pools shall not be located within 10 feet of the mean high-water line.

(2) (a) In determining the percentage of coverage of a lot by buildings, swimming pools and decks surrounding the pool shall not be counted in the computation if they are not more than six inches above finished grade. (See § 158.102(F).) However, residential single-family buildings with a pool cage over a swimming pool and deck to surround the pool shall be permitted an additional 5% of allowable building coverage over the percentage otherwise

permitted in the district. In addition, where a residential single-family building's swimming pool is more than six inches above finished grade and in conformance with town regulations, an additional 5% of allowable building coverage over the percentage otherwise permitted in the district shall be permitted whether or not there is a swimming pool cage over the swimming pool and surrounding deck. In any event, the non-pool cage area of the building may not exceed the building coverage otherwise permitted in the district. However, notwithstanding the above, existing single-family residential buildings with an existing legally nonconforming pool cage may apply for a building permit to replace the pool cage with a pool cage of the same dimensions or smaller. A larger pool cage may be permitted subject to conformance with other town regulations, including total building coverage on the lot not exceeding 5% more than the percentage otherwise permitted in the district.

(C) Accessory Commercial Uses to Tourism Uses. Commercial services developed or used in connection with tourism uses, including cigar stands or newsstands, cocktail lounges where food or drink are served, and similar uses, may be permitted provided the following conditions are fulfilled:

(1) At least 25 tourism units shall be contained within the building group; however, a tourism use with less than 25 units may provide up to 200 square feet for such accessory uses.

(2) Not more than 10% of the total tourism unit floor area within the buildings shall be so used.

(3) All such commercial services shall be situated within the interior of the building so that no part thereof shall be directly accessible to the street or public way. Exceptions to this provision may be granted through site plan review.

(4) All required parking is provided as set forth in § 158.128.

(5) Such accessory commercial uses are only permitted in connection with the principal use and may not be operated as an independent commercial use.

(D) Private Recreational Facilities. Putting greens, shuffleboard courts, and similar uses of a recreational nature not to be covered by a structure may be constructed within required yard areas except the required street yard or required waterfront yard as prescribed by this chapter. Any walls or fences shall conform with § 158.152. In determining the percentage of coverage of a lot by buildings, tennis courts, putting greens, shuffleboard courts, swimming pools and similar uses of a recreational nature may be counted in the computation, as provided for in § 158.102(F). Private recreational facilities within a structure shall conform with all pertinent yard requirements as set forth in § 158.151.

(E) Tennis Courts.

(1) Tennis courts shall not be permitted within the required yard area unless the Board of Adjustment grants a special exception, and in no event shall the tennis courts be located as follows:

(a) Within 20 feet of a street.

(b) Within 20 feet of residential property.

(c) Within 10 feet of any commercial property, including hotel and motel uses.

(d) Within any required gulf waterfront yard.

(2) In required yards, only an open-wire-mesh fence shall be permitted not exceeding a height of 12 feet. No tennis court lights shall be permitted in an R-4SF or R-6SF District. In other districts, upon application, tennis court lighting may be permitted of such a type, intensity, frequency and design as will not interfere with the public safety or with neighboring uses. In determining the maximum coverage of a lot by a building, tennis courts shall be counted in the computation if they are not open space. (See § 158.102(F).)

(F) Dish Antennas.

(1) Location. Private noncommercial dish antennas may be permitted in the Town of Longboat Key provided (a) they are located in the rear yard (b) they maintain a minimum rear setback that is at least equal to their height, but not less than five feet, and (c) they do not encroach on any of the required side setbacks for the district in which they are located. In connection with multifamily buildings of four stories or more, rooftop installation shall be permitted as long as anchorage of same complies with the requirements of the Standard Building code relative to structures. Such rooftop installation shall not be considered in the calculation of the height of the building.

(2) Dimensions. The height of private noncommercial dish antennas shall not exceed 20 feet; their diameter shall not exceed 16 feet. Dish antennas shall be considered as television antennas for purposes of applying the height regulations of § 158.153.

(3) Screening. As much as possible, private noncommercial dish antennas shall be properly screened by landscaping so as to obscure their visibility from ground view. No landscaping shall be required in the front or rear of the dish that would create reception interference or prevent a shift in the position of the dish.

(4) Number allowed.

(a) Only one private, noncommercial antenna shall be allowed per single-family home, duplex, triplex or townhouse unit;

(b) Multifamily apartment buildings and commercial or industrial buildings shall be allowed up to three dish antennas.

(5) Anchorage. Dish antennas shall be anchored securely to the ground or to a building's roof in conformance with requirements of the Standard Building code relative to structures. When roof-mounted, the installation of a dish antenna must be inspected and approved for safety by a registered engineer or architect.

(6) Processing permitting requirements. An applicant for a private, noncommercial dish antenna shall submit to the Planning and Zoning Official a plan showing location of the proposed dish, as well as type and amount of landscaping to be installed, where applicable. Actual installation of the dish antenna shall require application for and receipt of a building permit.

(7) Advertising. No form of advertising or identification is allowed on the dish antenna or framework other than manufacturers' small identification plates.

(8) Color. All dish antennas in all zoning districts must be neutral in color and, to the

extent possible, be compatible with the surrounding neighborhood in appearance and character.

(9) Maintenance. Once installed, dish antennas and related appurtenances must be maintained in good and operable condition. Surrounding landscaping shall also be maintained. (Ord. 90-06, passed 3-19-90; Amd. Ord. 91-10, passed 6-20-91; Amd. Ord. 94-25, passed 10-20-94; Amd. Ord. 98-02, passed 2-2-98)

§ 158.128 OFF-STREET PARKING.

(A) Size and Access. An off-street parking space shall consist of a parking space having minimum dimensions of 10 feet in width by 20 feet in length for the parking of each automobile, exclusive of access drives or aisles thereto. Minimum width of an access drive shall be 10 feet. Minimum width of an aisle designed and intended for the maneuvering of an automobile into a parking space shall be in conformance with subsection (B) below and the illustrative chart as set forth in § 2 of the appendix following this chapter which is and hereby made a part of this chapter. The parking plan must be so arranged that each automobile may be placed and removed from the parking space assigned thereto and taken to and from the property without the necessity of moving any other automobile to complete the maneuver. Street or sidewalk areas may not be used for off-street parking purposes as herein defined. Individual ingress and egress drives extending across the public sidewalks and curbs and connecting the off-street parking spaces to street areas shall not exceed a maximum of 12 feet for a one-way drive and 24 feet for a two-way drive. The design, number, and placement of such drives is subject to the approval of the town before being constructed.

(B) Minimum Size. Each parking space shall be a minimum of 10 feet by 20 feet in size, and the minimum aisle width shall be as follows:

2000 TOWN CODE

Angle of Parking (by degree)	Aisle Width One-Way (feet)	Two-Way (feet)
Parallel	12	20
30	12	22
45	12	22
60	18	24
90	24	24

(C) Automatic Parking. Nothing in this section is intended to prohibit the installation of a fully automatic parking facility in which the placement and removal of automobiles are accomplished wholly by machinery.

(D) Number of Spaces Required. 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 or tourism units, guestrooms, floor area or seats, or at the time any use or occupancy of an existing building is changed to a use or occupancy which increases the requirements for off-street parking, minimum off-street parking facilities with adequate provisions for ingress and egress, in accordance with subsections (A) and (B) of this section and the schedule of off-street parking requirements, as prescribed below:

SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

	USE	SPACES REQUIRED PER UNIT
(1)	Single-family and two-family dwellings and townhouse and community residential homes in single-family districts	2 per dwelling unit
(2)	Multifamily dwellings	1.5 per dwelling unit plus 1 per each 5 units or portion thereof
(3)	Churches, temples or other places of worship	1 per 3 seats in sanctuary or building with maximum capacity
(4)	Schools:	
	General	1 per 3 seats
	Preschools/elementary schools	1 per 300 sq. ft. plus 3 for off-street loading and unloading of children
	Continuing education centers	1 per 150 sq. ft.
(5)	Library, museum, or similar structures	1 per 300 sq. ft.
(6)	Day care center	1 per 300 sq. ft. plus 3 for off-street loading and unloading of children

	USE	SPACES REQUIRED PER UNIT
(7)	Recreational Uses:	
	General	1 per 3 patrons plus 1 per employee on largest shift
	Building	1 per 200 sq. ft.
	Tennis	4 per each court
	Pool	1 per 200 sq. ft. of pool area
	Golf	6 per each hole of golf
	All other	1 per 3 patrons plus 1 employee on largest shift
(8)	Commercial recreation	1 per 3 patrons
(9)	Marina	1 per slip; 1 per 4 dry storage berths plus 1 per 200 sq. ft. of building
(10)	General commercial	1 per 200 sq. ft.
(11)	Office	1 per 250 sq. ft.
(12)	Medical and dental	10 for each doctor/dentist or 1 per 150 sq. ft. of gross building area
(13)	Restaurants and lounges	1 per 100 sq. ft.
(14)	Theatre, auditorium	1 per 3 seats.
(15)	Gasoline stations	1 for each 250 square feet of floor area, except that spaces required in excess of 6 may be stacked provided that none of the parking interferes with the orderly flow of traffic
(16)	Hotel, motel tourism units	1 per unit plus space required for restaurant, shops, etc.
	Time Share - Tourism units	1.5 per unit plus space required for restaurant, shops, etc.
(17)	Community residential home in multi-family use	2 spaces per first 6 nonemployee residents, plus 1 space per each additional nonemployee 6 residents, plus 1 space per each resident employee, plus 1 space per 2 nonresident employees

(E) Location of Parking Spaces. Parking spaces for all uses or structures which are provided as required parking in conformance with the schedule of off-street parking and other applicable provisions shall be located on the same lot, and have the same zoning district as the principal use or structure they are intended to serve. Under special conditions the Town Commission may grant similar parking on other property in the immediate vicinity.

(F) Collective Provision. Two or more owners or operators of commercial buildings or uses of the same type of zoning classification requiring off-street parking facilities may take collective provision for the facilities, provided that the total of the parking spaces when combined or used together shall not be less than the sum of the requirements computed separately and provided that the combined facility is compatible with the zoning uses being served.

(G) Nonconforming Uses. Where major alterations or extensions of use are to be made in a building occupied by a nonconforming use, no such alterations or extensions shall be permitted unless and until the off-street parking requirements for the existing plus the proposed new use have been fully provided.

(H) Utilization of Yards.

(1) In all R districts, required parking spaces for single-family and two-family dwellings may be permitted in any setback areas or yards except a required waterfront yard and shall be counted as meeting off-street parking requirements, except that within a required front yard all parking shall be located in a driveway or turnaround.

(2) In all R and T districts for all other permitted uses, approved permitted uses with site plan review, or approved special exception uses, required front, street side, or street rear yards may not be used for off-street parking, except as specifically provided herein; however all other yards may be used for that purpose except as limited herein. A maximum of 30% of a required or nonrequired street yard may be used for off-street parking except in the event of approved special exception use for churches, synagogues, or other houses of worship, when a maximum of 70% of a required or nonrequired front yard may be so used, provided that in either case a minimum front setback of 20 feet is maintained and the parking area is screened from the adjacent street with landscaping in accordance with § 158.154(A)(2). Any off-street parking located within any other yards shall also be screened with walls or landscaping from the adjacent street or uses in accordance with § 158.154(A). Each parking space shall have an adequate and substantial wheel stop secured to the ground or parking area surface located at least eight feet from any abutting side or rear property line. Parking area surfaces shall not extend closer than six feet from any abutting side or rear property line.

(3) In all districts other than R and T districts, for all other permitted uses, approved permitted uses with site plan review, or approved special exception uses, a maximum of 70% of a required street yard may be used for off-street parking. Each parking space shall have an adequate and substantial wheel stop secured to the ground or parking area surface located at least seven feet from any abutting front, side, or rear property line. Parking area surfaces shall not extend closer than five feet from any abutting front, side, or rear property line or 20 feet from any street.

(4) Each parking space shall be marked by one of the following methods: if paved, by wheel stop and striping; if unpaved, by wheel stop.

(I) Landscaping. The atmosphere within a parking area is intended to be parklike. Towards this objective the following standards shall be observed in the design and construction of parking areas:

(1) At least 15% of the total interior parking area shall be suitably landscaped. A portion of the required landscaping for the interior parking area may be relocated so as to emphasize entrance corridors or special landscaped areas within the general parking area. For purposes of this section, the interior parking area is that area used for the parking and maneuvering of automobiles, including that part of any aisle or drive necessary to enter a parking space.

(2) This landscaping shall include the placement of a mature replacement tree at intervals of approximately each five parking spaces.

(3) Interior portions of the parking area shall be broker up by the provision of landscaped islands. All landscaped islands shall be serviced by an adequate irrigation system.

(4) A maximum of 12 parking spaces in a row will be permitted without an island.

(5) All landscape strips shall be protected from vehicular encroachment by raised curbing or, where such strips abut parking stalls, raised wheel stops to protect the landscaped strip.

(J) Approval of Plan. The plan for ingress and egress to and from the off-street parking area and landscaping shall be subject to the approval of the town. No curbs or sidewalks may be cut or altered in any manner without a permit with the town and all other applicable county or state agencies.

(K) Utilization of Parking Structures. When off-street parking facilities are located within a separate parking structure, the following conditions and restrictions shall apply:

(1) The structure shall conform to all lot, yard, and bulk requirements of the district in which it is located.

(2) The parking facilities shall be designed so as to conform to all other provisions of this chapter and all other ordinances of the town.

(3) All nonstructural portions of the exterior elevations, except for vehicular ingress and egress areas, shall, in addition to any required safety provisions, be screened by a sight block of at least 60% solidity for the total areas between deck levels, the sight blockage to be determined by elevation. A solid wall for 60% of the distance between deck levels will not be acceptable.

(4) When parking facilities are located on the roof of a parking structure, a four-foot sight block shall be provided in accordance with subsection (3) above. The definition for height of building in § 158.006 shall be applied in respect to feet, not stories, and be measured to the top of the sight block as set forth in subsection (3) above.

(5) Carports shall be computed in the total percentage of lot coverage.
(Ord. 90-06, passed 3-19-90)

§ 158.129 OFF-STREET LOADING.

(A) In any district, in connection with every building, or building group or part thereof thereafter erected and having a gross floor area of 4,000 square feet or more, which is to be occupied by commercial uses or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same lot with the building, off-street loading berths or unloading berths as follows:

4,000-25,000 square feet	1 berth
25,001-40,000 square feet	2 berths
40,001-60,000 square feet	3 berths
For each additional 50,000 square feet	1 berth

(B) The loading berths required in each instance shall be not less than 12 feet in width, 30 feet in length, and 14 feet in height, and shall not occupy all or any part of any required yard. The loading berths shall be screened from the street or public way. Height of walls, fences, hedges, etc., used for screening shall be determined at the time of site plan review.
(Ord. 90-06, passed 3-19-90)

§ 158.130 SERVICE STATIONS.

(A) Entrances and exits for vehicles to and from gasoline service stations shall not be closer than 70 feet to any intersection.

(B) Gasoline service stations shall be located on a lot not less than 15,000 square feet and have a minimum frontage of 100 feet.

(C) All oil drainage pits and hydraulic lifts shall be located within an enclosed structure and shall be located no closer than 50 feet to any abutting residential district lot line and no closer than 25 feet to any other lot line.

(D) All permitted mechanical repair work shall be conducted within an enclosed structure and shall be located no closer than 50 feet to any abutting residential district lot line and no closer than 25 feet to any other lot line.

(E) Gasoline service stations shall have their gasoline pumps, including other service facilities, set back at least 30 feet from any lot line.

(F) No storage of vehicles shall be permitted.

(G) When adjoining a residential district of use screening shall be provided in accordance with § 158.154(A).
(Ord. 90-06, passed 3-19-90)

§ 158.131 DRIVE-IN FACILITIES.

Drive-in facilities, excluding restaurant drive-in facilities, may be permitted as an accessory use only when the following provisions are complied with and approved by the town. Drive-in restaurant facilities are prohibited.

(A) No drive-in accessory use shall have an entrance or exit for vehicles which is located closer than 70 feet to any intersection. Individual ingress and egress drives extending across public sidewalks and curbs shall be subject to the same standards and approvals as for off-street parking access contained within § 158.128.

(B) No drive-in accessory use shall project into any front yard or, if applicable, street side yard further than the principal building. A maximum of six drive-in stalls are permitted and shall be so located as to not restrict pedestrian access to any public entrance of the principal building; be it further provided that any portion of the drive-in facilities, including access drives, which are located between the principal building and the required off-street parking facilities shall have adequate pedestrian safeguards.
(Ord. 90-06, passed 3-19-90)

§ 158.132 TOURISM USES.

(A) Purpose. The purpose of this section is to:

(1) Preserve and enhance the residential character of the Town of Longboat Key;

(2) Preserve and protect the character and viability of the Commercial Districts of the Town of Longboat Key;

(3) Promote the public health, safety, and general welfare of the Town of Longboat Key;

(4) Expressly prohibit Tourism Use of property for remuneration, where the property is not located within the T-3 or T-6 Zoning Districts of the Town of Longboat Key; and

(5) Prohibit unauthorized time-share uses in any district of the Town of Longboat Key.

(B) Tourism Use of property for remuneration is allowed within T-3 and T-6 Zoning Districts or as a permitted use in a PD within the Town of Longboat Key.

(C) Except as provided in (B) above, Tourism Use of property for remuneration is prohibited in all other Zoning Districts of the Town of Longboat Key.

(D) Tourism Uses which were legally conforming as of October 6, 1982, but were rendered legal nonconforming uses by virtue of Ordinance 82-10, shall maintain their legal nonconforming use status provided that the use has not been abandoned or terminated as provided in this Code.

(E) Any use of facilities and accommodations located within the Town of Longboat Key which constitutes a time-share plan or multi-site time-share plan regulated by Chapter 721, Florida Statutes, must be qualified under and comply with all requirements of that chapter and all other requirements of this Code.

(F) Penalties for Violations.

(1) Any person acting as agent, real estate broker, real estate sales agent, property manager, reservation service or otherwise who arranges or negotiates for the use of property in violation of the provisions of this section is guilty of an infraction for each date for which such property is used or allowed to be used in violation of this section.

(2) Any person who uses or allows the use of property in violation of the provisions of this section is guilty of an infraction for each day for which such property is used or allowed to be used in violation of this section.

(3) The remedies and penalties provided in this section are cumulative and not exclusive. (Ord. 90-06, passed 3-19-90; Amd. Ord. 95-07, passed 5-1-95)

§ 158.133 MOBILE HOME PARKS.

(A) Application for Special Exception Use. All applications for a building permit for a mobile home park or portion thereof as a special exception use shall, in addition to complying with all other applicable sections of this chapter and other appropriate ordinances of the town, comply with the following provisions:

(1) In addition to a building permit, a mobile home park shall make application for and be issued an operating permit in order for an applicant to locate, construct, alter, or extend a mobile home park within the town.

(2) All applications for permits shall be submitted to the Planning and Zoning Official. All applications for permits shall contain the following:

(a) Name and address of applicant; if the applicant is a partnership, the names and addresses of the partners; if the applicant is a corporation, the names and addresses of the officers and directors.

(b) Name and address of the owner of the land.

(c) Location and legal description of the mobile home park.

LONGBOAT KEY - ZONING CODE

1988

(d) Two sets of engineering or architectural plans and specifications of the proposed park showing the following:

1. The area and dimensions of the tract of land.

2. The number, location, and size of all mobile home lots.

3. The location, size, and use of all proposed recreational areas.

4. The location of service buildings and any other proposed structures.

5. The plans and specifications as required by Chapter 157 of all proposed improvements.

(3) Mobile home parks operating prior to the effective date of this chapter, the plans of which were approved by any county or state officials as evidenced by a current state health permit, may continue to operate and are permitted to use any mobile home spaces as are shown on the permit and may make any improvements desired on any new or existing mobile home or on the spaces after obtaining a building permit from the town. Existing mobile home parks which desire to alter, expand, or change in any manner shall submit an application for a building permit as provided for in subsection (A)(2) above.

(B) Size and Density.

(1) Every mobile home park shall be located on a lot of at least 15 acres of land.

(2) Every mobile home park shall have at least 50 mobile home lots of a size and shape as set forth in subsection (C) below.

(3) Every mobile home park shall have a density not exceeding five mobile homes per acre of total park area.

(C) Site Improvement Requirements. Conditions of soil, groundwater level, drainage, and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable noise, odors, or other adverse influences, and no portion subject to unpredictable or sudden storm flooding, subsidence, or erosion shall be used for any purpose which would expose persons or property to hazards of personal injury or death or severe property damage from such exposure. All streets, water supply, storm drainage, sanitary sewage collection, and other utilities shall be designed and constructed in accordance with Chapter 157.

(1) Soil and ground cover. Exposed ground surfaces in all parts of every mobile home park shall be paved, or covered with stone screening, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

(2) Nonresidential uses. No part of any park shall be used for nonresidential purposes except as permitted by this chapter. Nothing contained in this chapter shall be deemed as prohibiting the sale of a mobile home located on a mobile home stand and connected to the pertinent utilities.

(3) Separation between mobile homes.

(a) Mobile homes shall be separated from each other from other buildings and structures by at least 30 feet. Mobile homes placed end to end may have a clearance of 20 feet where opposing rear walls are staggered.

(b) An accessory structure which has a horizontal area exceeding 25 square feet, is attached to a mobile home or opaque top or roof that is higher than the nearest window shall, for purposes of all separation requirements, be considered to be part of the mobile home.

(4) Mobile home lots. Each mobile home lot shall consist of usable area of not less than 14,000 square feet exclusive of all roadways, common recreation areas, or common parking areas. Each mobile home lot shall have not less than 40 feet of frontage on a park street.

(5) Recreation areas. In all mobile home parks there shall be one or more recreation areas which shall be easily accessible to all park residents. The size of the recreation areas shall be based on a minimum of 150 square feet for each mobile home lot. No outdoor recreation area shall contain less than 12,000 square feet. Recreation areas shall be so located as to be free of traffic hazards and should, where possible, be centrally located.

(6) Setbacks, buffer strips, and screening.

(a) All mobile homes shall be located at least 40 feet from any park property boundary line abutting on a street or highway and at least 20 feet from other park property boundary lines.

(b) There shall be a minimum distance of 15 feet between an individual mobile home and adjoining pavement of a park walk, street, or common parking area or other common areas.

(c) All mobile homes shall be located so as to comply with the provisions of § 158.150(D), waterfront yard requirements.

(d) All mobile home parks shall be provided with screening such as attractive and well-maintained fences or natural growth along the property boundary line separating the park and adjacent uses.

(7) Off-street parking.

(a) Off-street parking areas shall be provided in all mobile home parks for the use of park occupants and guests. These areas shall comply with § 158.128 and the multifamily dwellings requirement as set forth in the schedule of off-street parking requirements in that section.

(b) Required car parking spaces shall be so located as to provide convenient access to the mobile home, but shall not exceed a distance of 200 feet from the mobile home that it is intended to serve.

(D) Landscaping. Trees and shrubs shall be provided along all walks and streets around recreation areas and along the outer property lines of the mobile home park. Trees shall be planted at an interval of not less than 50 feet where feasible.

(E) Mobile Home Stands. The area of the mobile home stand shall be improved to provide an adequate foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation, and overturning.

(1) The mobile home stand shall be designed so as to not heave, shift, or settle unevenly under the weight of the mobile home due to inadequate drainage, vibration, or other forces acting on the superstructure.

(2) The mobile home shall be provided with anchors and tie-downs such as cast-in-place concrete deadmen, eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors, or other devices securing the stability of the mobile home.
(Ord. 90-06, passed 3-19-90)

§ 158.134 CHURCHES AND PRIVATE CLUBS.

Churches and private clubs shall be subject to site plan review, have a minimum lot size of 30,000 square feet and minimum lot width of 150 feet.
(Ord. 90-06, passed 3-19-90)

§ 158.135 HOME OCCUPATIONS.

(A) The purpose of this section is to protect and maintain the character of residential neighborhoods while recognizing that particular professional and limited business activities are traditionally and inoffensively carried on in the home.

(B) Home occupations shall be a permitted use in any residential dwelling unit, provided that the home occupation complies with the requirements of the zoning district in which it is located and further provided that:

(1) No person other than members of the family residing on the premises shall be engaged in such occupation.

(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and shall under no circumstances change the residential character thereof.

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.

(4) No home occupation shall occupy more than 25% of the first floor area of the residence, exclusive of the area of any open porch or attached garage or similar space not suited or intended for occupancy as living quarters. No rooms which have been constructed as an addition to the residence nor any attached porch or garage which has been converted into living quarters shall be considered as floor area for the purpose of this definition until two (2) years after the date of completion thereof, as shown by the records of the Town Building Department.

(5) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard. Only one commercial vehicle with a sign on it may be openly kept on the premises or parked overnight. Any additional commercial vehicles kept or parked on the premises must be stored in an enclosed garage or otherwise stored so they are not visible from any road or adjacent property.

(6) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.

(7) The following shall not be considered home occupations: beauty shops, barbershops, band instrument or dance instructor, swimming instructor, studio or group instruction, public dining facility or tearoom, antique or gift shops, massage parlors, photographic studio, fortunetelling or similar activity, outdoor repair, food processing, retail sales, nursery school, medical or dental laboratories or kindergarten.

(8) Fabrication of articles such as are commonly classified under the terms of arts and handicrafts may be deemed a home occupation, subject to the other terms and conditions of this definition, and providing no retail sales are made at the home.

(9) A home occupation shall be subject to all applicable occupational license and other business taxes.

(10) More than one home occupation shall be permitted in a single dwelling unit providing that the home occupation complies with the requirements of the zoning district in which it is located.

(11) No sale of any commodities or merchandise shall be made on the premises.

(C) (1) For purposes of this section, advertising for, initiating or receiving telephone calls of a commercial nature to or from any telephone located upon the property shall not be deemed a regulated home occupation unless other activity associated with a home occupation is also conducted on the property.

(2) It shall be presumed, subject to a clear showing to the contrary by a residential dweller, that for purposes of (1) above, "other activity associated with a home occupation" is also conducted on the residential property, if the residential dweller holds himself out to the public by signs, printed matter, classified section, telephone directory or city directory or otherwise as being engaged in business or offering services or property to the public at a residential dwelling unit, unless the residential dweller has a separate business location at a place properly zoned for such activity and for which an occupational license fee has been paid. (Ord. 90-06, passed 3-19-90; Am. Ord. 90-14, 7-19-90; Amd. Ord. 98-09, passed 4-6-98)

§ 158.136 OUTDOOR DINING FOR RESTAURANTS.

(A) The purpose of this section is to provide standards which are specifically applied to special exception use applications for outdoor dining at a restaurant. An outdoor dining area at a restaurant shall not be permitted unless it is in compliance with each of the following standards:

(1) The principal use of the property shall be a restaurant with indoor dining.

(2) The outdoor dining area shall be used for food and drink service only, and all food and drink preparations shall take place within the confines of the enclosed restaurant building.

(3) The maximum capacity for an outdoor dining area shall be no greater than 50% of the seating capacity of the indoor facility.

(4) An outdoor dining area may be located within the required street yard, the required canal, bay, or pass waterfront yard, and within the nonrequired yard. An outdoor dining area shall not be located in any required side or rear yard when that yard abuts residential property.

(5) An outdoor dining area shall be considered an expansion of an indoor dining area. Accordingly, an outdoor dining area shall be located abutting the indoor dining area and designed in such a manner which will maintain a free, unobstructed connection between the indoor and outdoor dining areas.

(6) All outdoor dining areas, regardless of type of construction, shall constitute an increase in the square footage of the restaurant operation and shall be assessed a required number of parking spaces in accordance with the Schedule of Off-Street Parking Requirements, § 158.128(D)(13).

(7) The entire ground area of the outdoor dining area shall have an improved walking surface and the entire perimeter of the outdoor dining area shall be physically delineated by railing, fencing, a wall, landscaping, or similar device deemed by the Planning and Zoning Official to be consistent with the intent of this subsection.

(8) The hours of operation for an outdoor dining area shall not be before or extend beyond the hours of operation for the indoor dining area. When a restaurant is located within 250 feet of residential property, service in the outdoor dining area shall not begin before 8:00 a.m. and the outdoor dining area shall be vacated by 10:00 p.m., at which time, lights, other than safety and security lighting, shall be prohibited.

(9) No music or amplified voices shall be allowed in the outdoor dining area. Noise shall not be audible more than 50 feet from the commercial property and shall otherwise be in accordance with § 130.02, Loud and Unnecessary Noise, of the Town Code, as may be amended.

(10) All lighting used in conjunction with an outdoor dining area shall be designed and installed in a manner to avoid glare being directed toward a public or private right-of-way, adjacent property, and the Gulf of Mexico pursuant to Chapter 100 of the Town Code, Sea Turtles.

(11) An outdoor dining area shall be screened from all adjacent properties and right-of-ways. The required landscaped screening shall comply with the standards contained in § 158.154(A)(1) and (2), except that the required screening in a street or waterfront yard shall have a height of three feet and the required screening in the side, rear or nonrequired yards shall have a minimum height of six feet. In addition, the required screen shall be at least 80% opaque.

(12) All furniture within an outdoor dining area shall be portable, meaning that such furniture shall be easily removable from the outdoor dining area. Portable furniture may include tables, chairs, and umbrellas. The maximum diameter of an umbrella shall be eight feet and shall be fabric covered. In the event of a tropical storm, the furniture shall be physically secured or stored within the restaurant building.

(13) No signs, unless specifically exempted in the Town Sign Code, shall be permitted within the outdoor dining area.

(14) Any increase in the total number of seats at the restaurant in conjunction with the establishment of an outdoor dining area, may subject the property owner to an assessment of a sewer/water connection fee in accordance with Town Code Chapter 51, Charges, Rates and Billing. (Ord. 90-06, passed 3-19-90; Amd. Ord. 95-19, passed 1-9-96)

§ 158.137 PROPOSED LAND USES, DENSITY, CONVERSIONS OF SINGLE-FAMILY DWELLINGS TO MULTI-FAMILY.

(A) Proposed land uses for any development within the town, but especially as they are included within projects requiring site plan review and planned unit developments, shall not adversely affect surrounding development and shall be in accordance with the town's comprehensive plan.

(B) For the purposes of calculating density of a building with mixed or accessory commercial uses, each dwelling unit or tourism unit shall equal one unit and each 1,250 square feet of accessory commercial use floor space shall equal one dwelling or tourism unit.

(C) For purposes of calculating density in wetland areas, landward and seaward of the mean high-water line (MHWL), the formula described in § 158.102(G) shall be used, and interpreted as the minimum standard for such purposes.

(D) Residential Uses. All conversions of single-family dwellings to multi-family dwellings in the R-3MX, R-4MX or R-6MX Districts shall comply with § 158.128 regarding off-street parking requirements and each dwelling unit shall have adequate light, air, heating, and plumbing facilities. All density, lot area, and minimum floor area requirements for the converted structure within the district in which it is located shall be complied with.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 95-07, passed 5-1-95)

§ 158.138 STATUS OF NONCONFORMITIES.

(A) Within the districts established by these zoning regulations or amendments that may be later adopted, there may exist lots, buildings, structures, or uses which are lawful at the effective date of this chapter but which would be prohibited, regulated, or restricted under the terms of this chapter to permit those nonconformities to continue until they are removed either voluntarily or as required by subsection (B)(5), unsafe structures, or subsection (B)(8)(a), abandonment. It is further the intent that nonconformities shall not be expanded, enlarged upon, intensified, or extended, except as provided hereafter in this section. Furthermore, no expansion, enlargement, intensification extension of a nonconforming structure, building, lot of record, use, or waiver thereof, shall be permitted which increases its nonconformance with present site and development plan performance standards or district regulations, unless provided for in this section or § 158.139.

(B) The following policies shall determine the management of nonconformities:

(1) Nonconforming lots of record. A permitted or permissible building or structure may be erected, expanded or altered on any lot of record at the effective date of the ordinance from which this chapter derives or any legally created amendment thereto. The maximum density to the greatest extent possible, maximum lot coverage, building height and floor area shall conform to the district in which the lot is located, and shall be subject to the requirements below:

(a) All nonconforming lots shall:

1. Have a minimum required side yard setback of ten feet for each side yard or meet the minimum requirements within its respective district, whichever is less.

2. Meet the required yards conforming to the minimums required for the district in which the lot is located.

(b) Two or more nonconforming lots or combinations of lots shall be considered an undivided lot for the purposes of this chapter if:

1. As of July 21, 1976, the lots were in continuous frontage in single ownership, of record in the appropriate county where located; and

2. The lots are deficient in the requirements established for lot width or area.

(c) Lot reduction.

1. No lot or interest therein shall be transferred, conveyed, or sold as subdivided so as to create a new nonconforming lot, which avoids, circumvents or subverts any provision of this chapter or leaves remaining any lot in violation of the requirements of this chapter. No lot or portion of a lot required as a building site under this chapter shall be used as a portion of a lot required as a building site for another structure.

2. No building permit shall be issued for any lot or parcel of land which has been conveyed, sold, or subdivided in violation of this section. Any transferee who acquires a lot in violation of this paragraph, without knowledge of such violation, or any subsequent

transferee, shall have the right to rescind and receive damages from the transferor who violates the provisions of this section.

(2) Nonconforming buildings or structures. Where a building or structure exists lawfully that could not be built under this chapter or as it may be amended by reason of restrictions on lot area, lot coverage, height, yards, location on the lot, or requirements (other than use) concerning the structure, then the building or structure may be continued so long as it remains otherwise lawful; provided further, that:

(a) The building or structure may not be altered or enlarged in any way which creates a new nonconformity or increases or enlarges an existing nonconformity; and

(b) The building or structure may be altered or enlarged in any way which decreases an existing nonconformity or in any way which is otherwise conforming. (Ord. 93-23, passed 10-21-93)

(3) Nonconforming use. Where at the effective date of the ordinance codified in this chapter or any amendments thereto, lawful use of buildings or structures exists, the use may

be continued subject to the provisions of this chapter. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such a use at the effective date of the ordinance codified in this chapter or any amendments thereto. Any nonconforming use which occupied a portion of a building not originally designed or intended for such a use shall not be extended to any other part of the building.

(4) Repairs. Normal maintenance, repair and incidental alteration of a structure containing a nonconforming use is permitted, provided it does not extend the area or volume of space occupied by the nonconforming use. A building or other structure containing residential nonconforming uses may be altered in any way to improve interior livability; however, no structural alterations shall be made which would increase the number of dwelling units.

(5) Unsafe structures. If a nonconforming structure or portion of structure or any structure containing a nonconforming use becomes unsafe or unlawful due to lack of repairs or maintenance and is declared by the Planning and Zoning Official to be unsafe or unlawful by reason of its condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the provisions of this chapter; and its removal shall be deemed voluntary.

(6) Off-street parking. Additional off-street parking may be permitted on other property in the immediate vicinity, subject to the provision of Subchapter 3 [Article IV, § 158.128] of this chapter.

(7) Change in nonconforming uses without structural alteration. If no structural alterations are made, a nonconforming use of a building or structure may be changed to another nonconforming use of a similar or higher (more restrictive) classification under the following conditions:

(a) The change in use shall not intensify or enlarge the basic use of the building or premises by increasing the need for more parking facilities, by increasing vehicular or pedestrian traffic, by creating more noise, vibration, fire hazard, smoke, dust or fumes, by increasing hours of operation or number of employees, by increasing ground coverage or adversely impacting drainage, or otherwise result in a more intensive use of the building or premises, or change the basic character of the building or premises except to more nearly conform to the character of the zoning of the district in which the building or structure is located.

(b) When a nonconforming use of all or any part of a building, structure or premises is changed to another nonconforming use of a more restricted character, the new use may not thereafter be changed to any nonconforming use.

(c) When a nonconforming use of all or any part of a building, structure or premises has been changed to a conforming use, the conforming use shall not thereafter be changed to any nonconforming use.

(d) No structural alterations shall be made to any building or structure occupied by a nonconforming use except as permitted in this code.

(e) The parking and landscape provisions of this chapter shall be met.

(8) Termination of nonconforming uses and structures.

(a) Abandonment. Except as set forth in § 158.139(A), providing for the reconstruction of involuntarily destroyed nonconforming structures, buildings or uses, a nonconforming use not used for a period of one year or the change of use to a more restricted or conforming use for any period of time shall be considered an abandonment thereof and the nonconforming use shall not thereafter be revived.

(b) Removal of nonconformance; extension of time to comply. A nonconforming building or structure not used or occupied in a lawful manner or vacant for a period of one year or more shall be considered an abandonment and the nonconforming building or structure shall be removed or made conforming. However, should the period of nonuse or vacancy be caused by legal restraints upon the owner or lessee, the owner or lessee may set forth such grounds in a petition to the Town Commission and serve such petition on the Planning and Zoning Official. The time may be extended by the Town Commission for good cause shown. The Town Commission may require the petitioner to decrease the nonconformity of the building or structure in one or more aspects of its nonconformity.

(c) Special extension for continuance. The Town Commission may grant a special extension for the continuance of an abandoned nonconforming building or structure for a period not to exceed five years to provide for the removal of the nonconforming building or structure, or the making of the building or structure conforming, on or before the end of the period approved. The property owner shall have furnished the town with a good and sufficient surety bond or other security in an amount to be approved by the Town Commission, to require compliance with this chapter.

(Ord. 90-06, passed 3-19-90; Amd. Ord. 94-06, passed 3-24-94; Amd. Ord. 98-24, passed 7-16-98)

§ 158.139 RECONSTRUCTION OF NONCONFORMITIES IN THE EVENT OF INVOLUNTARY DESTRUCTION OR DAMAGE.

(A) The town shall permit such legally nonconforming structures, buildings and uses which are damaged, destroyed or made unsafe or unusable by hurricane, fire, storm surge, or other involuntary act to be rebuilt and restored to the same cubic content, area, and number of units in existence prior to the casualty subject to compliance with the following conditions:

(1) Compliance with town ordinances. To the greatest extent possible, such development shall comply with all regulations of the town's ordinances. For purposes of this section, "to the greatest extent possible" shall mean bringing the previous nonconformities into conformance with the town's code to the extent that they do not create an unnecessary and undue hardship by significantly changing the preexisting nature and/or character of the development in question.

(2) Prohibition on increase in extent of nonconformities. All such development shall not increase the extent of the prior existing nonconformities, and prior existing nonconformities shall be eliminated to the greatest extent possible.

(3) Time frame for obtaining a building permit. All such development shall first have obtained a building permit within two years of the date of the casualty, although the Town Commission may, upon application receive prior to the expiration of the two-year period, extend such time for demonstrated cause pursuant to the town's code.

(B) Nonconformities and the Relaxation of Certain Controls. Toward meeting the intent of this section, regarding the rebuilding of involuntarily damaged or destroyed structures, buildings, or uses, in order that nonconformities of a more serious nature are reduced, notwithstanding any other provisions of the town's code, the Town Commission may relax or moderate one or several of the controls listed below, as specified in §§ 158.145, 158.150 and 158.153, where it deems an unnecessary and undue hardship exists or where such relaxation is necessary to ensure a more strict adherence to those controls set forth below in this section, which are deemed most critical, notwithstanding any other provisions of this chapter to the contrary. All applications for the rebuilding of involuntarily damaged or destroyed nonconforming structures, buildings or uses shall be submitted for site plan review in accordance with Article III of this chapter. Permitted uses and permitted uses without site plan review are not required to be processed under the site plan review provisions of Article III, but can instead be processed in accordance with § 150.32(C)(1), and the administrative staff shall be permitted to relax the controls as set forth herein. In addition, such applications involving permitted uses with site plan review, which meet the provisions of § 158.100 may be exempted from site plan submission requirements, in accordance with said section, and the administrative staff is hereby authorized to relax the controls as set forth herein.

The Town Commission, by emergency ordinance, may develop additional procedures for the swift processing of such applications in cases where a state of emergency exists; and, in addition, may expand the authority of the administrative staff to relax certain controls, by said emergency ordinance. A status report, delineating activities undertaken by the administrative staff under the provisions of this section, shall be provided to the Planning and Zoning Board on a monthly basis.

Any and all of the controls listed after this paragraph may be relaxed as set forth in this section, except that prior existing nonconformities shall be eliminated to the greatest extent possible. No provisions herein shall be construed to deny the reconstruction, continuance or improvement of legally nonconforming structures, buildings and uses, as set forth in this section. In addition, the nature and character of development in the surrounding area must be considered in determining the degree to which these controls are to be relaxed. Those controls which may be relaxed are listed below in order of increasing importance relative to the need for reducing such nonconformities, with the controls listed in subsection (6) being of the most serious nature. They are as follows:

(1) Off-street parking spaces;

(2) Distance between buildings and driveways;

(3) Distance between buildings on the same lot;

(4) Height and maximum length;

(5) Setback angle; and

(6) Required yards and open space, including waterfront yards.

Decisions of the administrative staff, made relative to the provisions of this section, may be appealed by any person to the Zoning Board of Adjustment, in accordance with the appeal procedures set forth in § 158.027. Decisions of the Zoning Board of Adjustment shall be final. (Ord. 90-06, passed 3-19-90)

§ 158.140 CONVERSIONS TO TIME-SHARE TOURISM USE.

(A) Any conversions of existing residential or tourism units in tourism districts to timeshare tourism units not adding bedrooms to the existing unit shall be permitted to convert existing units to time-share tourism units on a one-for-one basis.

(B) Any conversion of existing residential or tourism units in tourism districts to timeshare tourism units which adds additional bedrooms to existing units shall conform to the density requirements for time-share tourism use for those units as set forth in the schedule of lot, yard, and bulk regulations as set out in § 158.145.

(C) Conversion of any existing nonconforming tourism use to time-share tourism use in any district other than a tourism district is an intensification of a nonconforming use and is prohibited.
(Ord. 90-06, passed 3-19-90)

§ 158.141 TEMPORARY USE AND STRUCTURES: PERMIT REQUIRED.

(A) Temporary uses and structures are permitted in any zoning district subject to full payment of an application fee as set forth by resolution of the Town Commission and to the standards hereinafter established, provided that a permit for such use is obtained from the town.

(B) Permitted temporary uses and structures included:

(1) Garage sales, provided that not more than two sales of three days each are conducted at any site during any one calendar year.

(2) Indoor and outdoor art and craft shows, bazaars, carnivals, revivals, circuses, sports events, and exhibits, in all zoning districts except R-1SF, R-2SF, R-3SF, R-4SF, R-6SF, R-3MX, R-4MX, and R-6MX Districts, where such events may be approved only where special exceptions for nonprofit cultural centers, public/private preschools or elementary schools or child care services has been approved.

(3) Christmas tree sales in all zoning districts except R-1SF, R-2SF, R-3SF, R-4SF, R-6SF, R-3MX, R-4MX and R-6MX Districts, where such events may be approved only where special exceptions for nonprofit cultural centers, public/private preschools or elementary schools or child care services have been approved and provided that such use shall not exceed 60 days.

(4) Real estate development temporary uses for necessary commercial, promotional, storage, and fabrication activities which occur during construction of the project and which terminate on completion of the project. The following activities may be permitted under a temporary use permit on the real estate being developed for a period not in excess of six months, provided all setback requirements of the Zoning Code are met:

(a) Model homes or apartments;

(b) Real estate sales offices limited to the sales of dwelling units on those premises; and

(c) Construction material and equipment storage.

(5) Other temporary uses and structures which are, in the opinion of the Planning and Zoning Official, consistent with the provisions of this section.

(C) The applicant for a temporary use permit shall present a written explanation and/or 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 Planning and Zoning Official or designee. The application shall be granted, granted with suitable conditions, stipulations and safeguards, or denied. Prior to granting a temporary use permit, the Planning and Zoning Official or designee shall ensure that any nuisance or hazardous feature involved is suitably separated from adjacent uses and 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 code and subject to the penalties provided for in § 158.049.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 93-23, passed 10-21-93; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98; Amd. Ord. 99-01, passed 4-5-99)

§ 158.143 REQUIRED RECREATION AMENITIES.

Required recreation amenities shall be for the common use of all those for whom the required amenities are required.
(Ord. 90-06, passed 3-19-90)

§ 158.144 AREA TRANSFER.

In all zoning districts where a land area is provided for a use other than for the purpose of constructing a dwelling or dwellings (generally considered common land area), such lands may not be allocated or assigned to the dwelling unit site.
(Ord. 90-06, passed 3-19-90)

DIVISION 2. LOT, YARD AND BULK REGULATIONS

§ 158.145 SCHEDULE OF LOT, YARD AND BULK REGULATIONS.

The restrictions and controls intended to regulate development in each zoning district are set forth in the schedule below and in the schedule in § 158.125, which are supplemented by other sections of this chapter.

Where there is more than a single building on a single lot, but fewer than 10 dwelling units, the minimum distance between buildings shall be equal to the combined (both) side yards requirement for that zoning district and use.

District Uses	LOT Min. Area (sq. ft.)	Min. Width (feet)	Min. Depth (feet)	YARD Max. Gross Res. Den.	Min. Street (feet)	Min. Side Yard (both/one, feet)	Min. Rear (feet)	BULK Min. Floor Area *(/)(sq. ft.)	Max. Height (stories/ feet)	Max. Coverage (percent)
R-1IP	217,800	100	100	1 D.U./5 ac.	30	30/15	30	None	2/30	20
R-1SF	30,000	100	100	*(p)	20	25/10	30	2,000	2/30	20
R-2SF	16,500	100	100	*(p)	20	25/10	25	1,600	2/30	25
R-3SF	15,000	100	100	*(p)	20	25/10	25	1,600	2/30	25
R-4SF	10,000*(c)	100	100	*(p)	20	20/8	20	1,600	2/30	30
R-6SF	7,000	60	90	*(p)	20	20/8	15	1,000	2/30	30
R-3MX										
Single-family	15,000	100	100	3	20	25/10	25	1,600	2/30	25
Two-family	20,000	100	100	3	20	20/8	20	1,000 per D.U.	2/30	25
Multifamily	25,000	100	125	3	30	35/15	25	750 per 1-bedroom D.U. and 250 each addl. bedroom	2/30	20
R-4MX										
Single-family	10,000	100	100	4	20	20/8	20	1,600	2/30	30
Two-family	15,000	100	100	4	20	20/8	20	1,000 per D.U.	2/30	25
Multifamily	25,000	100	125	4	40	35/15	25	750 per 1-bedroom D.U. and 250 each addl. bedroom	2/35	30
R-6MX										
Single-family	10,000	100	100	6	20	20/8	20	1,600	2/30	30
Two-family	15,000	125	100	6	20	20/8	20	1,000 per D.U.	2/30	25
Multifamily	30,000	150	150	6	50	80/30	30	750 per 1-bedroom D.U. and 250 each addl. bedroom	4/50	30
O-I	20,000	100	150	N.A.	45	40/15	20	N.A.	2/30	30
INS	20,000	100	150	N.A.	45	40/15	20	N.A.	2/30	30
C-1	10,000	75	125	N.A.	45	15/15*(p)	20	N.A.	2/30	30
C-2	30,000	150	200	N.A.	35	50/20*(p)	25	N.A.	3/40	30
C-3*(f)	30,000	150	175	N.A.	35	50/20*(p)	25	N.A.	3/40	40
M-1	30,000	150	175	N.A.	45	50/20*(p)	25	N.A.	2/30	40
PD	See §§ 158.065 through 158.071 for standards			3.26	See §§ 158.065 through 158.071 for standards			According to use herein permitted	*(g)	30*(p)
O-S	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.		N.A.	N.A.

District Uses	LOT Min. Area (sq. ft.)	LOT Min. Width (feet)	LOT Min. Depth (feet)	YARD Max. Gross Res. Den.	YARD Min. Street (feet)	YARD Min. Side Yard (both/one, feet)	YARD Min. Rear (feet)	BULK Min. Floor Area *(d)(sq. ft.)	BULK Max. Height (stories/ feet)	BULK Max. Coverage (percent)
GPD	See §§ 158.065 through 158.071 for standards			5.05	See §§ 158.065 through 158.071 for standards			According to use herein permitted	*(g)	30*(e)
NPD	See §§ 158.065 through 158.071 for standards			11.26	See §§ 158.065 through 158.071 for standards			According to use herein permitted	*(g)	30
T-3 Multifamily	25,000	100	125	3	40	35/15	25	750 per 1-bedroom D.U. and 250 each addl. bedroom	3/40	25
Tourism unit	40,000	150	250	3	45	50/20	25	300 per 1-bedroom T.U. and 125 each addl. bedroom	3/40	25
Time-share tourism unit	40,000	150	250	3	45	50/20	25	300 per 1-bedroom T.U. and 125 each addl. bedroom	3/40	25
T-6 Multifamily	30,000	150	150	6	50	50/30	30	750 per 1-bedroom D.U. and 250 each addl. bedroom	4/50	30
Tourism unit	55,000	175	300	6	50	80/30	30	300 per 1-bedroom T.U. and 125 each addl. bedroom	4/50	30
Time-share tourism unit	55,000	175	300	6	50	80/30	30	300 per 1-bedroom T.U. and 125 each addl. bedroom	4/50	30

*(a) Density expressed in terms of dwelling units per acre is fractional and dependent upon lot sizes.

*(b) If commercial use adjoins another commercial use or district no side yard setback is required; however, if one is provided, it shall be 15 feet. If commercial use adjoins a residential use or district, the minimum side yard setback shall be 30 feet.

*(c) In R-4SF Districts all lots which existed on October 15, 1969, shall contain a minimum of 9,500 square feet of area with an average width between front and rear lines to be at least 80 feet with at least 40 feet fronting on the street.

*(d) Minimum floor area with respect to residential, hotel, motel or other tourism use means minimum living area of the first habitable floor, not including garage.

*(e) The maximum ground coverage by all buildings or structures (principal and accessory) shall be limited to 15% when one or more of the buildings or structures on the lot is six or more stories in height.

*(f) For minimum area, width, depth and special regulations governing service stations, see § 158.130.

*(g) To be determined at the time of outline development plan approval and site plan approval.

(Ord. 90-06, passed 3-19-90)

§ 158.147 LOT DIMENSIONS; REDUCTION PROHIBITED.

(A) The minimum lot width of any lot shall be measured along the minimum building setback line as required for the district in which it is located.

(B) The minimum lot depth of any lot shall be measured by a straight line from the midpoint of the front lot line and to its intersection with the midpoint of the rear lot line.

(C) The area or dimensions of any lot, yard, parking area, or other space shall not be reduced to less than the minimum required by this chapter except as provided in this chapter; and, if already less than the minimum required by this chapter, the area or dimension may be continued but shall not be further reduced.
(Ord. 90-06, passed 3-19-90)

§ 158.148 INTERSECTION VISIBILITY.

At all street intersections no obstruction to vision (other than an existing building, post, column, or tree) exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of the lot and a line drawn between the points (along the street lot lines 30 feet distant from their point of intersection).

At all driveways that cross a sidewalk, no obstruction to vision (other than an existing structure, post, fixed sign, column, or tree) exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of the lot and a line drawn between the points (along the street lot line and the driveway for a distance of 15 feet from their point of intersection). In the event there is an existing permitted obstruction blocking visibility within this angle, a warning sign not to exceed two square feet shall be erected not less than 10 feet from the sidewalk on the right side of the driveway.
(Ord. 90-06, passed 3-19-90)

§ 158.149 MAXIMUM COVERAGE BY BUILDINGS.

Land coverage by principal and accessory buildings or structures on each lot shall not be greater than is permitted in the district, as set forth in § 158.145, where the principal and accessory buildings are located.
(Ord. 90-06, passed 3-19-90)

§ 158.150 YARD REGULATIONS.

(A) [Generally.] Every part of a required yard must be open to the sky unobstructed except for the ordinary projections of steps, sills, belt courses, cornices, and other ornamental features projecting not more than four inches from the building wall except as otherwise provided for in this chapter. This restriction shall include boats, motors, vehicles, bicycles, carts, recreational items, sundries, vending machines, and items of a similar nature offered for sale, display, rental, or hire.

(B) Required Side Street Yards. Any corner lot shall have a required side street yard equal in width to the minimum required street yard setback of any adjoining lot fronting on the side street.

(C) Transition Yard Requirements. Where the side or rear yard in a residential district abuts a side or rear yard in a nonresidential district, or where a side yard of a single-family residential district abuts a multifamily residential district, there shall be provided in a nonresidential or multifamily residential district along the abutting line a side or rear yard at least equal in depth to that required in the residential district. In no case, however, shall the abutting side yard or abutting rear yard of the nonresidential district be less than 25 feet. At least 10 feet abutting the residential district shall be landscaped as a visual screen and be exclusively used for buffering.

(D) Required Waterfront Yard Requirements.

(1) Required gulf waterfront yard. Every lot which abuts the Gulf of Mexico or an established erosion control line shall have, on the gulfside, a required gulf waterfront yard. The required gulf waterfront yard shall be a minimum of 150 feet in depth. The seaward edge of the yard from which the depth shall be measured shall be the mean high water-line; except that, where an erosion control line has been established, the depth shall be measured from that line.

(a) Where the state coastal construction control line for Manatee County and the original proposed state coastal construction setback line for Sarasota County, on file in the

Town Hall, lies more than 150 feet upland from the mean high-water line or erosion control line, the state coastal construction setback line shall be the landward edge of the required gulf waterfront yard. In no event, however, shall the required gulf waterfront yard be less than a minimum of 150 feet in depth, except as provided for in subsection (b) below.

(b) No structures, buildings, swimming pools (except as proved in § 158.127), drives, vehicular parking, walls and fences may be built within the required gulfside waterfront yard except for beach shelters, pool fences and windwalls, as defined in § 158.006, and dune walkover structures, sand fences, accessory decks or marine structures as authorized in Chapter 151.

(c) Pool fences located in required gulf waterfront yards shall only encircle the minimum area necessary to ensure child safety, and such area shall not exceed a distance of 20 feet around the perimeter of the pool, pool curb, diving boards, diving towers and slides.

(d) Windwalls located in required gulf waterfront yards shall only be permitted as a special exception use in accordance with the provisions of § 158.126 and, in addition, must meet the following criteria:

1. No site plan exemption (§ 158.100) may be granted for a windwall.

2. The protection of private property outweighs any significant public benefits which may be realized.

3. Natural approaches have been utilized, to the extent practicable, to protect property prior to the granting of the special exception.

4. The windwall is to be erected specifically for the purpose of protecting structures from wind and/or water driven sand with a preference being given to inhabited structures, as opposed to uninhabited structures.

5. The windwall shall be built as a minor structure, not a marine structure, not to exceed three feet in height, with minimum penetration into the ground necessary to support the wall.

6. The windwall shall be located as far landward as possible and as near as possible to the structure(s) it is to protect, preferably within 10 feet of the structure(s).

7. The windwall does not jeopardize the stability of the natural beach and dune system, contribute to beach erosion, and/or adversely impact upon upland property.

8. In granting the special exception for a windwall, the town:

a. May require mitigation work (e.g., planting vegetation and/or depositing sand) toward accomplishing the criteria set forth in 2.—7. above, consistent with best coast management practices;

b. Shall assure that efforts are made to use natural approaches, to the extent practicable, in conjunction with the windwall to further enhance the protection of the structures and the natural environment in a manner which is consistent with best coastal management practices.

(e) No variance shall be granted from the requirements of this subsection (D), except that the Board of Adjustment may grant a variance for a single-family dwelling where the setback requirement cannot be reasonably applied, but the setback can never be less than 50 feet from the mean high-water line or erosion control line, whichever is most landward.

(2) Required Pass Waterfront Yard. Every lot which abuts New Pass or Longboat Pass shall have, on the pass side, a required pass waterfront yard. The required pass waterfront yard shall be a minimum of 150 feet in depth. The seaward edge of the required yard from which the depth shall be measured shall be the mean high water line, except that, where an erosion control line has been established, the depth shall be measured from that line. The landward edge of the required yard shall be determined in the same manner as the required gulf waterfront yard, in accordance with (D) of this section [paragraph (1)(d) of this subsection (D)]. No structures, buildings, swimming pools (except as provided in § 158.127), drives, vehicular parking, walls, and fences may be built within the required pass waterfront yard except for beach shelters as defined in § 158.006, dune walkover structures, accessory decks, outdoor dining areas as defined in § 158.006 and in compliance with § 158.136, a dock access ramp or stairs, a ladder or other device pursuant to § 158.151 (F)(2), or marine structures as authorized in Chapter 151. Subject to site plan review, the required pass waterfront yard may be used for other purposes if it lies within an M-1 District. No variance shall be granted from these requirements; however, a variance for a single-family dwelling may be permitted by the Board of Adjustment where the setback requirement cannot be applied, but can never be less than 50 feet from the mean high water line or erosion control line, whichever is most landward.

(3) Required Bay Waterfront Yard. Every lot which abuts Sarasota Bay shall have, on the bay side, a bayside waterfront yard. The waterfront yard is a required yard and shall not be utilized for any purpose other than docks, open area, landscaping, a dock access ramp or stairs, a ladder or other device pursuit to § 158.151 (F)(2), or outdoor dining area as defined in § 158.006 and in compliance with § 158.136, except within an M-1 District which shall be subject to site plan review. The required bay waterfront yard shall not be less than 50 feet measured from the bulkhead, bulkhead line, or mean high water line whichever is most landward except that a single-family residence not located in an Island Preserve Residential District may not be located closer than 20 feet to the bulkhead or bulkhead line or mean high water line.

(4) Required Canal Yard. Every lot which abuts a canal or waterway other than the Gulf of Mexico or Sarasota Bay or the passes thereto shall have, on the waterside, a required canal waterfront yard. The waterfront yard is a required yard and shall not be utilized for any purpose other than docks, open area, landscaping, a dock access ramp or stairs, a ladder or other device pursuant to § 158.151(F)(2), or outdoor dining area as defined in § 158.006 and in compliance with § 158.136, except within an M-1 District which shall be subject to site plan review.

The required canal waterfront yard shall not be less than thirty feet measured from the mean high water line, bulkhead, or bulkhead line whichever is most landward except that:

(a) A single-family residence not located in an Island Preserve Residential District shall have a required canal waterfront yard not less than 20 feet; or

(b) A single-family residence located entirely within the "Special Canal Waterfront Yard Area" illustrated in the Appendix: Land Use Charts and Illustrations, Section 6, shall comply with the following provisions:

1. Existing structures not elevated in compliance with the Town Flood Control Code shall comply with the following minimum required canal waterfront yard standards:

a. First or ground story improvements shall have a required minimum canal waterfront yard equal to 10 feet measured from the mean high water line, and shall comply with the following standards:

i. The ceiling height of the addition shall not exceed a maximum height of 10 feet above the finished floor of the principal structure or 15 feet above the required base flood elevation, whichever is less, and

ii. The maximum roof pitch shall be 4:12.

b. Second story improvements shall have a required minimum canal waterfront yard of 20 feet.

2. New structures elevated in compliance with the Town Flood Control Code shall have required minimum canal waterfront yard of 20 feet, except that first story improvements above base flood elevation shall have a required minimum canal waterfront yard of 10 feet, provided that:

a. The height of the first story, as defined in § 158.006, shall not exceed 10 feet above the finished floor of the principal structure or 15 feet above the required base flood elevation, whichever is less; and

b. The maximum roof pitch shall be 4:12.

(5) Canal View Preservation. Properties located entirely within the "Special Canal View Preservation Area" as illustrated in the Appendix: Land Use Charts and Illustrations, Section 7, shall comply with the following provisions:

(a) There shall exist on all properties located within the Special Canal View Preservation Area a canal view preservation zone. The canal view preservation zone shall be a four-foot wide area immediately landward of the landward edge of the seawall cap, across the entire width of canal frontage. Except as provided below, the canal view preservation zone shall be open to the sky.

(b) Except for mangroves and town-approved shoreline stabilization plant material, no landscaping material other than sod or ground cover of a mature height of no more than 18 inches above grade shall be installed or allowed to project into the canal view preservation zone.

(c) Vegetation existing prior to the effective date of this ordinance that is located in the canal view preservation zone or capable of extending into the canal view preservation zone shall be exempt from the canal view preservation standards. Any vegetation installed after the effective date of this ordinance shall comply with the canal view preservation standards contained in this section.

(d) All building permit applications for the construction of a new principal structure or the substantial improvement of an existing principal structure as defined in Chapter 154, shall submit a landscaping plan drawn to scale which demonstrates compliance with the provisions of this section.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 95-19, passed 1-8-96; Amd. Ord. 98-02, passed 2-2-98; Amd. Ord. 99-03, passed 7-6-99; Amd. Ord. 99-17, passed 6-7-99)

§ 158.151 MINIMUM REGULATIONS FOR ACCESSORY STRUCTURES.

(A) All accessory structures, either attached or unattached, in all districts shall conform to the regulations of this section unless specifically excepted by other provisions of this chapter. In addition, necessary essential service facilities and other improvements related to the provision of basic services such as fire hydrants, outdoor lighting, mailboxes, or integral components of underground utilities are not intended to be restricted from required yard areas or defined as accessory structures.

(B) In R districts, unattached accessory uses and structures shall not be located in any required street, required waterfront, or required side yards except for walls and fences as provided for in § 158.152(A), (B), and (E). On double-frontage lots, through lots or corner lots, accessory uses and structures in residential districts shall not be located in any of the required street yards, but may be located in one but not both required side yards.

(C) Unattached Accessory Structures in R and T Districts. Accessory structures without kitchen facilities which are located no closer than 10 feet to a principal structure are defined as unattached and may be erected in accordance with the following requirements, except as provided for in this section:

(1) An unattached accessory building may occupy not more than 10% of a rear yard subject to building and lot coverage requirements.

(2) Any unattached accessory structure located within a required side or required rear yard may not exceed eight feet in height and in no case be located closer than 10 feet to the side or rear lot lines, except that unattached accessory structures to single-family dwellings may be located on the rear lot line.

(3) No unattached accessory structure shall be located closer to the street than the required street yard setbackk required for a principal structure in the district in which the accessory structure may be located.

(4) For corner lots, the setback from the side street shall be the same for unattached accessory buildings as for principal buildings.

(5) No accessory structure shall be located within a required waterfront yard except for davits as provided herein, windwalls as provided for in § 158.150(D) and walls or fences as provided in § 158.152(C). Davits located within a required waterfront yard shall not be located closer than 15 feet to a side lot line nor exceed ten and one-half feet in height measured from finished grade. Davits located adjacent to boat basins that are landward of the prevailing seawall line along canals shall be exempt from the required minimum setback from a side lot line. Reference Appendix: Land Use Charts and Illustrations, Section 8, Exhibit "A": Illustration of Boat Basins.

(D) Attached Accessory Structures, Residential or Tourism Uses. When an accessory structure is located within 10 feet to a principal structure it is considered attached to the principal structure and shall comply in all respects with the yard requirements of this chapter applicable to the principal building. Air conditioning units, pool circulating pumps, and similar mechanical equipment may be located within a required side or required rear yard, provided, that the equipment shall not be closer than 10 feet to any lot line.

(E) Accessory Structures in Other Than R or T Districts. Accessory structures shall comply with front yard requirements for the principal structure to which they are accessory and shall not be closer to any side or rear property line than 10 feet; however, no accessory structures shall be located within a waterfront yard.

(F) Accessory Structures on Waterfront and Noncontiguous Lots.

(1) A beach shelter may be located on a waterfront or noncontiguous lot as an accessory use. The accessory beach shelter shall not exceed 300 square feet in area, exceed 12 feet in height, and shall have at least a 50-foot setback from the mean high-water line, and shall be a minimum of 100 feet from another beach shelter on the lot. The support of a beach shelter roof and the roof itself must be of material that would present minimal damage to life or property in the event of a hurricane, tidal flood, or similar disaster.

(2) A ladder or other device which provides a reasonable means of egress from the water may be located in the required Pass, Bay or Canal Waterfront Yards provided that it does not exceed a maximum height of 42 inches measured from the top of the seawall cap.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 99-17, passed 6-7-99)

§ 158.152 WALLS, FENCES, HEDGES, BERMS, LANDSCAPE LOGS AND FIREWOOD.

All walls, fences, or hedges within the required yard areas shall conform to the following regulations except where special requirements are set forth for specific screening purposes elsewhere in this chapter:

(A) Street Yard. All walls and fences within the required street yard shall not exceed three feet in height, subject to the provisions of § 158.148.

(B) Side and Rear Yards. All walls, fences, or hedges within the required side or required rear yards shall not exceed six feet in height.

(C) Waterfront Yard. All walls, fences, or hedges within a required waterfront yard shall not exceed three feet in height.

(D) Restrictions. The wall, fence, or hedge shall conform with § 158.148.

(E) Retaining Wall. A retaining wall is that wall which is required in order to maintain the required four-to-one slope. When a retaining wall is combined with a wall, fence, or other structure, the resultant height shall be the measurement producing the highest dimension. Height of retaining walls is not applicable in commercial districts. The height shall be determined during a site plan review.

(F) Earth Berms. Earth berms may be located in yard areas. When a wall, fence or structure is located upon an earth berm the height of the wall or fence shall include the height of the earth berm.

(G) Landscaping Logs. Landscaping logs may be located in yard areas.

(H) Firewood. Firewood may be stored only on improved lots with established principal uses.

(I) Nonrequired Yards. Walls and fences within nonrequired yards shall not exceed eight feet in height.

(J) For properties which are nonconforming with regard to lot coverage, a trellis, as defined in § 158.006, may be attached to an existing building, subject to the following standards and special exception approval in accordance with § 158.126.

(1) The trellis shall extend no more than six feet beyond the face of the exterior wall of the building.

(2) Except for vertical support structures, no structure shall be constructed nor shall construction material be installed below the overhead horizontal member of the trellis structure.

(3) The minimum distance between vertical support structures of the trellis shall be five feet.

(Ord. 90-06, passed 3-19-90; Amd. Ord. 99-02, passed 4-5-99)

2008 TOWN CODE

§ 158.153 HEIGHT REGULATIONS.

(A) No building or structure shall have a greater number of stories, nor have an aggregate height of a greater number of feet than is permitted in the district in which the building or structure is located, except as noted in subsection (B) below.

(B) No exceptions to the height regulations shall be permitted except as specifically provided for below.

(1) One television or dish antenna per principal structure and enclosed elevator shafts, enclosed stairwells, and enclosed mechanical equipment areas not exceeding 15% of roof area and not exceeding the height regulations by more than 10 feet of the district in which it is located; however, the elevator shafts, stairwells, and mechanical equipment areas, their location and visibility from adjoining streets or properties, should be the subject of site plan review considerations. Parapet walls shall also be permitted as an exception to the height regulations where such wall is required pursuant to the Building Code in conjunction with an enclosed stairwell.

(2) A church spire or tower may exceed the height regulations of the district within which it is located.

(3) No sign, nameplate, display, or advertising device of any kind shall be inscribed on or attached to any antenna, tower, or other structure which extends above the roof of the principal structure or height regulations, except that religious symbols or identification emblems of religious orders shall be exempt from this restriction.

(4) A planned unit development shall conform to the height regulations of the district within which it is located.

(5) In instances where buildings are included in a site plan review under §§ 158.095 through 158.103, so long as the building height does not exceed the maximum feet regulations and to allow flexibility of design, the Planning and Zoning Board may consider and make findings concerning an extension of the maximum stories regulations and the Town Commission in its action may grant an extension of the maximum stories regulation. The extension shall be obtained prior to site plan review application.

(C) Single-family residences are also subject to daylight plane requirements as follows:

(See Exhibit A Attached.)

(D) The daylight plane requirements of subsection (C) above shall not apply to:

(1) Chimneys;

(2) Roof overhangs up to three feet;

(3) Dormer(s) which do not exceed a combined 12 feet in length per side of the residence or 25% of the length of the side of the dwelling upon which the dormers are located, excluding roof overhang, whichever is less;

(4) One television antenna or dish antenna measuring less than three feet in diameter;

(5) Side lot lines on residential property which borders property which is zoned non-residential;

(6) Single-family homes located within a planned unit development; however, the daylight plane requirement shall apply to all remodeling, additions, renovations and alterations of the single-family home as well as to construction after voluntary demolition of all or part of the original single-family structure.

(Ord. 90-06, passed 3-19-90; Amd. Ord. 97-09, passed 6-2-97)

Exhibit A. Buildings are subject to the daylight plane angle as follows:

Lot Width (feet)	Daylight Plane Angle (degrees)
50 or less	65
51	65
52	64
53	64
54	64
55	64
56	63
57	63
58	63
59	62

Lot Width (feet)	Daylight Plane Angle (degrees)
60	62
61	62
62	61
63	61
64	61
65	61
66	60
67	60
68	60
69	59

Lot Width (feet)	Daylight Plane Angle (degrees)
70	59
71	59
72	58
73	58
74	58
75	58
76	57
77	57
78	57
79	56

Lot Width (feet)	Daylight Plane Angle (degrees)
80	56
81	56
82	55
83	55
84	55
85	55
86	54
87	54
88	54
89	53

Lot Width (feet)	Daylight Plane Angle (degrees)
90	53
91	53
92	52
93	52
94	52
95	52
96	51
97	51
98	51
99	50
100 or more	50

Note: Lot width as defined by the Zoning Code shall be rounded to the nearest whole number.

§ 158.154 SCREENING REGULATIONS.

(A) Subject to the requirements of § 158.152, where any nonresidential use directly abuts a single-family residential zone or where a nonresidential use within a multifamily residential zone abuts a residential use in the same or a different residential zone, it shall be screened from the adjoining residential zone in one of the following ways:

(1) By a fence or wall at least five feet but not more than six feet in height of at least 60% solidity measured perpendicularly. The fence or wall shall be located completely within the limits of the nonresidential lot and shall have equal architectural treatment on both sides.

(2) By landscaping which is selected and arranged to form a visual screen between the nonresidential use and the residential district or use from which it is to be screened. The landscaping shall be by berm or mature plants having already attained a six-foot height and providing the necessary screening; however, a permanent fence to supplement the landscaping may be required.

(B) All trash Dumpsters, except those located on construction sites, not stored within a building in a trash room designed for such storage shall be stored within an enclosure designed to fully screen the dumpster from view. The trash Dumpster enclosure:

(1) Shall have a concrete slab floor not to exceed 15 feet by 15 feet.

(2) Shall be enclosed by a fence, wall or landscaping of sufficient height to fully screen the Dumpster from view, but not to exceed six feet.

(3) May be located in a required yard, notwithstanding any other setback requirements in this chapter, except that the requirements of § 158.148 must be met. In any event, the Dumpster enclosure shall be located a minimum of 10 feet from a front property line and a minimum of five feet from a rear or side property line.

(C) Any fence, wall or landscaping installed in accordance with this section shall be maintained in good order to achieve the objectives of this section. Failure to maintain fences, walls or landscaping shall constitute a violation of this chapter.

(D) All new construction, including remodeling, which installs, replaces or modifies external mechanical equipment, including, but not limited to, air-conditioning systems and pool equipment, shall screen the equipment from both noise and view.
(Ord. 90-06, passed 3-19-90; Amd. Ord. 97-09, passed 6-2-97)

§ 158.155 STRUCTURES OVER WATER.

(A) No structures other than boat docks, accessory dock structures including benches, guard rails, fish cleaning tables, a ladder or other device which provides a reasonable means of egress from the water to a boat dock, and equipment lockers, pilings, boat lifts or pile mounted davits shall be permitted to be constructed, reconstructed, or structurally altered beyond the mean high water line. Structures over water on properties abutting the Gulf of Mexico are prohibited. Permitted structures over water shall comply with the following standards:

(1) The permitted structure over water shall not substantially interfere with the riparian rights of other property owners nor substantially obstruct a navigable channel or the navigation rights of other property owners.

(2) Except as provided below, no building. equipment, facility or any other type of structure shall be erected, placed, located, or maintained on a dock that extends above the walking surface of the dock:

(a) Pilings, subject to a maximum height limit of eight and one-half feet above the highest walking surface of the dock when a piling is attached to a boat dock, in all other cases the maximum height limit for a piling shall be 11 1/2 feet above the mean high water line.

(b) Benches, guard rails, fish cleaning tables, and equipment lockers which do not exceed a height of four feet above the walking surface of the dock upon which such structures are placed or erected.

(c) Boat lifts adjacent to a boat dock. No part of the boat lift structure, except boat guides, shall exceed a height of five feet, measured from the highest walking surface of the dock.

(d) Pile-mounted davits which do not exceed a height of eight and one-half feet, measured from the highest walking surface of the dock.

(e) Lighting which does not exceed a height of eight and one-half feet, measured from the highest walking surface of the dock, subject to compliance with § 130.03.

(3) Minimum Setback.

(a) For waterfront properties not abutting a man-made canal, a dock, boat lift, piling or pile-mounted davit shall be setback a minimum of 15 feet from the riparian line. The riparian line shall be determined in accordance with procedures established by law. A certified riparian rights survey by a professional land surveyor may be required by the Town Manager or designee.

(b) For properties abutting a man-made canal a dock, boat lift, piling or pile-mounted davit shall be setback a minimum of 15 feet measured from a line perpendicular to a line tangent to the intersection of the side property line and the mean high water line. Reference Appendix: Land Use Charts and Illustrations. Section 8, Exhibit "B": Illustration of Minimum Setbacks pursuant to §158.155(A)(3)(b).

(c) For properties abutting a man-made canal that are located at the head waters (land end) of a canal and have a canal front length of 75 feet or less, a dock, boat lift, piling or pile-mounted davit shall be setback from a line established by setting a point 10 feet from the property boundary extending to the intersecting apex of the two lines established by extending a line tangent to the intersection of the side property lines and the mean high water line and located outside the minimum setback area as illustrated in the Appendix: Land Use Charts and Illustrations, Section 8, Exhibit "C": Illustration of Minimum Setbacks pursuant to §158.155(A)(3)(c).

(4) Maximum Projection into the Water.

(a) For properties abutting a canal, lagoon, bayou or pass, a dock, boat lift, piling or pile-mounted davit shall project into the water no more than 30 feet, measured from the mean high water line, or 30% of the width of the navigable waterway, whichever is less.

(b) For properties abutting Sarasota Bay, a dock, boat lift, piling or pile-mounted davit shall project into the water no more than 50 feet, measured from the mean high water line.

(B) Boat lifts adjacent to a seawall shall not exceed a maximum height of five feet measured from the top of the seawall cap. An accessory catwalk for a boat lift is permitted subject to compliance with the minimum setback requirements contained in subsection (A)(3), above.

(C) Maximum Area. The maximum permitted area of a boat dock shall be 500 square feet. Any boat dock in excess of 500 square feet shall be a permitted special exception use, subject to compliance with § 158.126.

(D) Maximum Elevation of Walking Surface of a Dock.

(1) For properties with a seawall, the elevation of the walking surface of a dock shall not exceed the top of the seawall cap.

(2) For properties without a seawall, the elevation of the walking surface of a dock shall not exceed five feet above the mean high water line.

(E) Two or more adjacent waterfront property owners may join in an application for the construction of a dock. Said dock shall be no wider than 12 feet and shall not interfere with the navigational rights of adjoining property owners. All requirements within § 158.155 shall be met except that the property owned by the joint applicants shall be treated as one lot for purposes of determining setback for the dock and ancillary structures. As a condition of granting a permit, the applicants shall prepare mutually reciprocal easements for the use of said dock and shall record the easements in the public records in the county where the property is located as a condition for the permit being granted.

When a joint or shared dock is constructed pursuant to this subsection, no other docks shall be located on the subject properties.

(F) Structures over water for single-family properties shall not be used for the purpose of mooring more than two vessels. A structure over water for single-family properties permitted pursuant to subsection (E), above, shall be limited to two vessels per property. The two vessel restriction shall not include personal watercraft, canoes, kayaks, row boats or other similar vessels.

(G) Obtaining a permit pursuant to this section does not exempt the upland property owner from obtaining required federal, state, or county outside agency permits or other town required permits.

(Ord. 90-06, passed 3-19-90; Amd. Ord. 94-32, passed 1-19-95; Amd. Ord. 99-17, passed 6-7-99)

2000 TOWN CODE

§ 158.156 LOT EXCAVATION, GRADES, AND FRONTAGE.

(A) No person, firm, or corporation shall strip, excavate, or otherwise remove soil, sand, shale, or gravel for sale or use and thereby create a borrow pit except in connection with the construction or alteration of a building permitted by the issuance of a building permit on the premises and excavation or grading incidental thereto.

(B) No natural grades of the upland or gulf bottoms within 500 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.

(C) Every lot in every district shall have a minimum frontage of 40 feet on a public or approved private street.

(D) Lot grades between any property line and a structure shall not exceed a maximum slope of one vertical unit to four horizontal units at any point along the slope. A retaining wall may only be constructed for the purpose of achieving the required one-to-four slope over a minimum distance of four feet unless the wall meets the required setback. In any event, the retaining wall cannot exceed eight feet in height.
(Ord. 90-06, passed 3-19-90)

§ 158.1361 PERSONAL WIRELESS SERVICE FACILITIES.

(A) Personal wireless service facilities classified as an antenna located on a rooftop or placed on the exterior of the building or structure are permitted by site plan review provided it meets the following minimum criteria:

(1) It is located on a rooftop, or on a rooftop antenna platform, the exterior of a building or a structure in the INS, R-3MX, R-4MX, R-6MX, PD, GPD, NPD, OI, C-1, C-2, C-3, M-1, T-3 and T-6 zoning districts.

(2) It is located on or in one of the following:

(a) A rooftop of a multistory building or structure in excess of 40 feet in height; or

(b) A rooftop antenna platform located on a roof of a multistory building or structure in excess of 40 feet in height; or

(c) The exterior of a multistory building or structure in excess of 40 feet in height; or

(d) The interior of a structure in excess of 40 feet in height.

(3) The maximum height for an antenna located upon a rooftop shall be 10 feet above the existing roofline, top of a parapet wall, or top of the rooftop mechanical room or area, whichever is higher.

(4) If the antenna is placed on the exterior of a building or structure, then the antenna shall not impede the view from any window.

(5) If the antenna is placed on the exterior of a building or structure, then the antenna must be at least 30 feet from ground level.

(6) If the antenna is placed on a rooftop or a rooftop antenna platform, the rooftop antenna together with any backhaul equipment or any structure to house the backhaul equipment and any other antenna facilities shall meet all structural requirements necessary to accommodate the rooftop antenna facilities.

(7) Each personal wireless facility provider's rooftop antenna, platform, backhaul equipment, and structure to house the backhaul equipment and any other antenna facilities, shall not occupy more than 600 square feet of the roof.

(8) An antenna shall be designed to withstand sustained wind speeds of 140 miles per hour, or the requirements of the Standard Building Code, whichever is greater.

(9) An antenna shall be camouflaged and painted with a durable paint the same shade of color as the background portion of the building. Each antenna mounted on a rooftop or attached to an existing structure shall be deemed to be camouflaged from view if the antenna and any equipment necessary for its operation is concealed from view by way of enclosure or

through a blending of the antenna and equipment with the architectural design and appearance, color and scale of the existing structure and materials.

(10) The setback from the edge of the roof must equal the height of the antenna, unless the antenna does not extend above the existing roofline or parapet wall. The Planning and Zoning Board by special exception, may reduce the setback. If the rooftop antenna platform is used in whole or in part for a multi-use array, each individual antenna must be at least 20 feet from each other.

(11) The equipment shelter must have a sign in close proximity to the antenna which is recognizable and visible from at least five feet which notes the owner of the equipment and the name and telephone number of the person to contact to report an emergency or situation when notification is warranted.

(12) All additional requirements of state, federal, and local law must be adhered to.

(13) All other personal wireless facilities which do not meet the criteria listed above, including, but not limited to towers, must meet the requirements of subsection (B) below and other provisions of this code.

(B) Personal wireless service facilities which are not classified as rooftop antennas or antennas mounted on buildings or structures, including, but not limited to towers, may be permitted by site plan review and special exception and shall meet the following minimum criteria:

(1) Shall be located in an INS zoning district;

(2) The collapse zone or in the alternative, the setback from the adjoining residential property must equal at least twice the height of the tower, or 250 feet, whichever is greater;

(3) The tower is camouflaged from view of public or private road or street. A tower shall be deemed to be camouflaged from view if the tower and any equipment necessary for its operation is concealed from view by way of enclosure within a facade wh..h:

(a) Is enclosed within a naturalistic facade which matches the appearance of native vegetation in color, size, bulk, height and mass, or

(b) Is enclosed within the facade of a structure which disguises the tower and its equipment such that they blend into the surrounding environment and which demonstrates that it meets the aesthetic nature and character of the area within which the tower is proposed as determined by land use, surrounding environment, building heights and designs and building/environment density,

(c) Uncamouflaged towers are prohibited unless, in view of the totality of the application it is in the best interest of the health, safety and welfare of the town to permit a monopole in lieu of subsections (B)(3)(a) or (b) above. In determining whether a monopole is preferable to a natural facade or enclosed structure, the following shall be considered:

1. The proximity of the proposed location to public highways,

2. The proximity of the proposed location to residential properties,

3. Whether a monopole is more in aesthetic architectural harmony at the proposed location than a naturalistic or structural facade,

4. Whether a monopole is more in harmony with the surrounding community character than a naturalistic or structural facade,

5. Whether the equipment associated with the monopole is camouflaged from view so that it blends with the surrounding environment to a greater extent than a naturalistic or structural facade, and

6. The efforts by the applicant to make the monopole as visually unobtrusive as possible;

(4) All lighting shall be consistent with all federal, state, and local regulations;

(5) Any existing tower(s) located within seven miles radius of the proposed tower is physically unable to support co-location of one or more antennas on that existing tower or structure, the height of the existing tower is insufficient or that the existing tower(s) does not meet the engineering requirements of the applicant;

(6) Shall list all buildings and structures in excess of 40 feet in height located within a seven-mile radius of the proposed tower;

(7) All possible efforts have been made to utilize rooftop building or structure mounted antennas as an alternative to the erection of the proposed tower;

(8) That the tower is certified by a registered engineer, that it will withstand sustained wind speeds of 140 mph or as set forth in the Southern Building Code, whichever is greater;

(9) Is not located within a V zone as determined by the Federal Emergency Management Act;

(10) Has provided adequate special egress and ingress routes for emergency vehicles, including, but not limited to, emergency medical transport, fire, police, and other law enforcement vehicles and ambulances;

(11) The grant of the special exception shall not preclude the granting of additional or other special exceptions for the subject property;

(12) The special exception application must be made in conjunction with the site plan review requirements set forth elsewhere in this code;

(13) The proposed telecommunication service shall not interfere with or obstruct existing or proposed public safety telecommunications facilities;

(14) Has provided mailed, certified, return receipt requested notice to each chief elected official and chief administrative official within seven miles of the proposed tower at least two weeks prior to filing the application, notifying them of the proposed application;

(15) Shall be designed, structurally, electrically, and in all other respects, to accommodate antennas for at least three users if the tower is 161 to 200 feet in height, or for two users if the tower is 101 to 160 feet in height, or for one user if the tower is 100 feet or less in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights. Notice shall be provided to other potential users of the new tower, offering an opportunity for co-location.

(C) Personal wireless service facilities properly permitted and existing as of October 1, 1997, are grandfathered and not required to apply for site plan review, site plan exemption, or special exception permit. The requirements of this chapter will, however, apply if such facility is relocated, rebuilt, or modified in any manner.

(D) In evaluating the application for a special exception for a personal wireless service facility classified as a tower, the Planning and Zoning Board shall consider and evaluate the following:

(1) The proposed location of the tower;

(2) The proposed height of the tower;

(3) The zoning/land use designation of the proposed tower;

(4) The proposed, or the expected, or the actual access to the tower, including any equipment or facilities storage areas, containers, sheds, or functionally equivalent structures;

(5) The number of towers and structures over 40 feet already existing within a seven-mile radius of the proposed location;

(6) The proximity of the proposed tower to single-family residences;

(7) The proposed aesthetics surrounding the tower, including proposed camouflage measures, and/or steps proposed to visually blend the proposed tower in with surrounding buildings and facilities (including landscaping, screening, or berming);

(8) The proposed lighting on and surrounding the tower, including, where applicable, whether the proposed lighting will meet the FAA requirements, and the lighting limitations imposed by the state, which is in recognition of sea turtle nests being located in a portion of the town;

(9) The proposed ingress and egress for the tower, including ingress and egress for emergency vehicles;

(10) The proposed security measures for the tower to reduce the likelihood of trespass, damage and/or injury by children or other persons;

(11) The proposed structural integrity of the tower, including the integrity of the soil on which the tower will be placed, and within the collapse zone of the tower;

(12) The projected collapse zone of the proposed tower;

(13) The ability to support the co-location standards of this code;

(14) Any factors that are required to be evaluated and/or examined as a result of the Building Code;

(15) Any factors that are required to be evaluated and/or examined by the Town Zoning Code;

(16) Any other factors (excluding NEIR) that are necessary to be evaluated in order to protect the health, safety, and welfare of the residents of the town;

(17) Whether the types of antenna to be located on the tower are narrow profile antenna arrays;

(18) Onsite and surrounding tree coverage and foliage, with preference being given to sites which can provide heavy vegetative screening of a tower; and

(19) In addition to the factors listed above, the Planning and Zoning Board may consider alternatives, if there are any, to granting and/or issuing a special exception permit for a tower in a different quadrant, or grid, or at a different location within the town.

(E) Permits and Licenses. Upon granting site plan approval and special exception permit for the construction of a personal wireless service facility tower, the town reserves the right to inspect placement, construction, and modification of such facility upon its completion and annually thereafter. Any modification, relocation, rebuilding, repairing, in any way without the express written consent of the town will be deemed a violation of the permit and subject the tower to removal.

(1) In addition to the above, for health, safety and welfare reasons, the town may require, upon notice with a reasonable opportunity to cure, the immediate removal of personal wireless service facilities if:

(a) It has been abandoned for a period in excess of six months; or

(b) It falls in such a state of disrepair that it creates a safety hazard for the citizens of the town; or

(c) The special exception has been revoked; or

(d) The holder has violated an applicable rule or regulation of a state or federal agency for the subject tower including, but not limited to, the FCC and the FAA.

(2) The holder of the site plan approval and special exception shall secure and maintain for the duration of the special exception, public liability insurance, property damage insurance and umbrella coverage in at least the following amounts:

(a) Public liability: one million dollars per occurrence;

(b) Property damage: one million dollars per claim;

(c) Umbrella liability: two million dollars.

(F) As a separate remedy, the owner of the land on which the personal wireless service facility classified as a tower is proposed to be placed, constructed, modified, or the applicant for such facility may seek a review of the Planning and Zoning Board's decision under the provisions of the Florida Land Use and Environmental Resolution Act. The owner or applicant seeking this remedy shall do so in the manner and time prescribed under the Act.
(Ord. 97-23, passed 11-3-97)

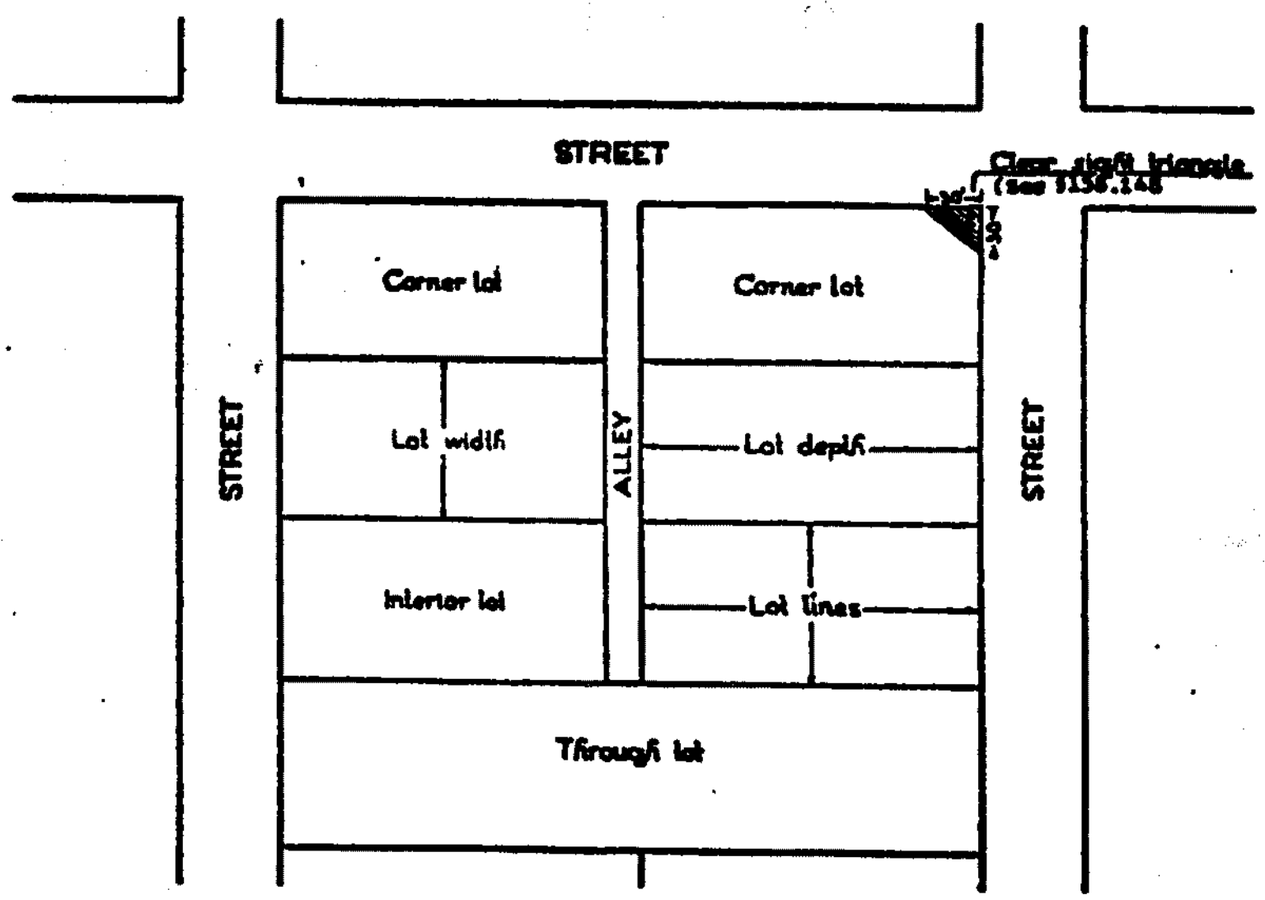
APPENDIX: LAND USE CHARTS AND ILLUSTRATIONS

Section

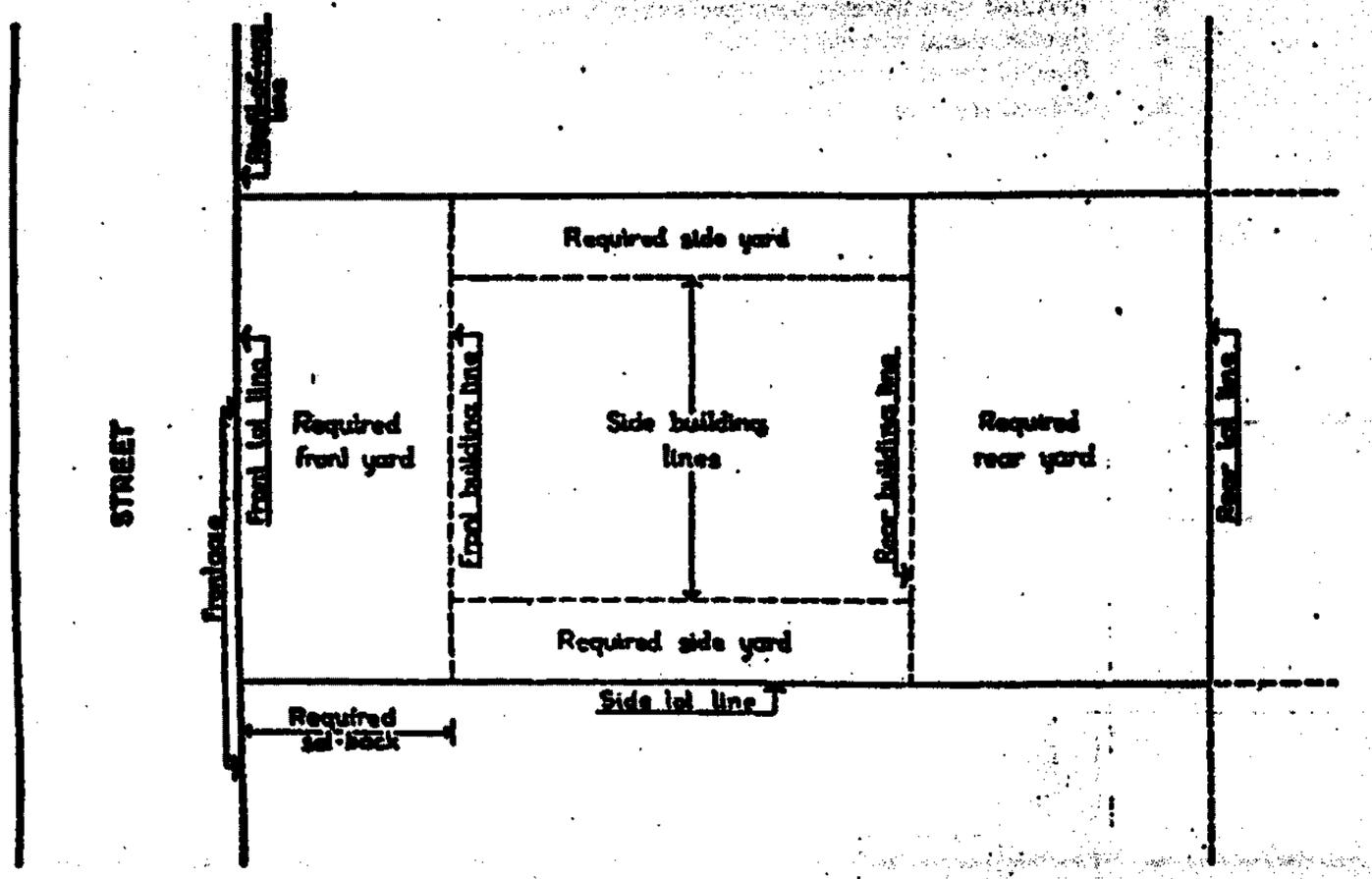
1. Lot illustrations
2. Parking area illustrations
3. Townhouse illustrations
4. Site plan review procedure chart
5. Planned unit development procedure chart
6. Special canal waterfront yard area illustrations
7. Special canal view preservation area illustration
8. Structures over water illustrations

§ 1 LOT ILLUSTRATIONS.

(A) Lot Definitions, General.

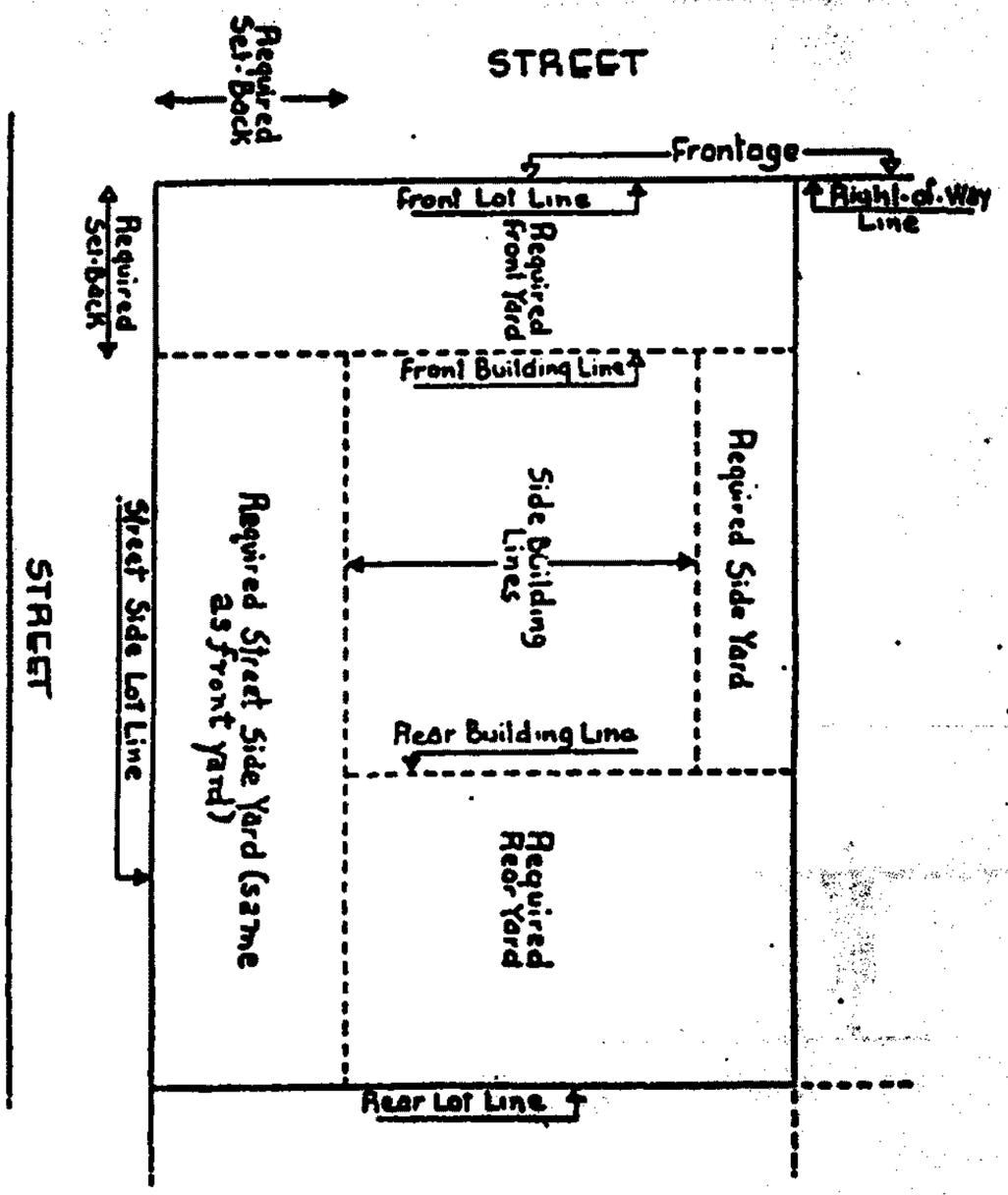


(B) Yard Definitions, Interior Lot.

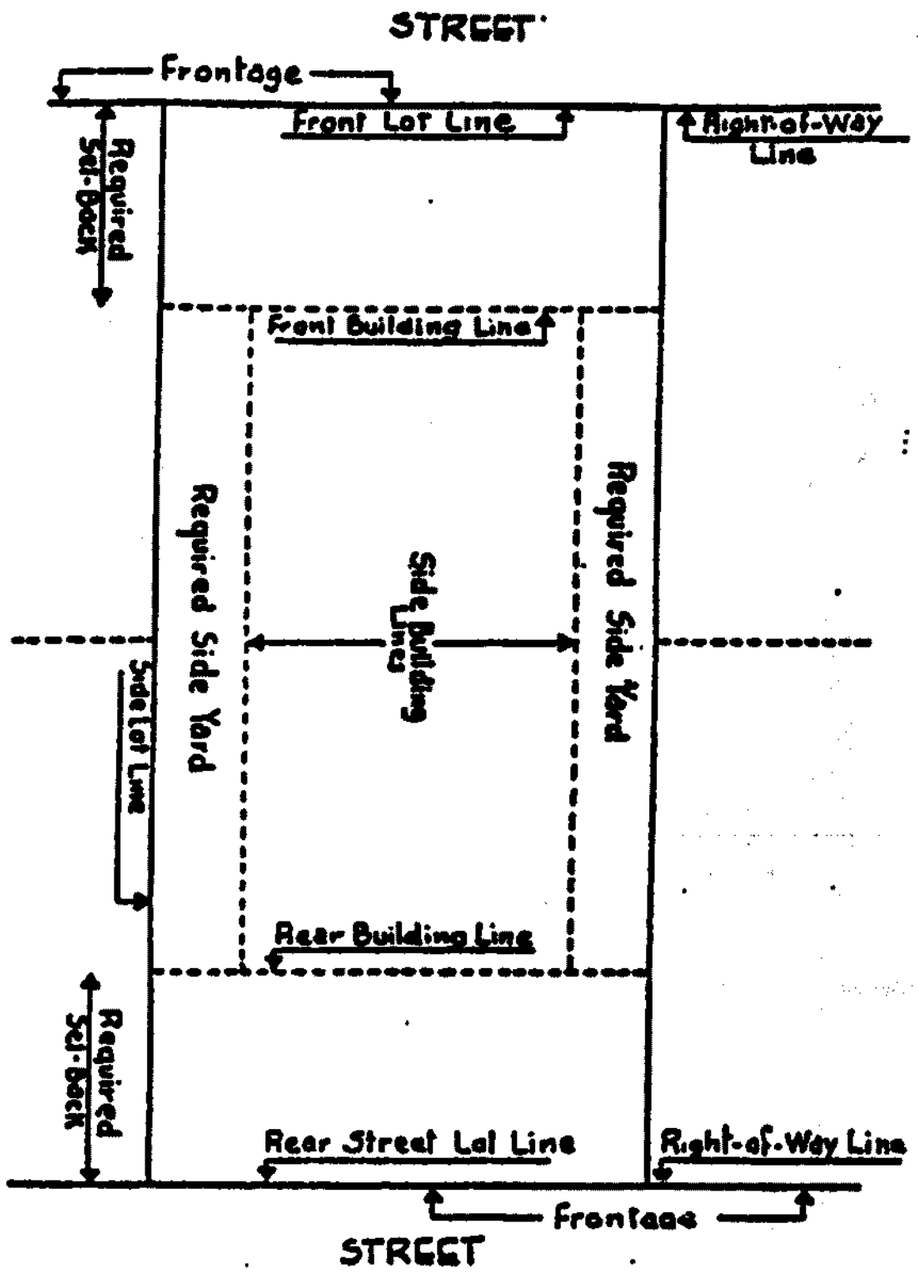


2000 TOWN CODE

(C) Yard Definitions, Corner Lot.



(D) Yard Definitions, Through Lot.

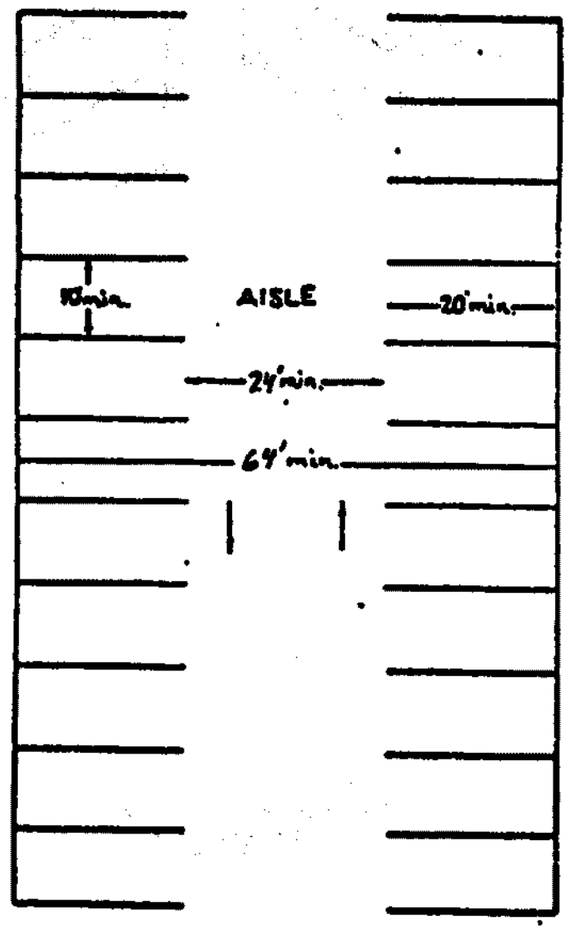


(Ord. 90-06, passed 3-19-90)

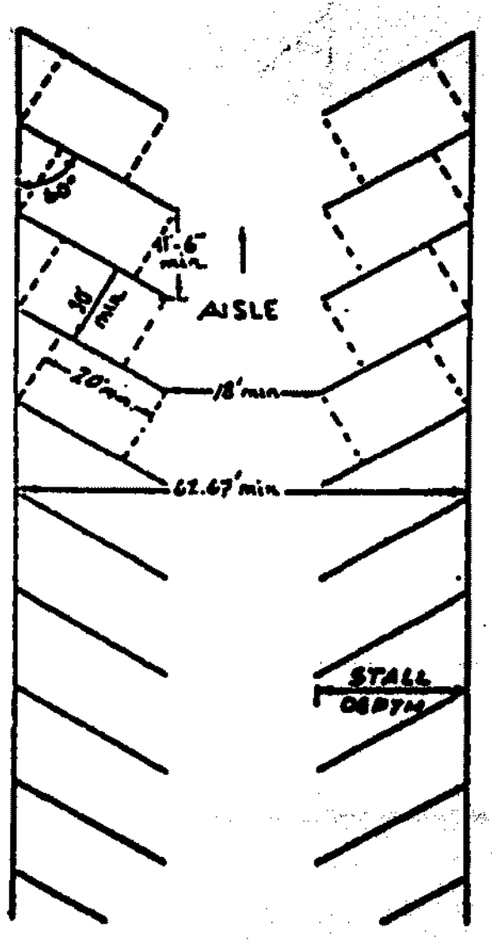
§ 2 PARKING AREA ILLUSTRATIONS.

The following illustrations are designed to illustrate the requirements of § 158.028.

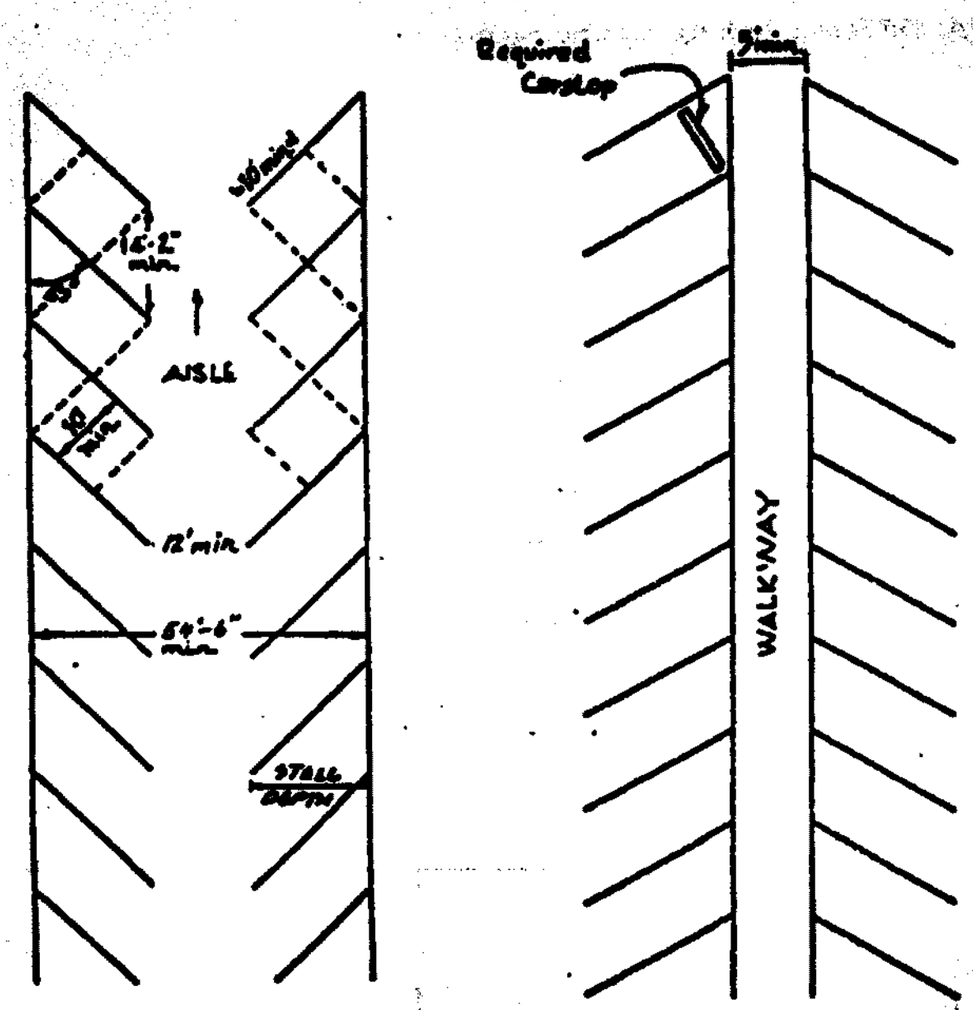
(A) Off-Street Parking Area Standards.



90 DEGREE



60 DEGREE


Required Curb Cap
3' min.
30 min.
15'-2" min.
45°
AISLE
60 min.
12' min.
54'-6" min.
STALL DEPTH
WALK'WAY
45 DEGREE
MALIBAY DEVICE (REQUIRED)

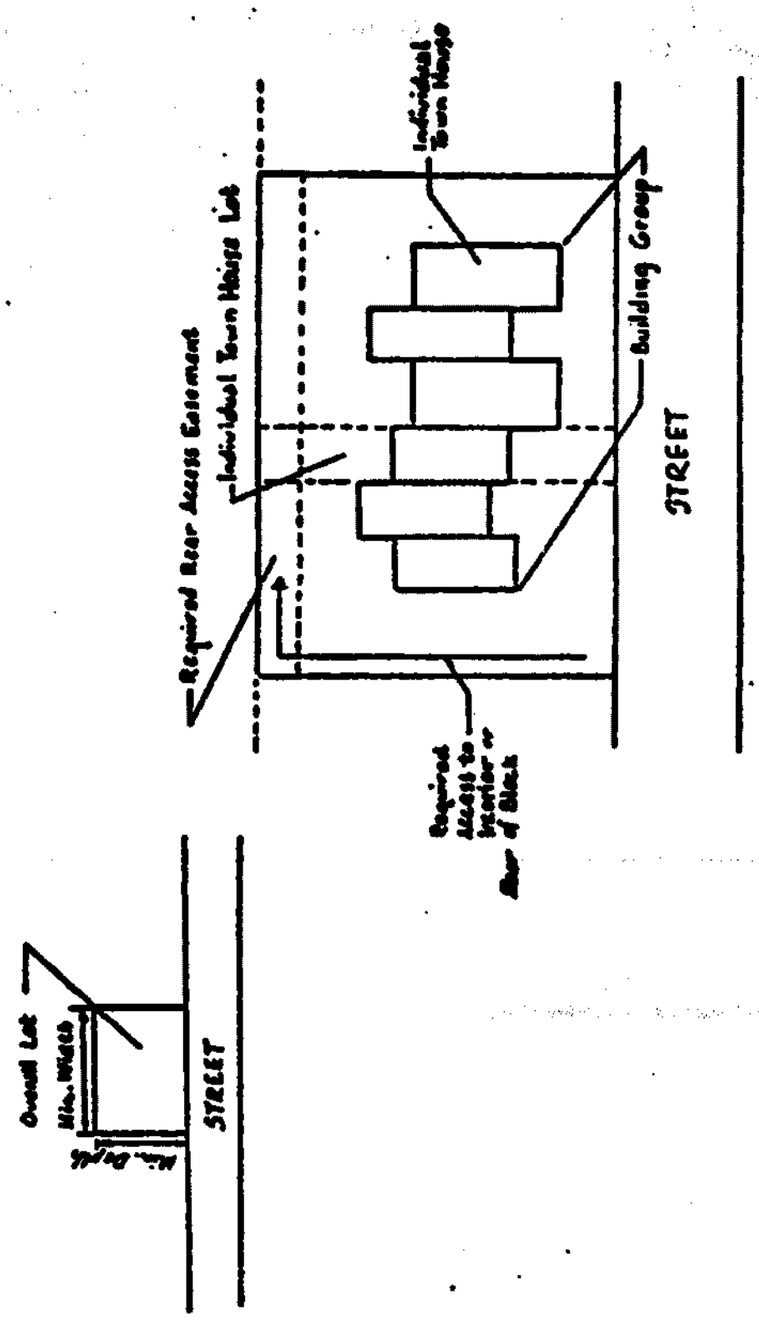
2000 TOWN CODE

(B) Schedule of Parking Area Key Dimensions.

Degrees From Curb	Stall Width (feet)	Curb Length per Car (feet)	Stall Depth (feet)	Minimum Drive (feet)	Lot Width One Row Plus Drive (feet)	Lot Width Two Rows Plus Drive (feet)	Lot Width Four Rows Two Drives Plus Walkway (feet)
0	10	24.00	10.00	12	22.00	32.00	73
45	10	14.17	21.25	12	33.25	54.5	114
60	10	11.50	22.33	18	40.35	62.67	120.5
90	10	10.00	20.00	24	44.00	64.00	128

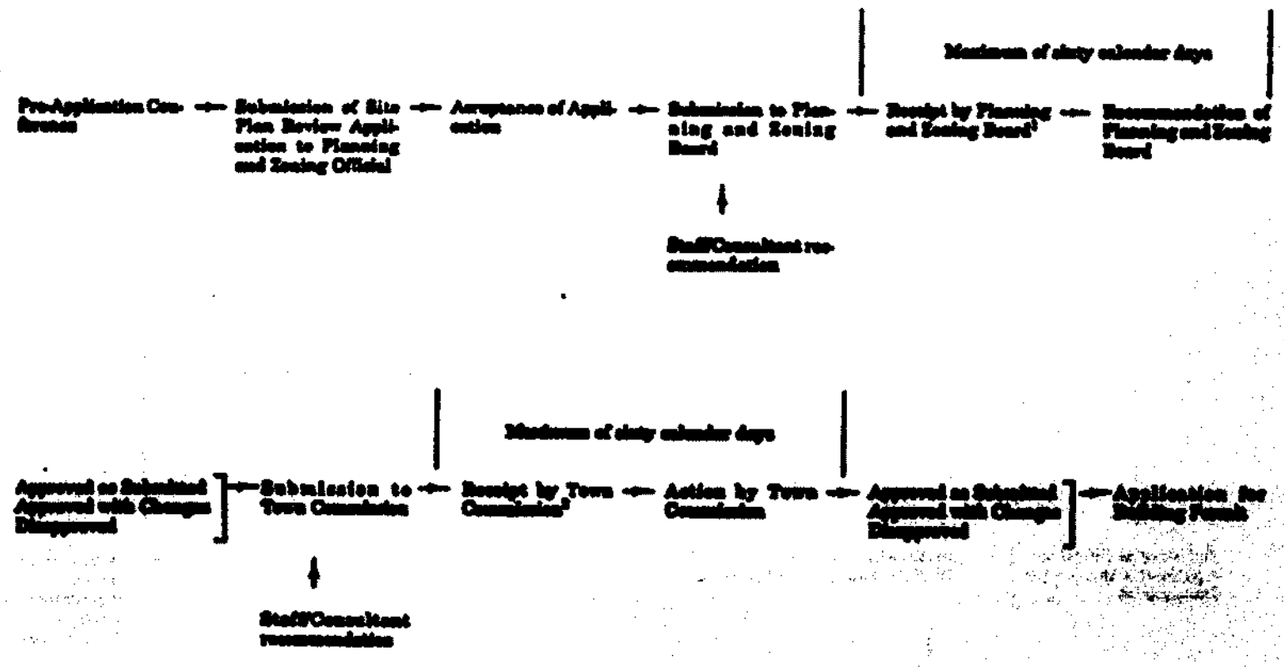
(Ord. 90-06, passed 3-19-90)

§ 3 TOWNHOUSE ILLUSTRATIONS.



(Ord. 90-06, passed 3-19-90)

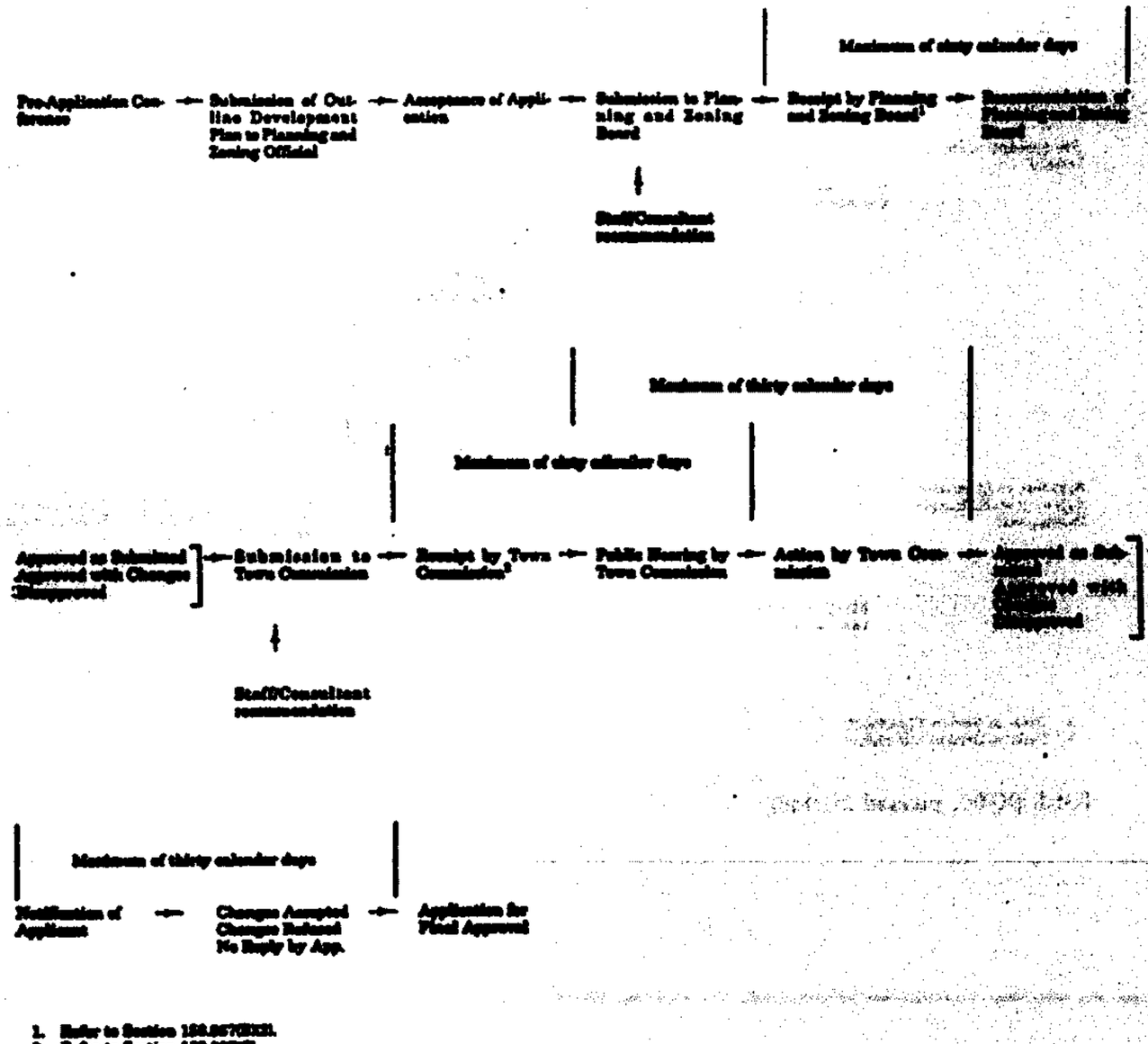
§ 4 SITE PLAN REVIEW PROCEDURE CHART.



1. Refer to Section 158.035(C).
2. Refer to Section 158.035(D).

(Ord. 90-06, passed 8-19-90)

§ 5 PLANNED UNIT DEVELOPMENT PROCEDURE CHART.

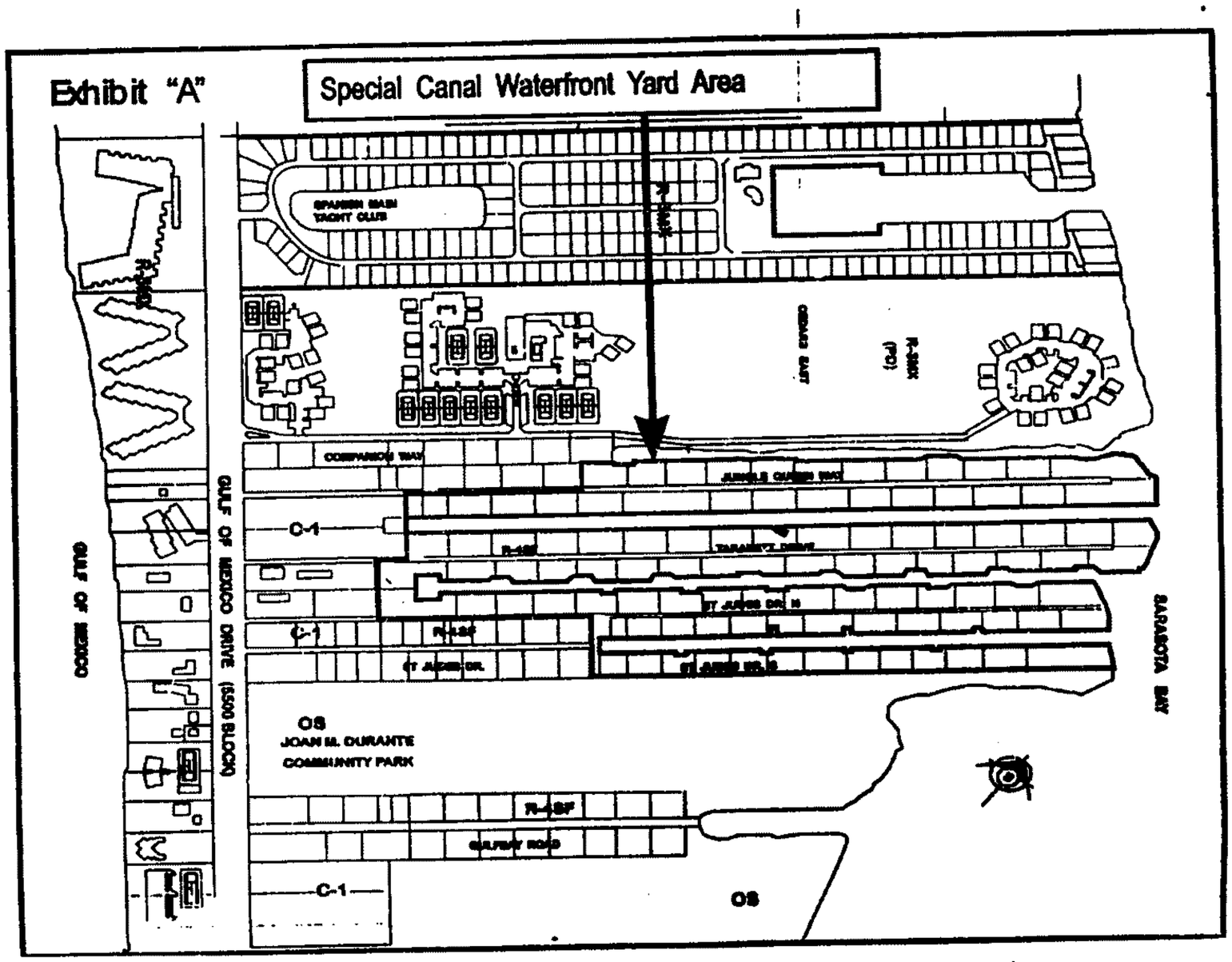


1. Refer to Section 158.057(B)(3).
2. Refer to Section 158.057(C).

(Ord. 90-06, passed 3-19-90)

§ 6 SPECIAL CANAL WATERFRONT YARD AREA ILLUSTRATIONS.

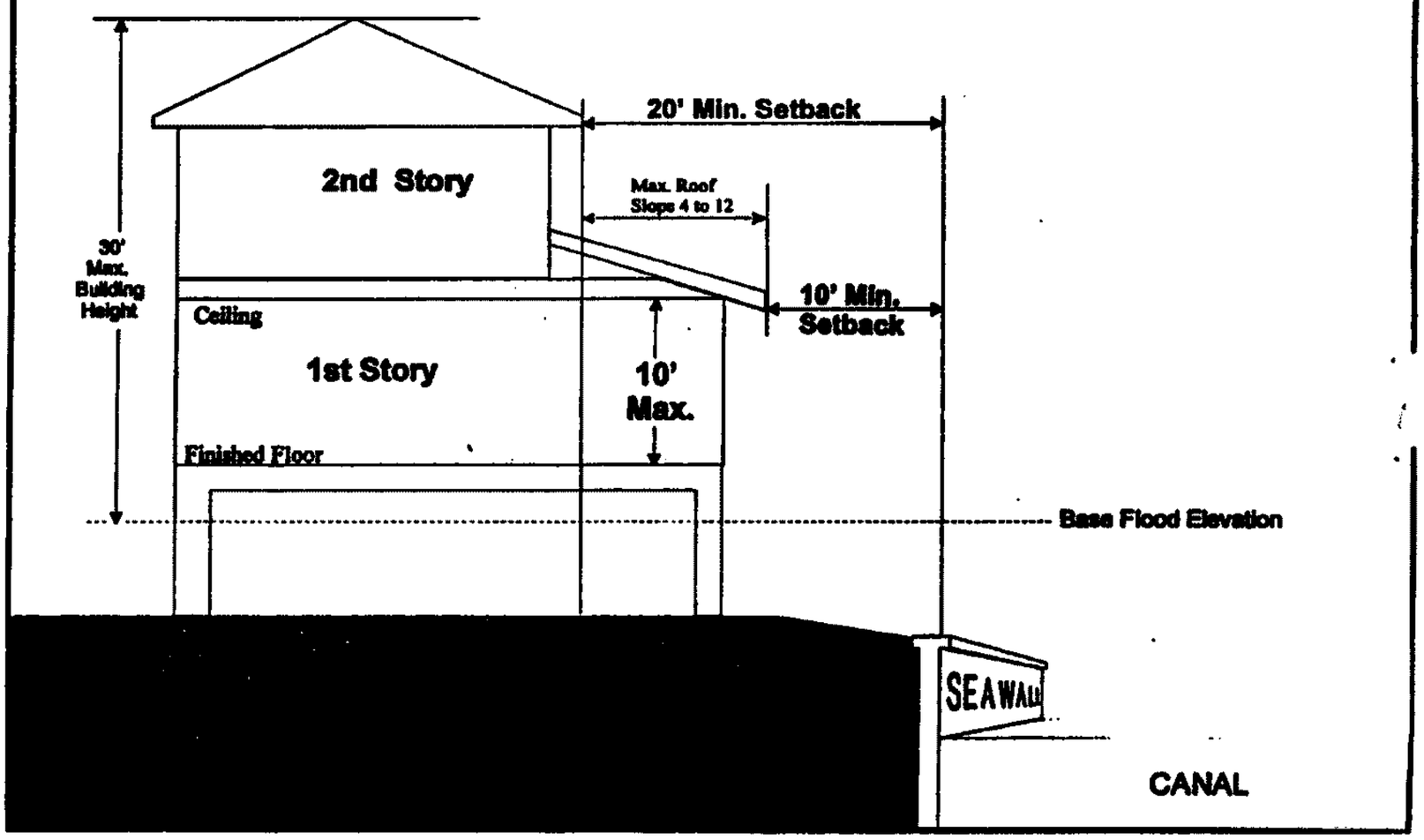
(A) Special Canal Waterfront Yard Area.



(Ord. 98-02, passed 2-2-98)

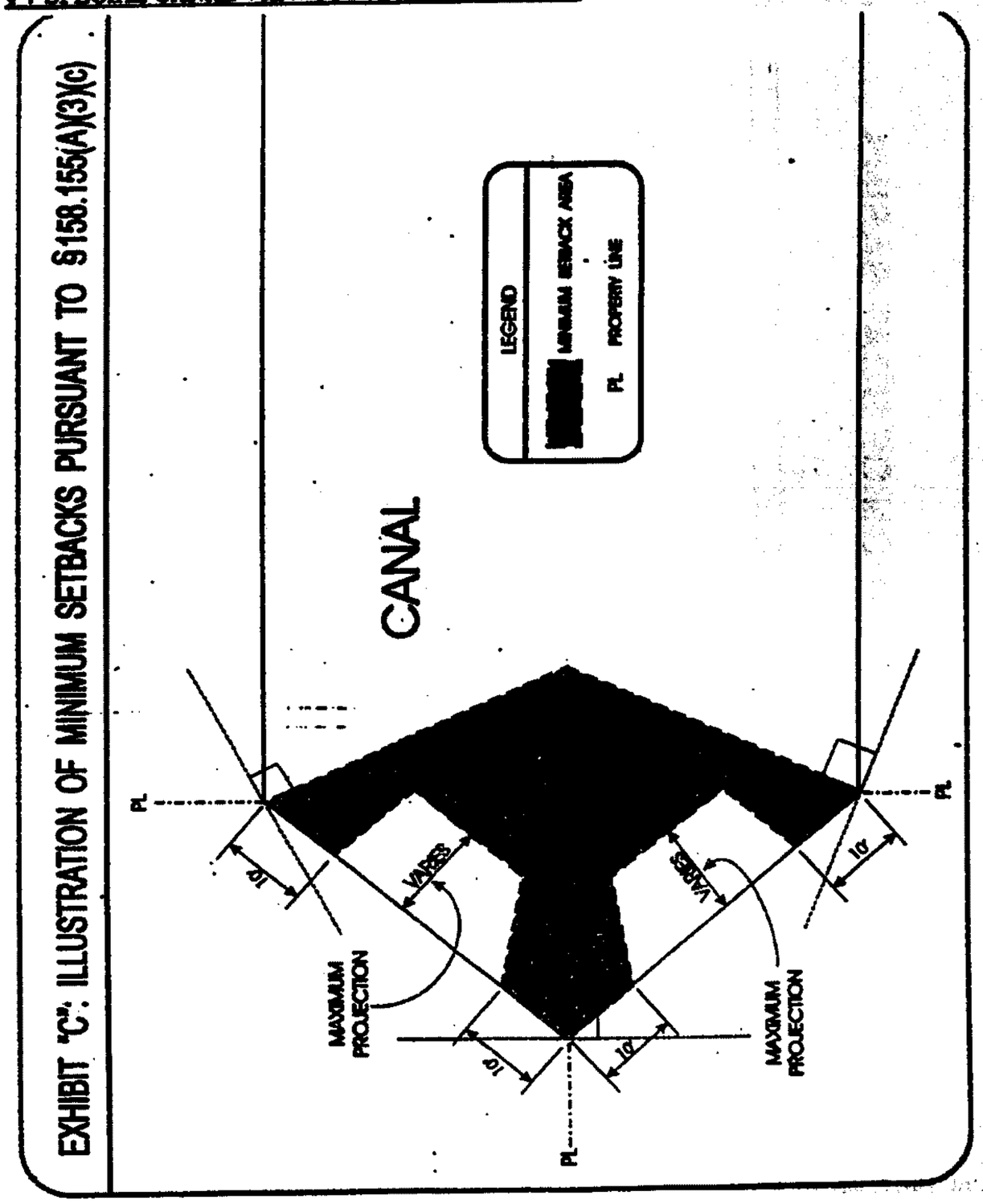
(B) Illustration of Minimum Canal Waterfront Yard Requirements in the Special Canal Waterfront Yard Area.

Exhibit: "B" Illustration of Minimum Canal Waterfront Yard Requirements for New Structures in the Special Canal Waterfront Yard Area.



(Ord. 98-02, passed 2-2-98)

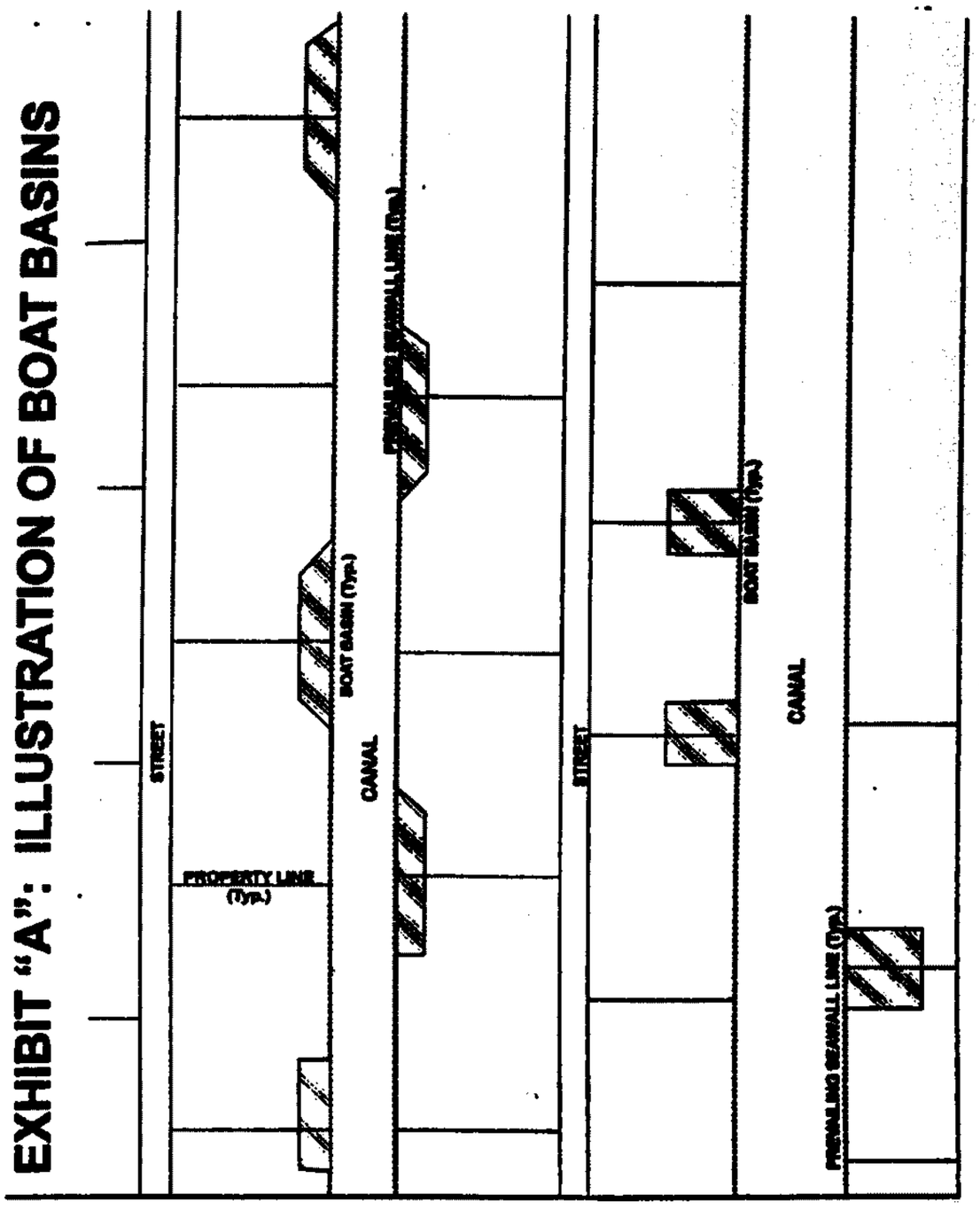
§ 7 SPECIAL CANAL VIEW PRESERVATION AREA.



(Ord. 99-03, passed 7-6-99)

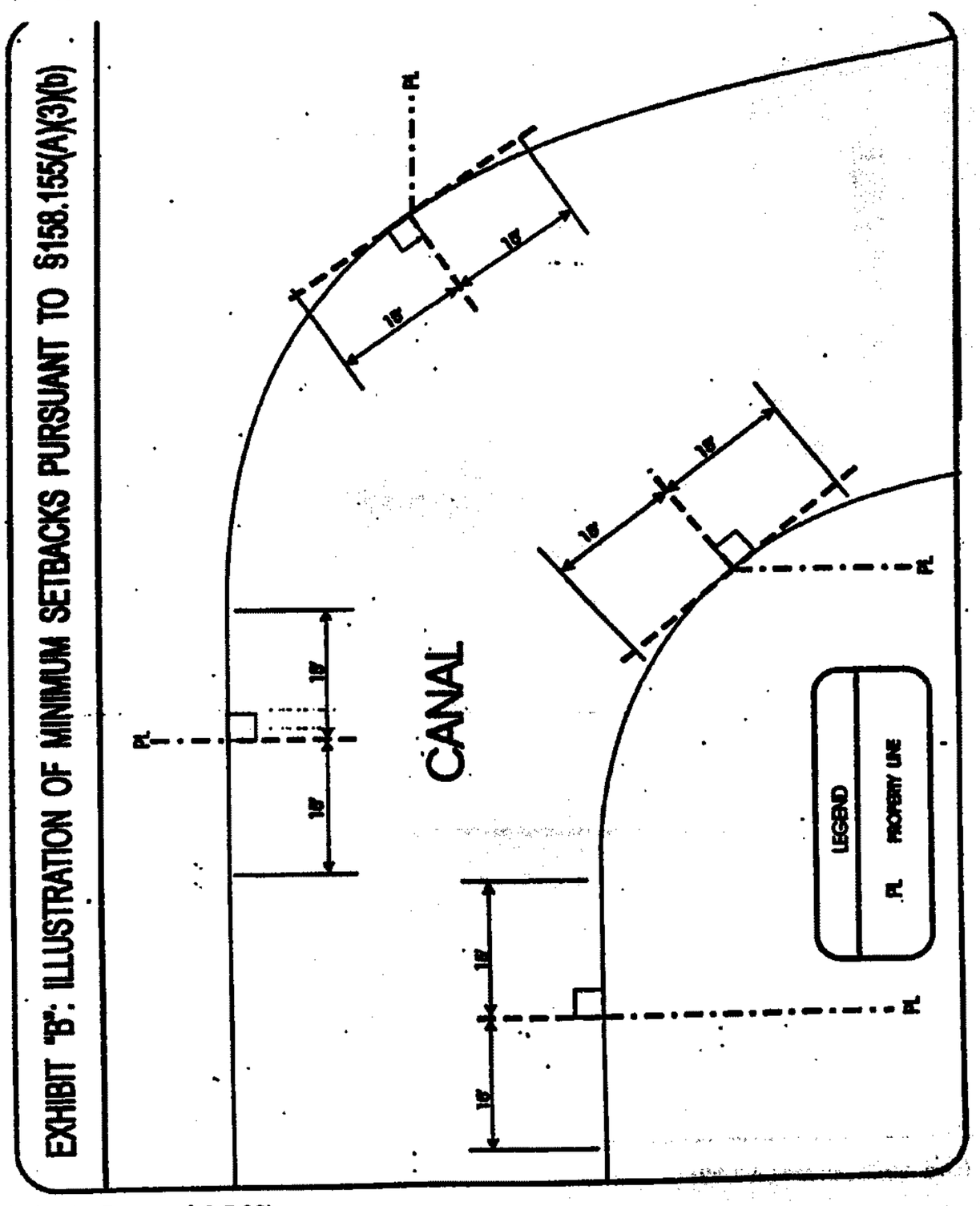
§ 8 ILLUSTRATIONS FOR § 158.155, STRUCTURES OVER WATER.

(A) Illustration of Boat Basins.



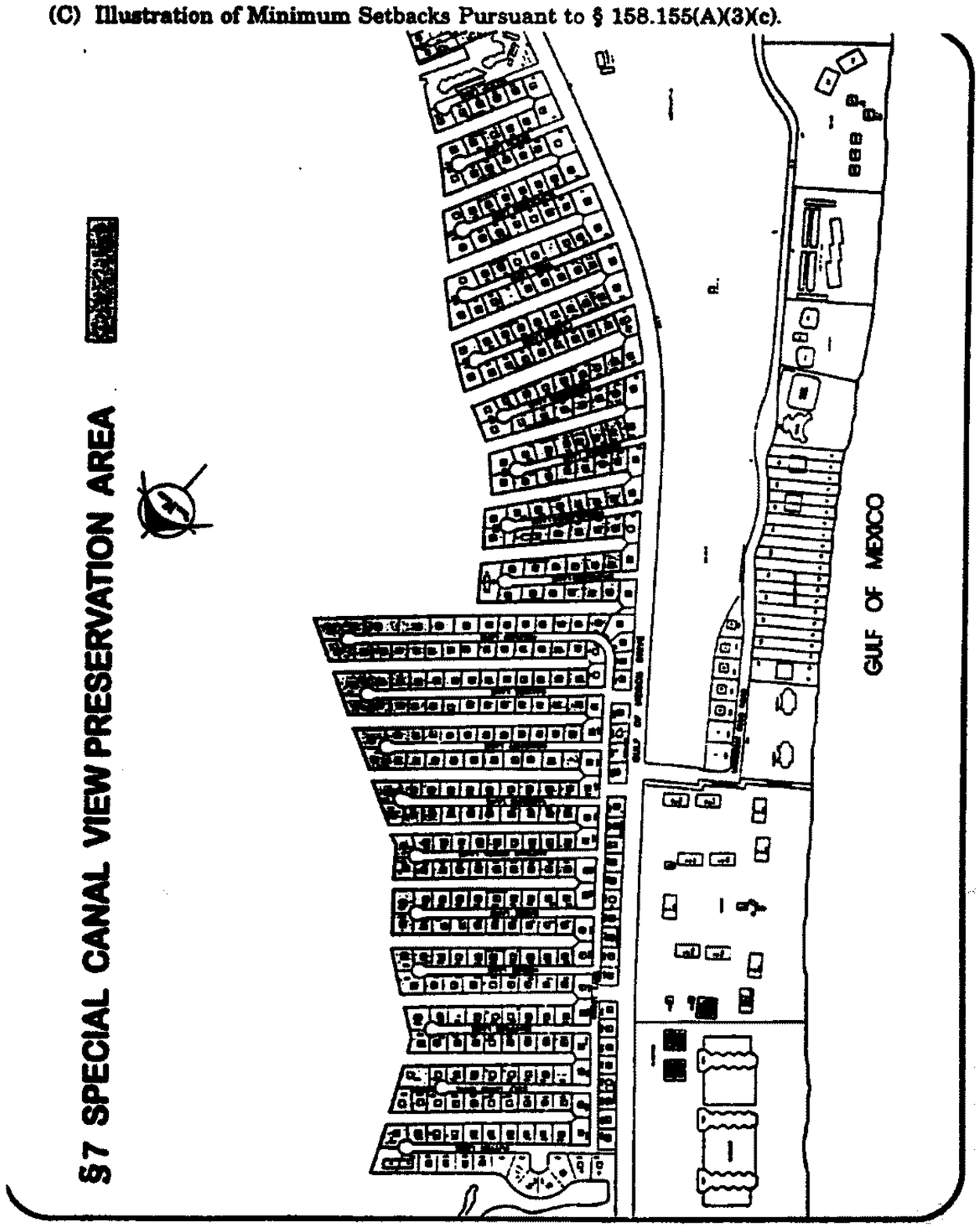
(Ord. 99-17, passed 6-7-99)

(B) Illustration of Minimum Setbacks Pursuant to § 158.155(A)(3)(b).



(Ord. 99-17, passed 6-7-99)

(C) Illustration of Minimum Setbacks Pursuant to § 158.155(A)(3)(c).



(Ord. 99-17, passed 6-7-99)

CHAPTER 160: COMPREHENSIVE PLAN

Section

160.01 Elements
160.02 Implementation
160.03 Amendments
160.04 Disaster Recovery Planning Guide

§ 160.01 ELEMENTS.

The Town of Longboat Key 1996 Comprehensive Plan includes the following elements:

Future Land Use Element

Housing Element

Transportation Element

Infrastructure Element

Sanitary Sewer Subelement

Potable Water Subelement

Solid Waste Subelement

Drainage Subelement

Recreation and Open Space Element

Conservation and Coastal Management Element

Intergovernmental Coordination Element

Capital Improvement Element

(Ord. 98-24, passed 7-16-98)

§ 160.02 IMPLEMENTATION.

Pursuant to F.S. §§ 163.3167, 163.3194 and 163.3201, the Town of Longboat Key 1996 Comprehensive Plan, as amended shall be implemented.

(Ord. 98-24, passed 7-16-98)

§ 160.03 AMENDMENTS.

In accordance with F.S. §§ 163.3184, 163.3187 and 163.3289, the Town of Longboat Key 1996 Comprehensive Plan may be amended. Application to amend the Town of Longboat Key Comprehensive Plan shall be submitted to the Planning, Zoning and Building Department. The application shall include full payment of an application fee as set forth by resolution of the Town Commission.

(Ord. 98-24, passed 7-16-98)

§ 160.04 DISASTER RECOVERY PLANNING GUIDE.

(A) The General Operating Procedures for the Disaster Recovery Planning Guide for the Town of Longboat Key, Florida, revised May 1994, is adopted by reference by the town and may be subsequently amended by resolution.

(B) The Disaster Recovery Planning Guide for the Town of Longboat Key shall serve as a resource for the general operating procedures and may be amended administratively from time to time as laws and conditions change.
(Ord. 92-34, passed 2-1-93; Amd. Ord. 94-22, passed 10-12-94)

2000 TOWN CODE

TITLE XV: LAND DEVELOPMENT CODE

Chapter

150. BUILDINGS
151. SHORELINE CONSTRUCTION
152. DREDGING AND FILLING
153. ELECTRICITY
154. FLOOD CONTROL
155. PLUMBING CODE
156. SIGN CODE
157. SUBDIVISION REGULATIONS
158. ZONING CODE
APPENDIX: LAND USE CHARTS AND ILLUSTRATIONS
160. COMPREHENSIVE PLAN

Chapter 150: BUILDINGS

Section

General Provisions

150.01 Adoption of Standard Building Code; amendments
150.02 Adoption of Standard Mechanical Code
150.03 Exemption for government buildings and grounds
150.04 Minimum housing standards
150.05 Construction of bulkheads; seawalls
150.06 Fee schedule
150.07 Building permit valuations

Administration

150.15 Administration and enforcement
150.16 Right of entry
150.17 Tests or test reports
150.18 Compliance with plans and specifications
150.19 Site restoration secured obligation, required for construction
150.20 Utility service to condominiums; required documents
150.21 Notice to stop dangerous or illegal work
150.22 Procedure for dangerous or unsanitary buildings
150.23 Procedure for buildings which are nuisances
150.24 Procedure for conversion of existing structures
150.25 Nonconforming uses
150.26 Civil remedies available

Certificates and Permits

150.30 Building permit required
150.31 Building permit application
150.32 Issuance of building permit
150.33 Denial of permit
150.34 Revocation of permit
150.35 Certificates of occupancy
150.36 Temporary certificate of occupancy
150.37 Statement of zoning compliance
150.38 Special exception uses
150.39 Records

Moving of Buildings

150.50 Permit required; fee
150.51 Application for permit
150.52 Liability insurance
150.53 Information required prior to permit issuance
150.54 Approval procedure; costs
150.55 Building code to apply

Swimming Pool Construction

150.60 Minimum standards

Coastal Construction Code

150.61 Title
150.62 Conflict
150.63 Scope
150.64 Definitions
150.65 Coastal Construction Requirements

Requirements Not Covered by Code

150.71 Requirements not covered by code

Burial of Trees and Other Organic Matter

150.72 Burial of trees and other organic material

Cross reference:

Occupational license for building trades, see § 111.05 Occupational license tax for contractors and subcontractors, see § 111.07

GENERAL PROVISIONS

§ 150.01 ADOPTION OF STANDARD BUILDING CODE; AMENDMENTS.

(A) Adoption. The Standard Building Code, 1997 Edition with appendices thereto, published by the Southern Building Code Conference International, Inc., 900 Montclaire Road, Birmingham, AL 35213, is hereby adopted as part of the building code of the town. If any provision of this chapter conflicts with any adopted provision of the Standard Building Code, the most restrictive provision shall apply. One copy of the Code shall be on file with the Town Clerk, identified as an official copy; and three or more copies shall be on file with the Town Planning, Zoning and Building Department and shall be kept there available for public use, inspection and examination. Any reference in the Standard Building Code, 1997 Edition, that uses the

word "city" shall mean "town." The Code is adopted by reference as authorized by Florida Statutes § 553.73. ('71 Code, § 6-1)

(B) Amendments.

(1) Secs. 2204.1 - 2204.7. The provisions of Sections 2204.1 through 2204.7 of the Standard Building Code adopted in subsection (A) above are hereby repealed.

(2) Sec. 2401. The Standard Building Code adopted in subsection (A) above is amended by adding Section 2401 to Chapter XXIV with respect to elevators and escalators.

"(a) A minimum of one (1) electric motor-driven elevator shall be provided in any building erected after the effective date of this amendment 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-A17.1-1965) of the American Standards Association."

(3) Repealed by Ord. 92-09, passed 3-2-92.

(Ord. 148, passed 4-16-69; Amd. Ord. 176, passed 6-17-70; Amd. Ord. 73-27, passed 9-26-73; Amd. Ord. 74-23, passed 8-7-74; Amd. Ord. 74-34, passed 12-4-74; Amd. Ord. 76-15, passed 5-19-76; Amd. Ord. 79-8, passed 6-6-79; Amd. Ord. 81-23, passed 7-1-81; Amd. Ord. 83-9, passed 6-1-83; Amd. Ord. 86-28, passed 1-5-87; Amd. Ord. 92-09, passed 3-2-92; Amd. Ord. 96-05, passed 5-6-96; Amd. Ord. 98-18, passed 7-6-98)

Cross reference:
Adoption of National Fire Code, see § 94.03

Statutory reference:
Adoption of certain minimum building codes, see F.S.A. §§ 553.70 et seq.

§ 150.02 ADOPTION OF STANDARD MECHANICAL CODE.

(A) The Standard Mechanical Code, 1997 Edition, with appendices thereto, published by the Southern Building Code Conference International, Inc., 900 Montclaire Road, Birmingham, AL 35213, is hereby adopted as part of the building code of the town. One copy of the Code shall be on file with the Town Clerk, identified as an official copy; and three or more copies shall be on file with the Town Planning, Zoning and Building Department and shall be kept available for public use, inspection and examination. Any reference in the Standard Mechanical Code, 1997 Edition, that uses the word "city" shall mean "town." The Code is adopted by reference as authorized by F.S. § 553.73.

(B) The requirements of the Standard Mechanical Code apply to new construction including remodeling, alterations and additions.
(Ord. 81-22, passed 7-1-81; Amd. Ord. 83-10, passed 6-1-83; Amd. Ord. 87-04, passed 4-6-87; Amd. Ord. 90-28, passed 12-3-90; Amd. Ord. 92-09, passed 3-2-92; Amd. Ord. 96-05, passed 5-6-96; Amd. Ord. 98-18, passed 7-6-98)

§ 150.03 EXEMPTION FOR GOVERNMENT BUILDINGS AND GROUNDS.

The Building Official may waive, in his discretion, the requirements for licensed contractors and fees for repairs or additions to the town governmental buildings and grounds.
('71 Code, § 6-2.1) (Ord. 76-15, passed 5-19-76; Amd. Ord. 81-23, passed 7-1-81; Amd. Ord. 98-24, passed 7-16-98)

Cross reference:
Building permit fees, see § 150.06
Licensing of contractors, see §§ 111.01, 111.05, and 111.07

§ 150.04 MINIMUM HOUSING STANDARDS.

(A) No person shall occupy as owner-occupant or let or sublet to another for occupancy, any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking, or eating therein, nor shall any vacant dwelling building be permitted to be used which does not comply with the following requirements.

(1) Sanitary Facilities Required. Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and water pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks, and obstructions.

(2) Location of Sanitary Facilities. All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants. The water closet, tub or shower, and lavatory shall be located in a room affording privacy to the user and the room shall have a minimum floor space of 30 square feet.

(3) Hot and Cold Water Supply. Every dwelling unit shall have connected to the kitchen sink, lavatory, and tub or shower an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

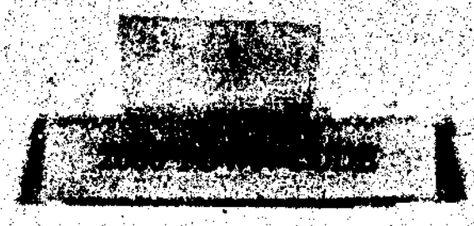
(4) Water Heating Facilities. Every dwelling shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, or shower at a temperature of not less than 120°F. The water heating facilities shall be capable of meeting the requirements of this division when the dwelling unit heating facilities required under the provisions of this section

(5) Heating Facilities. Every dwelling unit shall have heating facilities which are properly installed, and are maintained in safe and good working condition.

(6) Cooking and Heating Equipment. All cooking and heating equipment and facilities shall be installed in accordance with the building or electrical code of the town and shall be maintained in a safe and good working condition.

(7) Garbage Disposal Facilities. Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, the type and location of which shall be approved by the applicable governing body.

(B) However, when the standards of this section are in conflict with other provisions of the code of the town, the other provisions of the code shall prevail.
('71 Code, § 6-18) (Ord. 78-3, passed 4-5-78) Penalty, see § 10.99



are not in operation.

(5) Heating Facilities. Every dwelling unit shall have heating facilities which are properly installed, and are maintained in safe and good working condition.

(6) Cooking and Heating Equipment. All cooking and heating equipment and facilities shall be installed in accordance with the building or electrical code of the town and shall be maintained in a safe and good working condition.

(7) Garbage Disposal Facilities. Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, the type and location of which shall be approved by the applicable governing body.

(B) However, when the standards of this section are in conflict with other provisions of the code of the town, the other provisions of the code shall prevail.
('71 Code, § 6-18) (Ord. 78-3, passed 4-5-78) Penalty, see § 10.99

§ 150.05 CONSTRUCTION OF BULKHEADS; SEAWALLS.

(A) 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 application for permits shall be accompanied by plans including the following requirements.

(B) 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 50 feet seaward of the mean high waterline. The mean high-water line shall be shown thereon.

(3) Existing bulkheads within 100 feet of the proposed construction.

(4) Proposed finish elevations of the top of the 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, and the like, in complete detail.

(7) Proposed construction details, including strength of concrete.

(C) 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.

(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.

(D) Plans shall be submitted to the town for engineering evaluation prior to the issuance of a construction permit. 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. 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 this section, and upon compliance with §§ 151.01 through 151.07. ('71 Code, § 6-10)
(Ord. 181, passed 10-7-70; Amd. Ord. 73-25, passed 7-26-73) Penalty, see § 10.99

Cross reference:
Coastal construction generally, see §§ 151.01 through 151.07

§ 150.06 FEE SCHEDULE.

Permit fees and the administration of permit fees shall be set by resolution of the Town Commission.
(Ord. 98-25, passed 7-16-98)

§ 150.07 BUILDING PERMIT VALUATIONS.

(A) The Southern Building Code Congress International (SBCCI) Building Valuation Data Table, as may be amended from time to time by SBCCI, which is attached hereto in section (E), shall be applied as the minimum allowed valuation for new structure(s) for which a permit has been filed.

(B) The applicable valuation(s) reflected in the SBCCI Table shall be multiplied by the gross floor area of the structure(s) reflected in the permit application to determine the valuation of the structure(s) for the purpose of charging the inspection fee on structure(s).

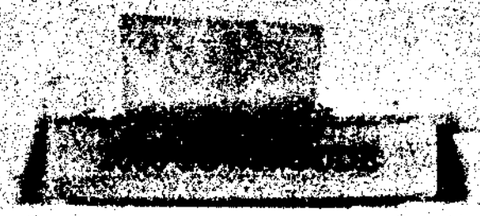
(C) Permit valuations shall include total value of the construction including plumbing, gas, electrical, mechanical equipment and other systems, also including all labor whether paid or unpaid. In no case shall the cost of a structure(s) be less than what would result from the use of the SBCCI table, as may be amended, which is attached hereto in section (E).

(D) Exclusions: Alterations, additions or renovations to existing structure(s), shall be subject to the provisions of § 154.100 to determine the cost of improvements and to determine applicable inspection fees.

(E) SBCCI Building Valuation Data Table:

BUILDING VALUTION DATA

Occupancy	Type of Construction[4] I	II	III	IV[5] 1-HR	IV[5] UNP	V[5] 1-HR	V[5] UNP	VI[5] 1-HR	VI[5] UNP
Assembly									
Auditorium									
Good	102	97	79	52	51	79	76	73	70
Average	75	72	56	36	34	57	54	52	49
Church									
Good	97	92	77	71	70	76	73	71	68
Average	71	68	58	51	50	57	54	52	49
Gymnasium									
Good	N/D[3]	N/D[3]	63	57	55	62	59	56	53
Average	N/D[3]	N/D[3]	44	39	37	43	40	41	38
Restaurant									
Good	88	88	73	65	63	72	69	68	65
Average	66	66	57	49	48	56	53	53	49
Theater									
Good	105	101	80	72	70	79	76	73	70
Average	78	76	58	52	50	57	54	53	50
Business									
Office									
Good	87	84	66	58	56	65	62	59	56
Average	66	62	48	42	40	47	44	43	40
Research/Engineering									
Good	55	53	48	43	41	47	44	44	41
Average	41	39	36	31	30	35	32	33	30



2006 TOWN CODE

Occupancy	Type of Construction[4] I	II	III	IV[5] 1-HR	IV[5] UNP	V[5] 1-HR	V[5] UNP	VI[5] 1-HR	VI[5] UNP
Service Station									
Good	83	80	63	63	63	64	63	56	59
Average	73	70	55	54	53	56	53	49	46
Educational									
School									
Good	87	87	65	59	57	64	61	59	56
Average	65	65	51	44	43	50	47	46	43
Factory-Industrial									
Factory									
Good	48	45	37	30	28	37	34	28	20
Average	35	33	26	22	20	26	22	19	16
Hazardous (Sprinkler system Included)[4]									
Hazardous									
Good	50	47	39	32	30	38	35	25	22
Average	37	35	28	23	22	27	24	21	18
Institutional									
Convalescent Hospital									
Good	106	102	79	71	69	78	N/P[1]	72	N/P[1]
Average	86	84	61	55	53	60	N/P[1]	56	N/P[1]
Hospital									
Good	126	122	106	71	69	105	N/P[1]	96	N/P[1]
Average	101	99	84	55	53	83	N/P[1]	77	N/P[1]
Mercantile									
Department Stores									
Good	73	71	62	47	45	61	58	46	43
Average	56	54	51	35	33	50	47	37	34
Mall Stores									
Good	77	77	57	53	51	56	53	53	50
Average	63	63	48	44	42	47	44	44	41
Mall-Concourse									
Good	64	64	28	20	18	27	24	24	21
Average	51	51	25	20	18	24	21	21	18
Retail Store									
Good	57	55	50	47	45	50	47	46	43
Average	45	44	40	35	33	39	36	37	34

Occupancy	I	II	III	Type of Construction[4] IV[5] 1-HR	IV[5] UNP	V[5] 1-HR	V[5] UNP	VI[5] 1-HR	VI[5] UNP
Residential									
Apartments									
Good	68	65	57	52	50	56	53	53	50
Average	54	52	45	39	38	44	41	41	38
Dormitories									
Good	82	80	69	64	62	69	66	62	59
Average	64	62	54	48	47	53	50	49	46
Homes for Elderly									
Good	82	80	72	67	66	71	68	68	65
Average	64	62	55	50	48	54	51	52	49
Hotel									
Good	81	79	67	54	53	66	63	61	58
Average	62	60	54	41	39	53	50	48	45
Motel									
Good	81	79	60	54	53	59	56	57	54
Average	62	60	46	41	39	45	42	43	40
Single Family Residence[3]									
Good	72	69	62	57	56	61	58	56	53
Average	54	52	46	41	40	45	42	41	38
Storage									
Auto Parking Structure									
Good	29	28	N/D[2]	N/D[2]	N/D[2]	N/D[2]	N/D[2]	N/D[2]	N/D[2]
Average	23	22	N/D[2]	19	17	N/D[2]	N/D[2]	N/D[2]	N/D[2]
Private Garage									
Good	29	28	20	16	15	19	16	17	14
Average	23	22	17	12	10	16	13	13	10
Repair Garage									
Good	47	47	39	43	42	38	35	32	29
Average	36	36	23	31	29	27	24	24	21
Warehouse									
Good	47	44	38	30	29	37	34	31	27
Average	36	34	27	21	19	26	23	22	19

Notes:

1. N/P-Not permitted by code.
2. N/D-insufficient data to determine average cost.
3. Unfinished basements $8.00/sq. ft.

4. For sprinklered buildings in other than hazardous occupancies add $1.50/sq. ft.

5. In Type IV, V, and VI, add $27,000 per elevator.

6. A good building will normally have some components which are only average, but many will be better than average. A good building is well insulated to utility standards, with packaged or zoned air conditioning; and has more than the minimum code required plumbing fixtures, and lighting and electric outlets, with good quality fixtures, interior and exterior finishes, and carpets.

7. An average building has minimum model energy code insulation levels, with a forced air system, contains the minimum code required plumbing fixtures, lighting, electric outlets; and has average quality interior and exterior finish and minimum carpet.

REGIONAL MODIFIER - Tampa, Florida 1.08
(Ord. 94-10, passed 4-4-94)

ADMINISTRATION

§ 150.15 ADMINISTRATION AND ENFORCEMENT.

The duty of administering and enforcing this chapter is hereby conferred upon the Building Official and designees.
(Ord. 98-24, passed 7-16-98)

§ 150.16 RIGHT OF ENTRY.

The Building Official 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 ordinance of the town. For the purposes of such entry and inspection the provisions F.S. §§ 933.20 through 933.30 are hereby incorporated by reference as if fully set forth herein.
('71 Code, § 6-4) (Ord. 157, passed 10-1-69; Amd. Ord. 98-24, passed 7-16-98)

§ 150.17 TESTS OR TEST REPORTS.

The Building Official 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 the test reports or the results of all the tests shall be kept on file by the Building Official.
('71 Code, § 6-5) (Ord. 157, passed 10-1-69; Amd. Ord. 98-24, passed 7-16-98)

§ 150.18 COMPLIANCE WITH PLANS AND SPECIFICATIONS.

(A) A copy of the plans and drawings approved by the Building Official shall be kept at the site of the work, and shall be open to inspection by the Building Official. ('71 Code, § 6-6)

(B) 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.
('71 Code, § 6-7) (Ord. 157, passed 10-1-69; Amd. Ord. 989-24, passed 7-16-98) Penalty, see § 10.99

§ 150.19 SITE RESTORATION SECURED OBLIGATION, REQUIRED FOR CONSTRUCTION.

(A) At least 10 days prior to the time an application is made for a building permit for any buildings or structures to be constructed within the town, the applicant shall deliver to the town a cash bond, irrevocable letter of credit or other secured obligation in a form satisfactory to the Town Attorney in the sum of $2,500, plus two percent of the cost of construction of the entire building as indicated on the application for building permit. No site restoration cash bond, irrevocable letter of credit or other secured obligation shall be required for any project for which the costs of improvements do not exceed $75,000; for the construction of any single-family residence, or town-owned government facilities or any governmental facilities to be owned or constructed by the town. If the satisfactory secured obligation to be delivered is a corporate surety bond, the surety company must be licensed to do business in the state and be on the United States Treasury Department's list of approved surety companies. The cash bond, irrevocable letter of credit or other secured obligation shall guarantee that the site will be promptly restored to its original state so far as is possible in the event the construction is abandoned. In default thereof, the amount of the security shall be paid, on demand, to the town for its use in effecting the restoration, or retained by it as liquidated damages if complete restoration is impossible or impracticable, or if restoration costs would exceed the amount of the security. Construction shall be deemed to have been abandoned if the applicant, or his successors or assigns, so notifies the Planning, Zoning and Building Department, in writing, or if work on the premises ceases prior to the completion of the improvement and is not resumed within 30 days of the expiration of the building permit, or building permit revocation pursuant to § 150.34. The cash bond, irrevocable letter of credit, or other secured obligation shall have an expiration date at least one year after the expected construction completion date as reflected on the building permit application. (Ord. 93-22, passed 9-27-93)

(1) Permits for tree removal, clearing of the land (except debrushing), excavation, grading or installation of utilities shall not be issued nor undertaken in areas beyond the limits of the area necessary for the construction of the building for which a permit has been issued. The Building Official shall determine, in writing, the limits of the area necessary for the satisfactory completion of the permitted work, and such determination shall be deemed a condition of the permit. The necessary construction area shall be fenced to avoid damage to other areas.

(2) Temporary use permits shall not be issued prior to issuance of a building permit for construction.

(B) In the event the applicant, his successors, or assigns fail to restore the site prior to abandonment, the town shall notify the applicant and his surety, guarantor, or security agent, as the case may be, by certified mail, addressed to the last address furnished by the parties to the town, demanding performance or the deposit of the guarantee sum. Not later than 10 days after the posting by the town of the demand, the applicant or his surety, guarantor, or security agent shall deposit in the office of the Planning, Zoning and Building Department the sum demanded by the town, either the estimated cost of restoring the site to its original condition as nearly as possible or the full sum of the secured obligation in the event the restoration costs would exceed the amount of the security or if restoration is impossible or impracticable.

(C) In the event there is a surplus in the deposit made on the town's demand, after restoration of the site, the town shall refund to the depositor on his order the surplus after costs and expenses. If the amount received by the town is insufficient to restore the site, the applicant shall not be relieved of his obligation to complete the improvement or restore the site and the applicant shall, upon further demand by the town, deposit the additional amount necessary to restore the site.
('71 Code, § 6-9.5) (Ord. 77-25, passed 1-4-78; Amd. Ord. 85-4, passed 6-3-85; Amd. Ord. 85-11, passed 9-9-85; Amd. Ord. 86-12, passed 6-5-86; Amd. Ord. 95-25, passed 1-8-96; Amd. Ord. 98-24, passed 7-16-98)

Cross reference:
Suspension or abandonment of construction invalidates building permit, see § 150.40

§ 150.20 UTILITY SERVICE TO CONDOMINIUMS; REQUIRED DOCUMENTS.

(A) Any person, corporation or other legal entity proposing to create a condominium or cooperative or to convert a condominium or cooperative to a time-share or interval ownership plan within the town pursuant to F.S. Chs. 718, 719 and 721, shall do the following

(1) File with the Building Official two copies of all preliminary documents required to be filed with the state pursuant to F.S. Chapter 498, Florida Land Sales Practices, and F.S. Chapters 718, 719 and 721, including prospectus, condominium and cooperative plat, declaration of condominium, articles of incorporation, and bylaws of owner association. These documents shall be submitted to the town within three working days of their submission to the state for approval. (Ord. 93-22, passed 9-27-93)

(2) File with the Building Official copies of condominium and cooperative plats, declaration of condominium or cooperative articles of incorporation, and bylaws of the owners association after they have been recorded in the county where the condominium or cooperative is located. (Ord. 93-22, passed 9-27-93)

(B) The Building Official shall furnish one of all the copies to the Town Attorney for his review and written opinion, which shall be given to the Building Official, Town Manager and Town Commission and shall set forth any deviations of violations of this code or any site plan or other town development orders issued by the town. All charges of the Town Attorney for

re ·ıg the documents required in this section shall be the expense of the person or cor, ·tion filing them and shall be remitted to the town. This fee shall be paid to the Town Attorney. (Ord. 93-22, passed 9-27-93)

(C) No certificate of occupancy or public utility or service shall be provided to any condominium or cooperative building until the person or corporation proposing the condominium or cooperative has complied with the provisions of this section and has corrected any deviations and omissions reported by the Town Attorney.
('71 Code, § 6-9.7) (Ord. 78-2, passed 4-5-78; Amd. Ord. 80-12, passed 1-21-81; Amd. Ord. 81-6, passed 2-13-81; Amd. Ord. 85-4, passed 6-3-85; Amd. Ord. 98-24, passed 7-16-98)

§ 150.21 NOTICE TO STOP DANGEROUS OR ILLEGAL 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, the work shall be stopped immediately upon receipt of notice from the Building Official or designee. The 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. The notice shall be in writing, except that when an emergency exists, oral notice shall be sufficient, which shall be promptly followed by written notice.
('71 Code, § 6-11) (Ord. 157, passed 10-1-69; Amd. Ord. 98-24, passed 7-16-98) Penalty, see § 10.99

§ 150.22 PROCEDURE FOR DANGEROUS OR UNSANITARY BUILDINGS.

(A) If any building, 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 Official, immediately upon learning the condition, shall forthwith give the owner, agent, or person in control of the 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, structure, or portion thereof.

(B) If necessary for the preservation of life, safety, or health, the 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, the approved by the Building Official. The Building Official shall cause to be posted at each entrance to the building a notice that the building is unsafe and that its use or occupancy has been prohibited. The notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person to remove the notice without written permission of the Building Official, or for any person to enter the building except for the purpose of making the required repairs or of demolishing the building.

(C) 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 Official. In such case the owner, agent, or person in control, within ten days after receipt of the written notice from the Building Official, shall file with the Town Manager or designee a written notice of appeal, stating why the requirements of the Building Official are unjust or unreasonable. Until a final decision is reached by the Town Manager or designee, the filing of the notice of appeal shall stay further proceedings or action upon those requirements imposed by the Building Official 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 Official, continued use of the premises would involve imminent danger to health or human life.

(1) The Town Manager or designee shall set a date for a hearing of the appeal within 30 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 or designee shall make a written determination whether the requirements of the Building Official 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 the determination he shall make an order, either affirming the requirements imposed by the Building Official, or altering, modifying, or cancelling the requirements. In the order the Town Manager or designee may also impose any conditions that seem advisable.

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

(D) In case the owner, agent, or person in control cannot be found, or, if the 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 Official, after having determined the cost, shall with the approval of the Town Manager or designee cause the building, structure, or portion thereof to be demolished, secured, or required to remain vacant, as circumstances may require.

(E) Promptly after completion of any corrective, repair, or demolition work done by the town under the authority of this chapter, the Building Official shall cause the owner to be billed for the cost of the 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 the bill. If the 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 Building Official 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 the lien, at the stated time and place.

(2) The 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.

(F) At the hearing referred to in division (E) above, the Town Manager or designee 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 the costs, and shall thereupon by resolution levy a special assessment against the property in an amount, if any, as it finds to be proper and equitable.
('71 Code, § 6-12) (Ord. 157, passed 10-1-69; Amd. Ord. 98-24, passed 7-16-98)

Cross reference:
Dangerous buildings deemed nuisances, procedures for abatement, see § 150.23

§ 150.23 PROCEDURE FOR BUILDINGS WHICH ARE NUISANCES.

(A) All buildings or structures, as these terms are defined in § 158.006, and including docks, davits, seawalls and other marine structures, which have any or all of the following defects shall be deemed "dangerous structures:"

(1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumbline passing through the center of gravity falls outside of the middle third of its base.

(2) Those which, exclusive of the foundation, show 33% or more, of damage or deterioration of the supporting member or members, or 50% of damage or deterioration of the nonsupporting enclosing or outside walls or covering.

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(4) Those which have been damaged by fire, wind, water, wave activity, tides, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the town.

(5) Those which have become or are so dilapidated, decayed, unsafe, insanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.

(6) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(9) Those which, because of their condition, are likely to cause damage to abutting property or structures located thereon.

(10) Those which because of their condition are unsafe, insanitary, or dangerous to the health, morals, safety or general welfare of the people of this town.

(11) Those buildings existing in violation of any provision of the building code of this town, or any provision of the fire prevention code, or other ordinances of this town.

(B) All "dangerous structures" within the terms of subsection A of this section are declared to be public nuisances, and shall be repaired, vacated, or demolished as provided in this section.

(C) The following standards shall be followed in substance by the Town Manager or designee and the Town Commission in ordering repair, vacation, or demolition.

(1) If the "dangerous structure" can reasonably be repaired so that it will no longer exist in violation of the terms of this section, it shall be ordered repaired.

(2) If the "dangerous structure" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupant it shall be ordered to be vacated.

(3) In any case where a "dangerous structure" is 50% damaged or decayed, or deteriorated from its original value or structure, it shall be demolished and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter it shall be demolished. In all cases where a "dangerous structure" is a fire hazard existing or erected in violation of the terms of this section or any section of this code or statute of the State of Florida, it shall be demolished.

(D) It shall be the duty of the Building Official to regularly and frequently require examination of buildings and structures within the town to determine whether the buildings and structures constitute a public nuisance as provided in division (A) above. The Building Official shall make a detailed written report to the Town Commission which shall contain a detailed description of the examination and his opinion of whether the conditions found constitute the building or structure, or any part thereof, a public nuisance. (Amd. Ord. 92-09, passed 3-2-92)

(E) 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 Building Official. If the Commission finds that the building or structure described therein may constitute a public nuisance, the 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. The 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 Town Clerk shall also post a notice of the public hearing on the building or structure. The Clerk shall send a copy of the notice of hearing, by registered mail, to the owner of the premises, on which the building or structure is located, as it appears on the most current town or county tax assessment roll.

(F) The public notice specified in division (E) above shall contain a description of the property on which the building or structure is located sufficient for identification. The notice to the owner shall also describe, in general terms, the condition of the building or structure that is alleged to constitute the building or structure a public nuisance. The public notice and notice to the owner shall also contain the time, date, and place that the public hearing will be held.

(G) At the public hearing, the Town Commission shall hear and read the full report of the Town Manager or designee and hear any other evidence as the Commission may deem relevant. At the hearing, the owner shall be allowed to present testimony and evidence showing that the conditions do not constitute a nuisance. The owner of the 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.

(H) At the conclusion of the public hearing, the Town Commission shall adopt a resolution declaring one or more of the following.

(1) That the conditions alleged by the Town Manager or designee to exist in the building or structure do not exist.

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

(3) That the conditions alleged by the Town Manager or designee to exist in the building or structure have been remedied and that the building or structure does not now constitute a public nuisance.

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

(5) Any other provisions that will appropriately decide and determine the issues.

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

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

(I) Upon the adoption of a resolution under division (H) above, the Town Clerk shall post a copy thereof on the structure and shall mail a copy thereof to the owner of the premises on which the building or structure is located, if the address of the owner is known to the Town Clerk.

(J) If the 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 the public nuisance, including all attorneys' fees, court costs and expenses, shall be a lien on the premises and superior to all other liens except other liens for special assessments. The liens may be enforced against the property by foreclosure as provided by law for foreclosure of tax liens or may be collected as otherwise provided by law.
('71 Code, §§ 6-23—6-30) (Ord. 89-09, passed 6-5-89; Amd. Ord. 98-24, passed 7-16-98)

Cross reference:
Dangerous or unsanitary buildings and structures, procedures for abatement, see § 150.22

§ 150.24 PROCEDURE FOR CONVERSION OF EXISTING STRUCTURES.

(A) It shall be unlawful for any person or corporation to change the use of or make any alterations, changes, or modifications covered by the Standard Building Code in any dwelling unit, tourism unit, building structures, foundation, or improvement within the town without first notifying the town and furnishing the town with the following information prior to obtaining a building permit.

(1) Certificate of apparent ownership or attorney's opinion as to ownership with respect to the property involved, including legal description, address, and location.

(2) The present use of the existing building structure, dwelling unit, tourism unit, and improvement, the date alteration is planned, and a copy of any plat and restrictions or declaration.

(3) Site plans including details showing the building structure and dwelling unit, tourism unit, and foundations before and in their proposed altered condition.
('71 Code, § 6-19) (Ord. 78-3, passed 4-5-78)

(B) Any alterations, changes, or modifications made in any existing building structure, dwelling unit, tourism unit, foundation, or improvement without giving the notice or information provided in division (A) above, or conforming to § 150.25 shall render the existing certificate of occupancy for the structure void.
(Ord. 81-10, passed 3-4-81; Amd. Ord. 82-11, passed 10-6-82) Penalty, see § 10.99

§ 150.25 NONCONFORMING USES.

Any alterations, changes, or modifications in any existing building structure, dwelling unit, tourism unit, foundation, or improvement, including without limitation, motels, hotels, and bungalow courts, covered by the Standard Building Code, shall comply with this code. However,

the Town Commission may waive any nonconforming requirements with respect to any alterations, changes, and modifications, other than those requirements in § 150.04 and in Chapter 154, provided the nonconformities are reduced to the maximum extent possible.
(Ord. 81-10, passed 3-4-81; Amd. Ord. 82-11, passed 10-6-82) Penalty, see § 10.99

§ 150.26 CIVIL REMEDIES AVAILABLE.

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 Town Attorney, 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 the unlawful erection, construction, or reconstruction, or to restrain, correct, or abate the violation.
('71 Code, § 6-13) (Ord. 157, passed 10-1-69)

CERTIFICATES AND PERMITS

§ 150.30 BUILDING PERMIT REQUIRED.

(A) No person shall erect or construct, or proceed with the erection of any building, structure, or dock, nor repair, add to, enlarge, move, improve, alter, convert, extend, or demolish any building or structure in the town, or cause the same to be done without first obtaining a building permit therefor from the Building Inspector.

(B) No person shall do electrical construction or install electric wiring or apparatus or make any changes of existing wiring or apparatus for light, heat, or power within or attached to any building or property in the town without first obtaining a permit therefor from the Building Inspector.

(C) No person shall do or perform any heating, air conditioning, refrigeration and ventilation (H.A.R.V.) installations, alterations, or repairs within or attached to any building, property, or structure in the town or cause the same to be done or performed without first obtaining a permit therefor from the Building Inspector.
(Ord. 88-06, passed 5-19-88)

§ 150.31 BUILDING PERMIT APPLICATION.

(A) Each applicant for a building permit shall submit a complete application to the Building Official or designee for his approval before a permit shall be issued. A building permit shall not be issued unless that application is complete. A complete application shall include the following:

(1) An accurate plot diagram and certified survey, 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, roadways, waterways, easements, and any other pertinent superficial features, together with evidence of approval by the State and County Health Department of water, stormwater, and sewerage systems. The Building Official 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 division may be waived by the Building Official.

(2) 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. The 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 Standard Building Code. The Building Official may also require any other details and computations as will assure compliance with the Standard Building Code.

(3) When applicable to requirements of this chapter or other pertinent ordinances of the town, 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; and any other relevant information shall also be submitted.

(4) All applicable fees.

(5) Compliance with § 150.19, requiring prior submission of a site restoration bond or other secured obligation, is a condition precedent to applying for a building permit.

(6) Compliance with the plat requirements of the town subdivision code is a condition precedent to applying for a building permit.

(B) Nothing contained in this section shall be deemed to relieve or excuse any owner or builder from compliance with any other requirements contained in other ordinances now or hereafter enacted.

(C) Where plot plan or development plan approval is required by this or any other ordinance now or hereafter enacted, building permits shall be issued only in conformity with the final plot plan or development plan as approved by the Town Commission.
(Ord. 88-06, passed 5-19-88; Amd. Ord. 98-24, passed 7-16-98)

§ 150.32 ISSUANCE OF BUILDING PERMIT.

(A) Upon receipt of a complete building permit application, the Building Official will, within a reasonable time, either issue or refuse the building permit or refer the application to the Town Commission or the Zoning Board of Adjustment. After the building permit has been received by the applicant, he may proceed to undertake the action permitted in the building permit. If

the Building Official finds that the action of the applicant has been taken in accordance with the building permit, he will then issue a certificate of occupancy, allowing the premises to be occupied, or a statement of zoning compliance.

(B) One copy of the layout or plot plan, submitted with the application, shall be returned to the applicant when approved by the Building Official together with the permit. In addition, a copy of each application with accompanying plan, shall become a public record after a permit is issued or denied.

(C) Under the terms of Chapter 158, the following classes of building permits may be issued.

(1) Permitted use. A building permit for a permitted use may be issued by the Building Official on his own authority as provided for in Chapter 158. All of the elements of the town's Comprehensive Plan § 158.002 through § 158.006 of the Zoning Code and the town's site and development plan performance standards set forth in § 158.102, shall be adhered to the extent they are applicable.

(2) Permitted use with site plan review. A building permit for a permitted use with site plan review may be issued by the Building Official upon approval of the Town Commission after their review in accordance with the provisions of Chapter 158.

(3) Special exception use. A building permit for a special exception use may be issued by the Building Official upon order of the Planning and Zoning Board after the procedures and provisions of § 158.028 are complied with.

(4) Building permit after an appeal or a request for a variance. A building permit may be issued by the Building Official upon the order of the Zoning Board of Adjustment after the procedures and provisions of § 158.129 are complied with.

(D) No permit for clearing of land, excavation of, or the erection or alteration of, or repairs to any building shall be issued until complete application has been made for a certificate of occupancy or statement of zoning compliance as applicable. No permit for clearing of land shall be issued until the complete application therefor has been made to and approved by the town.

(E) Except upon a written order of the Board of Adjustment, no building permit, certificate of occupancy, or statement of zoning compliance shall be issued for any building where the construction, addition, alteration, or use thereof would be in violation of any of the provisions of Chapter 158.

(F) It shall be the duty of the Building Official to issue a building permit, provided he is satisfied that the structure, building, sign, parking area of premises, and the proposed use thereof, conform with all requirements of Chapter 158, and that all other reviews and actions, if any, called for in Chapter 158 have been complied with, and all necessary approvals secured therefor. All building permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises affected and protected from the weather whenever construction work is being performed thereon. No owner, contractor, workman or other person shall perform any building operations of any kind unless a building permit covering the operation is displayed as required by this chapter nor shall they perform building operations of any kind after

notification of the revocation of the building permit.
(Ord. 88-06, passed 5-19-88; Amd. Ord. 93-22, passed 9-27-93; Amd. 98-24, passed 7-16-98)

§ 150.33 DENIAL OF PERMIT.

When the Town Manager or designee is not satisfied that the applicant's proposed development will meet the requirements of Chapters 151 through 158, he shall direct the Building Official to refuse to issue a building permit, and notice of such action shall be sent to the applicant by certified mail, return receipt requested. The applicant may appeal to the Zoning Board of Adjustment for a reversal of the decision made by the Town Manager or designee.
(Ord. 88-06, passed 5-19-88; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 98-24, passed 7-16-98)

§ 150.34 REVOCATION OF PERMIT.

(A) If it shall appear, at any time, to the Building Official that the application or accompanying plat is in any material respect false or misleading, or that work is being done on the premises differing materially from that called for in the application for a building permit filed with him under existing laws or ordinances, he may forthwith revoke the building permit and notify the person holding the permit of the revocation in writing. It shall then be the duty of the person holding the permit to surrender it and all copies thereof to the Building Official. After the building permit has been revoked, the Building Official, in his discretion, and before issuing the new building permit, may require the applicant to file an indemnity bond in favor of the town with sufficient surety conditioned for compliance with Chapter 158 and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.

(B) A building permit heretofore issued shall be revoked and written notice given to the person holding the permit, if the construction authorized by the permit is not commenced within six months after the date the permit is issued, or if at any time after construction is commenced the work is suspended or abandoned for a period of 90 days.

Construction shall be deemed to have been "COMMENCED" when any work is started on the site preparation (only that work necessary for construction of buildings or structures) after issuance of the building permit or building and structures in accordance with approved development or construction plans. For purposes of this section, clearing of the site, installation of utilities and other similar activities not necessary for the actual construction of buildings shall not be deemed to be site preparation. Construction shall be deemed to have been "SUSPENDED" or "ABANDONED" when no substantial work has been accomplished in any 90-day period.

(C) A building permit can be extended prior to revocation or, if a building permit is revoked for any of the reasons provided in division (B) of this section, the permit can be revalidated within 20 days of the revocation. The Building Official may extend or revalidate a permit for no more than six consecutive periods of 30 days each, and only if there is a finding on the part of the Building Official of just cause for the delay. For purposes of this section, "JUST CAUSE"

shall be found only if special conditions and circumstances exist which do not result from the voluntary actions of the person holding the permit, his representatives or agents, which have caused an unforeseeable delay in the ability of the person holding the permit to proceed with construction of the project. Economic conditions or financing problems, absent other relevant considerations, shall not form the basis for a revalidation or extension of a building permit. In the event that the suspension, abandonment, or failure to commence construction has exceeded any revalidation or extension period or periods, a new building permit must be obtained from the Planning, Zoning and Building Department before work may be resumed. If changes have been made or will be made in plans previously approved by the town or if amendments have been made to Chapter 158 or in any other relevant ordinance or law, a new permit will not be issued until the proposed changes in the project have been approved by the town and any requirements of new relevant ordinances or other legal requirements have been satisfied.
(Ord. 88-06, passed 5-19-88; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 97-22, passed 10-6-97; Amd. Ord. 98-24, passed 7-16-98)

§ 150.35 CERTIFICATES OF OCCUPANCY.

(A) No land shall be occupied or used and no building shall be used or changed in use until a certificate of occupancy has been issued by the Building Official, stating that the building or proposed use thereof complies with the provisions of Chapter 158. In cases where development plan approval is required by the Town Commission, a certificate of occupancy shall not be issued for completed structures until the utilities, service facilities, and open areas as shown on the approved development plan have been completed in accordance with the development schedule for that stage of construction.

(B) The Building Official may authorize a temporary certificate of occupancy for the time stated therein and a variance from the provisions of this section where there are practical difficulties or peculiar hardships in carrying out the strict letter of the provisions of this section after compliance with § 150.36.

(C) All certificates of occupancy shall be applied for coincident with the application for a building permit. The certificate shall be issued within 10 days after completion of the erection or alteration and after it has been approved as complying with this chapter, all provisions of Chapter 158 and any other applicable regulations. Applications for certificates of occupancy shall be made for each stage of construction to be completed in accordance with the approved development plan.
('71 Code, § 6-9(a)) (Ord. 73-9, passed 5-16-73) (Ord. 157, passed 10-1-69; Amd. Ord. 88-06, passed 5-19-88; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 98-24, passed 7-16-98) Penalty, see § 10.99

§ 150.36 TEMPORARY CERTIFICATE OF OCCUPANCY.

The Building Official may authorize a temporary certificate of occupancy for the time stated therein and a variance from the provisions of § 150.35(A) where there are practical difficulties or peculiar hardship in carrying out the strict letter of the provisions of § 150.35(A). However,

no temporary certificate shall be granted until consideration of the request by the Building Official and only upon:

(A) The deposit of a cash bond, irrevocable letter of credit, or other secured obligation to guarantee the completion of all phases of that stage of the project not completed at the time of issuance of a temporary certificate of occupancy. The cash bond, irrevocable letter of credit, or other secured obligation shall be in a form satisfactory to the Town Attorney and shall be in a penal sum of 125% of the estimated cost of construction.

(B) The applicant furnishing the town with liabiiity insurance policy in an amount not less than $1,000,000, insuring the town against any and all liability with respect to the completion of the development plan, together with a certificate from the insurance company issuing the policy that the town, as a coinsured, will be given 30 days' notice prior to any termination of the insurance. The applicant shall carry the liability insurance until the development plan has been completed and the certificate of occupancy issued by the town.
('71 Code, § 6-9(b)) (Ord. 157, passed 10-1-69; Amd. Ord. 73-9, passed 5-16-73; Amd. Ord. 80-13, passed 12-10-80; Amd. Ord. 88-06, passed 5-19-88; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 95-25, passed 1-8-96; Amd. Ord. 98-24, passed 7-16-98)

§ 150.37 STATEMENT OF ZONING COMPLIANCE.

Where an addition, alteration or reconstruction of a building or the construction or erection of a fence, wall, parking area, or other structure is undertaken after the issuance of a building permit and upon completion is in accordance with all provisions of this chapter; and where a certificate of occupancy is not applicable, a statement of zoning compliance shall be issued in the same manner as a certificate of occupancy.
('71 Code, § 6-15-(d)) (Ord. 157, passed 10-1-69; Amd. Ord. 73-9, passed 5-16-73; Amd. Ord. 74-25, passed 8-7-74; Amd. Ord. 88-06, passed 5-19-88) Penalty, see § 10.99

Cross reference:
Building permit applications, see § 150.31

§ 150.38 SPECIAL EXCEPTION USES.

All applications for building permits for special exception uses shall be accompanied by plans and any other information as may be required by this chapter and Chapter 158.
('71 Code, § 6-14) (Ord. 157, passed 10-1-69; Amd. Ord. 73-27, passed 9-26-73; Amd. Ord. 88-06, passed 5-19-88) Penalty, see § 10.99

§ 150.39 RECORDS.

The Planning, Zoning and Building Department shall maintain a record of all certificates and statements.
('71 Code, § 6-15(a) through (c)) (Ord. 157, passed 10-1-69; Amd. Ord. 73-9, passed 5-16-73; Amd. Ord. 74-25, passed 8-7-74; Amd. Ord. 85-4, passed 6-3-85; Amd. Ord. 88-06, passed 5-19-

88; Amd. Ord. 93-22, passed 9-27-93)

MOVING OF BUILDINGS

§ 150.50 PERMIT REQUIRED; FEE.

(A) It shall be unlawful for any person to move or cause to be moved any building or structure within, out of, or into the town limits without first obtaining a permit from the Building Official. ('71 Code, § 6-31)

(B) The fee for obtaining a permit to move a building over the town streets shall be set by resolution of the Town Commission. ('71 Code, § 6-37) (Ord. 74-23, passed 8-7-74; Amd. Ord. 90-27, passed 10-8-90; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 93-25, passed 2-7-94; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98) Penalty, see § 10.99

Cross reference:
Permit fees for moving buildings or structures, see § 150.06

§ 150.51 APPLICATION FOR PERMIT.

(A) An application for a permit for the moving of a building or structure shall be filed with the Building Official, and shall be signed by the owner of the property on which the building or structure is located, or by the owner of the building or structure. The application shall specify the following.

(1) The character and size of the building to be moved.

(2) The use, purpose, and occupancy for which the building or structure is to be used.

(3) The location from which and to which the building is to be moved.

(4) A plot plan showing the proposed location of the building on the property to which the building is to be moved, provided the location is in the town.

(5) The streets on, over, or through which it is desired to move the building.

(6) The time and manner of moving the building.

(7) Whether the building conforms to the zoning laws in the location to which it is to be moved.

(B) Upon the filing of the application, the Building Official or designee shall review the application and prepare a report containing recommended actions.

(C) An opinion of title or a certificate from an abstract company shall accompany the application, which shall clearly indicate the ownership of the property both from which and to which the building or structure is to be moved. If the structure or building is to be moved by a person other than the person owning the property on which it is located, the written

consent of the owner of the property shall be filed with the Director of the Planning, Zoning and Building Department authorizing the moving thereof.

(D) In no case shall any building be moved within the town limits or from out of the town limits into the limits of the town in any restricted area wherein and whereby the moving would violate any restrictions of the zoning code.

(E) No house or structure shall be left parked on the streets of the town after dark. The streets over which any building or structure is to be moved must be approved by the Director of the Planning, Zoning and Building Department and the Chief of Police.

(F) The permit issued shall definitely state the time and manner in which the building or structure shall be moved, and the time within which it shall be reconditioned and repaired, which time shall not be longer than reasonably necessary to complete the work.

(G) Any person seeking a moving permit to relocate a building within the town under this subchapter shall file with the town a cash or surety bond, payable to the town, which shall be approved by the Town Attorney and conditioned that the building or structure to be moved shall be moved to the location and repaired and reconditioned in accordance with plans and specifications submitted to and approved by the Director of the Planning, Zoning and Building Department and in accordance with the conditions and provisions that may be provided for in the permit, and by the town ordinances. If the property from which the building or structure is to be moved lies within the town then the bond shall be conditioned that the property from which the building or structure is moved shall be placed in a sanitary, clean, and sightly manner.

(H) The Town Commission may modify any of the above provisions for good cause shown, with the further provision that the bond be not less than the estimated cost of improving. ('71 Code, § 6-32) (Ord. 74-23, passed 8-7-74; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 98-24, passed 7-16-98)

Cross reference:
Moving or demolishing buildings; sewers to be capped, see § 52.07

§ 150.52 LIABILITY INSURANCE.

(A) Every person moving a building in the town shall file with the Town Clerk a liability insurance policy issued by the solvent corporation holding a certificate of authority to do insurance business in the state, which shall conform in all respects to the requirements of this section. In lieu of filing the insurance policy herein referred to, a certificate of insurance issued by an insurance corporation may be filed.

(B) The certificate must show that a policy meeting the requirements of this section has been issued, and shall set forth the expiration date of the policy. The liability policy required under this section shall insure the person moving a building against loss from the liability imposed by law for injury to, or death, of any person, or damage to any property growing out of the moving of the building, to the amount or limit of $100,000, exclusive of interest and costs,

on account of injury to, or death of, any one person, and subject to the same limit as respects injury to or death of one person; of $300,000, exclusive of interest and costs, on account of moving any one building resulting in injury to or death of more than one person; and $100,000 for damage to property of others, resulting from moving any one building.
('71 Code, § 6-33) (Ord. 74-23, passed 8-7-74) Penalty, see § 10.99

§ 150.53 INFORMATION REQUIRED PRIOR TO PERMIT ISSUANCE.

(A) Prior to the issuance of a permit to move a building, the owner or lessee of the property from which the building is to be moved shall file with the Building Official written assurance of the following.

(1) Before any work is started on a building or structure, the permittee or his authorized agent shall notify the appropriate utilities in order that all gas, water, sewer, and other pipelines may be securely capped and sealed.

(2) Immediately after the moving of any building or structure the permittee or his authorized agent shall immediately fill all excavations, holes, or openings to the existing grade.

(3) Immediately after moving any building or structure, the permittee or his authorized agent shall pump out and fill with dirt or sand any septic tanks or cesspools located on the property.

(B) If the property from which the building is to be moved lies within the town, then, before any permit for the moving of any building or structure, as provided for in this sub-chapter, shall be granted, the applicant shall present to the Building Official tax receipts or other evidence that all tax and special assessment liens against the property from which it is to be removed are fully paid.

(C) Before any permit shall be granted for the moving of any building or structure onto any property within the town limits, the plans and specifications required under the terms of this subchapter to be filed by the applicant shall clearly show that the building or structure, with the improvements and repairs to be made, shall be of a character, appearance, and value that no injury or damage to the property valuations of that general locality or area shall be sustained.
('71 Code, § 6-34) (Ord. 74-23, passed 8-7-74; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 98-24, passed 7-16-98) Penalty, see § 10.99

§ 150.54 APPROVAL PROCEDURE; COSTS.

(A) No permit for the moving of buildings or structures within or into the town shall be valid unless approved by the Town Commission after a public hearing. Before final action shall be taken by the Town Commission thereon, the owners of property located within a radius of 300 feet of the lot on which the building is to be moved shall be notified by the Director of the Planning, Zoning and Building Department of the application for the moving permit.

2000 TOWN CODE

(B) The notice shall be mailed to the last known address, as nearly as it may be ascertained, of each owner at least 20 days prior to final hearing by the Town Commission in order that the owners may have an opportunity to appear in person or by writing to protest or object to the granting of the permit; however, the provisions of this section shall not apply to buildings to be moved to a location outside of the city, or to another location on the same lot. When the written consent of all owners of property entitled to receive notice shall be filed with the Building Inspector approving the granting of a moving permit, then the permit may be granted, without a hearing, after the application shall have been on file for a period of one week, and after approval by the Town Commission.

(C) The applicant shall pay all the costs associated with public notice.
('71 Code, § 6-36) (Ord. 74-23, passed 8-7-74; Amd Ord. 93-25, passed 2-7-94; Amd. Ord. 98-25, passed 7-16-98) Penalty, see § 10.99

§ 150.55 BUILDING CODE TO APPLY.

The provisions of the building code shall apply to structures or buildings moved under the provisions of this subchapter in the same



manner as new buildings, except where the provisions of this subchapter otherwise provide.
('71 Code, § 6-35) (Ord. 74-23, passed 8-7-74)

Cross-reference:
Moving or demolishing buildings; sewers to be capped, see § 52.07

SWIMMING POOL CONSTRUCTION

§ 150.60 MINIMUM STANDARDS.

All swimming pool and associated construction shall, in addition to other requirements set forth in this code, meet the following minimum requirements:

(A) Concrete block 8" x 8" x 16" #4 Re-bars at 16' o.c. vertical, #9 ga. horizontal truss type reinforcing at 16" o.c. with footing 8" x 16" w/2 #5 Re-bar dowels required for above vertical Re-bars. (See § 1400, Standard Building code)

(B) Reinforced concrete walls - 6" thick poured - 8" thick hand-paced - w/#3 Re-bars 12" o.c. each way. (See Chapter XVI of the Standard Building Code)

(C) Pneumatic concrete walls - Gunite or equal - 3500 p.s.i. concrete - 4" thick w/#3 Re-bars 12" o.c. each way. (See Chapter XVI of the Standard Building Code)

(D) Floors - 4" thick - #3 Re-bars 12" o.c. each way. (See Chapter XVI of the Standard Building Code)

(E) Perimeter beams - 8" x 8" w/1 #5 Re-bar around pool and patio decks. (See Chapter XVI of the Standard Building Code)

(F) Patio decks - 3-1/2" thick - with 6" x 6" #10 welded wire mesh. (See Chapter XVI of the Standard Building Code)

(B) Alternate materials and construction - This section is not intended to prevent the use of steel, plastic, aluminum, vinyl or other pool material or method of construction provided any such alternate has been approved and its use authorized by the Building Official. The Building Official shall approve any such alternate, provided he finds that the proposed design is satisfactory and complies with the provisions of Chapter XII of the Standard Building Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the code in quality, strength, effectiveness, fire-resistance, durability, and safety. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claim that may be made regarding its use. (Ord. 84-22, passed 12-3-84)

COASTAL CONSTRUCTION CODE

Prior history:
Ord. 86-6, passed 4-7-86

§ 150.61 TITLE.

The provisions contained in this subchapter constitute the Coastal Construction Code for construction within the coastal building zone and coastal barrier islands in the town and shall be referred to as the "Coastal Zone."
(Ord. 86-20, passed 9/22/86)

§ 150.62 CONFLICT.

In the event of a conflict between this section and other sections or chapters of this code, the requirements resulting in more restrictive design shall apply. No provisions in this subchapter shall be construed to permit any construction in any area prohibited by local town, county or state regulation.
(Ord. 86-20, passed 9/22/86)

§ 150.63 SCOPE.

(A) Applicability. The requirements of this Coastal Code shall apply to the following types of construction in the Coastal Building Zone and on coastal barrier islands in the town:

(1) The new construction of, or improvement to, major structures, nonhabitable major structures, and minor structures as defined in this code.

(2) Construction which would change or alter the character of the shoreline (e.g. excavation, grading, paving). The Coastal Code does not apply to minor work in the nature of normal beach cleaning or debris removal.

(B) Existing structures. The requirements of this subchapter shall not apply to existing structures, structures under construction, or structures for which a valid and unexpired municipal or county building permit was issued prior to the adoption of the Coastal Code by Ordinance 86-6.

(C) Multizone structures. For structures located partially in the Coastal Building Zone, the requirements of the Coastal Code shall apply to the entire structure.

(D) Construction seaward of mean high water. Structures or construction extending seaward of the mean high water line which are regulated by Section 161.041, Florida Statutes, (e.g., groins, jetties, moles, breakwaters, seawalls, revetments, beach nourishment, inlet dredging, etc.), are specifically exempt from the provisions of this subchapter. In addition, the Coastal Code does not apply to piers,

pipelines, or outfalls which are regulated pursuant to the provisions of Section 161.053, Florida Statutes.

(E) Application for permits. Applications for building permits for all construction in the Coastal Building Zone and on coastal barrier islands, if not of normal or usual design as determined by the Building Official, shall be certified by an architect or professional engineer registered in the state of Florida. Such certification shall state that the design plans and specifications for the construction are in compliance with the criteria established by this Coastal Code.

§ 150.64 DEFINITIONS.

The following terms are defined for general use in the Coastal Code. The enumeration of types of structures in the definitions in this section shall not be construed as excluding from the operation of this Coastal Code any other structure which, by its usage, design, dimensions or structural configuration, would require engineering consideration similar to the listed structures.

(A) "BEACH." The zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. "Beach" is alternatively termed "shore."

(B) "BREAKAWAY WALL" or "FRANGIBLE WALL." A partition independent of supporting structural members that will withstand design wind forces, but will fail under hydrostatic, wave, and runup forces associated with the design storm surge. Under such conditions, the wall shall fail in a manner such that it breaks up into components that will not act as potentially damaging missiles.

(C) "BUILDING SUPPORT STRUCTURE." Any structure which supports floor, wall or column loads, and transmits them to the foundation. The term shall include beams, grade beams, or joists, and includes the lowest horizontal structural member exclusive of piles, columns, or footings.

(D) "COASTAL BARRIER ISLANDS." Geological features which are completely surrounded by marine waters that front upon the open waters of the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida and are composed of quartz sands, clays, limestone, oolites, rock, coral, coquina, sediment, or other material, including soil disposal, which features lie above the line of mean high water. Mainland areas which were separated from the mainland by artificial channelization for the purpose of assisting marine commerce shall not be considered coastal barrier islands.

(E) "COASTAL BUILDING ZONE." The land area from the seasonal high water line landward to a line 5,000 feet landward from the coastal construction control line established pursuant to Section 161.053, Florida Statutes. For those coastal areas fronting on the Gulf of

Mexico, Florida Bay or Straits of Florida and not included under Section 161.053, Florida Statutes, the land area seaward of the most landward velocity zone (v-zone) line as established by the Federal Emergency Management Agency and shown on flood insurance rate maps.

(F) "COASTAL OR SHORE PROTECTION STRUCTURE." Shore-hardening structures, such as seawalls, bulkheads, revetments, rubble mound structures, groins, breakwaters, and aggregates of materials other than beach sand used for shoreline protection; beach and dune restoration, and other structures which are intended to prevent erosion or protect other structures from wave and hydrodynamic forces.

(G) "COLUMN ACTION." The potential elastic instability in piles or columns resulting in axial or lateral bending of the member due to compressive stress.

(H) "CONSTRUCTION." The carrying out of any building, clearing, filling, excavation or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, "construction" refers to the act of construction or the result of construction.

(I) "DUNE." A mound or ridge of loose sediments, usually sand-sized, lying landward of the beach, and deposited by natural or artificial means.

(J) "MAJOR STRUCTURE." Houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, towers and other types of residential, commercial or public buildings and other construction having the potential for substantial impact on coastal zones.

(K) "MEAN HIGH WATER LINE." The intersection of the tidal plane of mean high water with the shore. Mean high water is the average height of high waters over a 19-year period. (See Section 177.27(15), Florida Statutes).

(L) "MINOR STRUCTURE." Pile-supported, elevated dune and beach walkover structures, beach access ramps and walkways, stairways, pile-supported elevated viewing platforms, gazebos, and boardwalks, lifeguard support stands, public and private bathhouses, sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts and other uncovered paved areas, earth retaining walls, sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, and other ornamental construction. It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm fences.

(M) "NONHABITABLE MAJOR STRUCTURE." Swimming pools, parking garages, pipelines, piers, canals, lakes, ditches, drainage structures, and other water-retention structures, water and sewage treatment plants, electrical power plants, transmission and distribution

lines, transformer pads, vaults, and substations, roads, bridges, streets, and highways, underground storage tanks.

(N) "NGVD." National Geodetic Vertical Datum means a geodetic datum established by the National Ocean Service and frequently referred to as the 1929 Mean Sea Level Datum.

(O) "SUBSTANTIAL IMPROVEMENT." Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds a cumulative total of 50% of the market value of the structure either:

(1) Before the improvement or repair is started; or

(2) If the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.
(Ord. 86-20, passed 9/22/86)

§ 150.65. COASTAL CONSTRUCTION REQUIREMENTS.

(A) General. Construction requirements within the coastal building zone shall meet the requirements of this chapter.

(B) Structural requirements for major structures.

(1) Major structures shall conform to the Standard Building Code, as adopted and amended in this chapter.

(2) Mobile homes shall conform to the Federal Mobile Home Construction and Safety Standards or the Uniform Standards Code ANSI book A-119.1, pursuant to Section 320.823, Florida Statutes, and to the requirements of paragraph (3) of this subsection.

(3) Major structures shall also be designed, constructed and located in compliance with National Flood Insurance Program regulations as found in 44 CFR, Parts 59 and 60 or the town's Flood Control Ordinance (Chapter 154 of this code), whichever is more restrictive.

(4) Major structures, except those conforming to the standards of paragraph (2) of this subsection, shall, at a minimum, be designed and constructed in accordance with Section 1205 of the 1986

revisions to the 1985 Standard Building Code using a fastest mile-wind velocity of 110 miles per hour.

(5) Foundation design and construction of a major structure shall consider all anticipated loads resulting from a 100-year storm event, including wave, hydrostatic and hydrodynamic loads acting simultaneously with live and dead loads. Erosion computations for foundation design shall account for all vertical and lateral erosion and scour-producing forces, including localized scour due to the presence of structural components. Foundation design and construction shall provide for adequate bearing capacity taking into consideration the anticipated loss of soil above the design grade as a result of localized scour. The erosion computations required by this paragraph do not apply landward of coastal construction control lines which have been established or updated since June 30, 1980. Upon request, the Department of Natural Resources may provide information and guidance as to those areas within the Coastal Building Zone where the erosion and scour of a 100-year storm event is applicable.

(C) Structural requirements; minor structures. Minor structures need not meet specific structural requirements provided in subsection (B), except for the requirements of paragraph (3) and except for applicable provisions of the Standard Building Code as adopted by and amended in this chapter. Such structures shall be designed to produce the minimum adverse impact on the beach and the dune system and adjacent properties and to reduce the potential for water-blown and wind-blown material. Construction of a rigid coastal or shore protection structure designed primarily to protect a minor structure shall not be permitted.

(D) Structural requirement; nonhabitable major structures. Nonhabitable major structures need not meet specific structural requirements provided in subsection (B) of this section, except for the requirements of paragraph (3), and except for applicable provisions of the Standard Building Code as adopted by and amended in this chapter. Such structures shall be designed to produce the minimum adverse impact on the beach and dune system and shall comply with any applicable state and local standards not found in this section. All sewage treatment plants and public water supply systems shall be floodproofed to prevent infiltration of surface water from a 100-year storm event. Underground utilities, excluding pad transformers and vaults, shall be floodproofed to prevent infiltration of surface water from a 100-year storm event or shall otherwise be designed so as to function when submerged by such storm event.

(E) Location of construction. Construction, except for elevated walkways, lifeguard support stands, piers, beach access ramps, gazebos, and coastal or shore protection structures, shall be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability.

(F) Application to coastal barrier islands. All building requirements applicable to the Coastal Building Zone shall also apply to

coastal barrier islands. The Coastal Building Zone on coastal barrier islands shall be the land area from the seasonal high-water line to a line 5,000 feet landward from the coastal construction control line established pursuant to Section 161.053, Florida Statutes, or the entire island, whichever is less. For coastal barrier islands on which a coastal construction control line has not been established pursuant to Section 161.053, the Coastal Building Zone shall be the land area seaward of the most landward velocity zone (v-zone) boundary line fronting upon the Gulf of Mexico, Florida Bay or Straits of Florida.

(G) Public access. Where the public has established an accessway through private lands to lands seaward of the mean high tide or water line by prescription, prescriptive easement, or any other legal means, development or construction shall not interfere with such right of public access unless a comparable alternative accessway is provided. The developer shall have the right to improve, consolidate, or relocate such public accessways so long as the accessways provided by the developer are:

(1) Of substantially similar quality and convenience to the public;

(2) Approved by the town and approved by the Department of Natural Resources whenever improvements are involved seaward of the coastal construction control line; and

(3) Consistent with the coastal management element of the local comprehensive plan adopted pursuant to Section 163.3178, Florida Statutes.
(Ord. 86-20, passed 9/22/86)

REQUIREMENTS NOT COVERED BY CODE

§ 150.71 REQUIREMENTS NOT COVERED BY CODE.

Any requirement necessary for the strength or stability of an existing or proposed building or structure, or for the safety or health of the occupants thereof, not specifically covered by this Code, shall be determined by the Building Inspector, and any building permit may be issued conditioned upon the satisfaction of any such requirement.
(Ord. 86-26, passed 10-6-86)

BURIAL OF TREES AND OTHER ORGANIC MATTER

§ 150.72 BURIAL OF TREES AND OTHER ORGANIC MATERIAL.

(A) It is unlawful for any person or corporation to bury trees or any other organic material subject to decay without first obtaining a burial permit from the Building Official.

(B) The Building Official shall issue a written permit to bury trees or other organic material only under the following conditions:

(1) A written request for the permit designating the material to be buried and the specific burial site or area has been received; and

(2) The Building Official has determined that the proposed burial will not have a present or future adverse impact on the site or area where the material is to be buried or on any adjacent site or area.

(Ord 86-26, passed 10-6-86; Amd. Ord. 98-24, passed 7-16-98)

Chapter 151: SHORELINE CONSTRUCTION

Section

151.01 Definitions
151.02 Purpose
151.03 Permit required; application
151.04 Application processing procedure; processing fee
151.05 Permit issuance; conditions
151.06 State approval of permit required
151.07 Emergency permit

Statutory reference:

Regulation of shoreline construction, reconstruction, or other physical activity, see F.S.A. § 161.011 et seq.

§ 151.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"BASE AND CONTROL LINES." These words shall have the same meaning as 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 the State of Florida.

"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 31 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 Clerk.

"REPAIRS." Modifications to mend or fix existing seawalls where the seawall has not lost its structural integrity.

"REPLACEMENT." Installation of a new seawall which is the substantial equivalent of the structure being supplanted in its original condition. If a seawall has collapsed or otherwise lost its structural integrity for a period of greater than six months, an application shall be treated as new seawall construction.

"REVETMENT." A sloping covering of stone or other similar material to hold in place a shoreline.

"SEAWALL." Vertical wall or embankment for checking the encroachment of the gulf, bay, canal, bayou, pass or lagoon or for use as a breakwater.

"SHORELINE CONSTRUCTION." Any work or activity within the town on its shores which is likely to have a material physical effect on existing shoreline conditions or natural shore processes; includes coastal construction.
('71 Code § 7-1) (Ord. 105, passed 7-13-65; Amd. Ord. 91-05, passed 3-4-91)

§ 151.02 PURPOSE.

It is the intent of this chapter to provide for the management and conservation of the town's shoreline environmental resources. Management and conservation of shoreline resources shall be accomplished by regulating the installation of seawalls, and by regulating shoreline construction activities along the gulf, bay, canals, passes and lagoons to ensure the minimal physical effect on existing shoreline conditions, the maximum protection of natural shore processes, and an ecologically sound method of protecting property.
('71 Code § 7-2) (Ord. 105, passed 7-13-65; Amd. Ord. 91-05, passed 3-4-91)

§ 151.03 PERMIT REQUIRED; APPLICATION.

(A) Seawall Construction:

(1) If the proposed seawall is located toward, along, or adjacent to the Gulf of Mexico, Longboat Pass, New Pass, Sarasota Bay and its associated lagoons, bayous and all tidal-influenced waterways, except manmade canals, the applicant must obtain all necessary permits from the agencies of the State of Florida having jurisdiction. The town will grant a permit only after such permit has been issued by the State of Florida and the town finds that:

(a) There is significant erosion at the site;

(b) No viable alternative exists;

(c) Revetment or nonstructural shoreline stabilization is utilized to the extent feasible;

(d) There exists an inhabited structure on the upland which is threatened by the erosion; and

(e) All other provisions of the Code are met.

The permit shall be issued by the Town Manager or designee only if all factors listed above are met. All construction of seawalls and revetment shall be constructed landward of the existing mean high-water line except as provided below for repairs/replacements of existing seawalls.

(2) Along manmade canals, seawalls will be permitted only where the applicant can meet all of the provisions of the Code, including but not limited to the requirements of § 158.102(G) and where a seawall exists on adjoining properties.

2000 TOWN CODE

(B) Existing Seawall Repair and Replacement:

(1) Repairs to existing seawalls are permitted provided that all such repairs shall not protrude further seaward than the existing structure, except that a buttress, not to extend more than six inches seaward of the existing seawall or seawall cap, may be erected.

(2) Replacement seawalls are permitted provided that the seawall structure does not protrude further seaward than the structure being replaced.

(3) Any dispute as to structural integrity will be resolved at the applicant's expense by an engineer registered in the State of Florida.

(C) Mangroves: Where mangroves exist and the applicant has otherwise complied with this chapter and all other applicable sections of the Town Code, the applicant must meet the following additional criteria: Seawall construction shall be prohibited except that a seawall may be constructed more than 10 feet landward from the canopy or root system of the mangrove, whichever produces the greater setback. Elevation of the top of the seawall cap shall not be greater than 12 inches from the existing grade prior to construction. Existing grade is defined as the elevation or grade of the parcel as of March 15, 1991. If fill material is deposited after the above date, the previous elevation shall be considered as the existing grade for purposes of this section. The burden of proving the grade shall be upon the applicant. All areas seaward of the seawall shall not be filled or otherwise disturbed.

Rock revetment may be substituted for a seawall provided it is located landward of the mean high-water line and the mangroves will not be damaged or removed except as provided by Chapter 98 of the Town Code.

(D) Prohibitions: Shoreline construction is prohibited along the shoreline of satellite islands within corporate limits of the town.

(E) Any person desiring to undertake shoreline construction, as defined in § 151.01, shall make application in writing in duplicate to the Town Manager or designee which application shall contain the following:

(1) Name and address of applicant property owner.

(2) Name, address, and capacity of person making application, if other than property owner.

(3) Legal description of upland property adjacent to or in front of which construction is planned.

(4) Evidence of record ownership of adjacent upland property (certified statement by license title or abstract company or county tax assessor or clerk); and, if applicant is not the property owner, a statement from the owner record consenting to the proposed construction.

(5) Statement describing the purpose of the proposed construction; the problem, its cause, and the expected effect of the proposed construction on adjacent and neighboring property.

(6) Location map on 8-1/2-inch by 11-inch paper, showing the location of each structure to approximate scale, and the following information:

(a) Name of applicant.

(b) 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.

(c) Location by town and county.

(d) Name of water body.

(e) Brief word description or title of project.

(f) General identifying landmarks.

(g) Legend or labels to identify graphic objects.

(h) Date.

(i) Scale and north arrow.

(j) Control line.

(7) Names and addresses from latest county tax roll or owners of all riparian property within 1,000 feet of any proposed coastal construction or within 200 feet of any proposed shoreline construction.

(8) Where applicable, a statement by an engineer, registered in the State of Florida, that the plan and elevation views of the structures, and the profile of the shore 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. The statement shall also include a declaration that any plan of proposed 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.

(9) In the event the proposed shoreline construction is such that the applicant's engineer cannot make the statement required in division (8) above, then in addition to the requirements of divisions (1) through (7) above a drawing prepared by a registered professional engineer shall be submitted, showing the following at scale:

(a) Plan view of structures (or typical structure, if all are essentially identical), with mean high and mean low-water lines extending 100 feet on each side.

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

(c) Profiles of shore at proposed structures (or typical structure) from dune crest to 100 feet beyond mean-high water line where applicable, with elevations referenced to mean sea level datum.

(d) Details of construction, including materials to be used. ('71 Code §§ 7-3, 4)

(Ord. 105, passed 7-13-65; Am. Ord. 91-05, passed 3-4-91; Amd. Ord. 98-24, passed 7-16-98)

§ 151.04 APPLICATION PROCESSING PROCEDURE; PROCESSING FEE.

(A) Applications will be checked by the Town Manager or designee for completeness prior to processing. Following an office review of the proposed construction, a field investigation will be conducted if indicated by the nature of the project. Riparian property owners within 1,000 feet of the proposed construction will be notified by the town and given 15 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 1,000 feet. If the proposed project is approved by the town, recommendation will be made to the agency of the state having jurisdiction that the permit be issued. If, in the opinion of the town and the agency of the state having jurisdiction 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. ('71 Code, § 7-5)

(B) A processing fee, payable in advance, will be charged for each application to partly offset costs of investigation and handling. The fee shall be set by resolution of the Town Commission. An application for contiguous properties may be made jointly by owners. Checks should be made payable to the town. ('71 Code, § 7-4(h))
(Ord. 105, passed 7-13-65; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98)

§ 151.05 PERMIT ISSUANCE; CONDITIONS.

The town will issue a permit for shoreline construction if the application is approved by the Town Manager or designee. 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 agency of the state having jurisdiction, made a part of this permit and agreement.

(B) The permittee shall in no way obstruct or impair the use of the shore by the public in the area below the mean high-water line, except to a minimum extent determined by the town and by the state agency having jurisdiction 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 state agency having jurisdiction 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 state agency having jurisdiction, if in the opinion of the town or the agency 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 state agency as to whether adjustment, alteration or removal is required shall be final; and the town or state agency shall set reasonable time limits within which adjustment, alteration, or removal shall be accomplished.

(F) This permit and agreement shall be canceled and the permittee directed to remove the structure or other physical evidence of the work or activity permitted hereunder, at the permittee's expense, on 30 days' written notice from the town or state agency having jurisdiction, 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 state agency having jurisdiction with an acceptable surety bond in an amount equal to 110% of the estimated cost of removal of the shoreline construction, but in no case less than $500, for the 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 the bond may be waived, discontinued at any time, renewed for the successive terms, or kept in force perpetually, at the discretion of the state agency having jurisdiction.

(H) Upon completion of the work the permittee shall notify the Town Manager or designee and the Town Manager or designee 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 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.
('71 Code § 7-6) (Ord. 105, passed 7-13-65; Amd. Ord. 91-05, passed 3-4-91; Amd. Ord. 98-24, passed 7-16-98)

§ 151.06 STATE APPROVAL OF PERMIT REQUIRED.

Upon action on any application for a permit for shoreline construction, the Town Manager or designee shall forward a copy of the application, together with his recommendations to the agency of the state having jurisdiction. No permit granted by the town shall become effective until the state agency having jurisdiction grants a permit for such construction.
('71 Code § 7-7) (Ord. 105, passed 7-13-65; Amd. Ord. 91-05, passed 3-4-91; Amd. Ord. 98-24, passed 7-16-98)

§ 151.07 EMERGENCY PERMIT.

The Town Manager or designee may grant an emergency permit, if emergency exists in the opinion of the Town Manager or designee, without a formal application therefor after he has obtained the verbal of written approval of the state agency having jurisdiction. The emergency permit shall be conditioned on the applicant agreeing in writing to hold the Town harmless and indemnify the Town from any damage to persons or property which might result from the emergency work permitted hereunder and immediately making an application pursuant to this chapter.

('71 Code, § 7-8) (Ord. 105, passed 7-13-65; Amd. Ord. 98-24, passed 7-16-98)

§ 151.07 EMERGENCY PERMIT.

The Town Manager or designee may grant an emergency permit, if emergency exists in the opinion of the Town Manager or designee, without a formal application therefor after he has obtained the verbal of written approval of the state agency having jurisdiction. The emergency permit shall be conditioned on the applicant agreeing in writing to hold the Town harmless and indemnify the Town from any damage to persons or property which might result from the emergency work permitted hereunder and immediately making an application pursuant to this chapter.

('71 Code, § 7-8) (Ord. 105, passed 7-13-65; Amd. Ord. 98-24, passed 7-16-98)

Section

Permits

152.01 Permit required; exceptions
152.02 Application; processing fees and costs
152.03 Plans and drawings
152.04 Issuance; revocation
152.05 Staking of area to be filled
152.06 Waiver of requirements

Improvements and Special Assessments

152.15 Special assessments for improvements; resolution required
152.16 Publication of resolution
152.17 Assessment plat
152.18 Assessment roll
152.19 Public hearing by Equalizing Board
152.20 Assessment in proportion to benefits
152.21 Payment of assessment; lien
152.22 Foreclosure
152.23 Issuance of bonds
152.24 Second assessment
152.25 Payments by town
152.26 Irregularities not affecting validity

PERMITS

§ 152.01 PERMIT REQUIRED; EXCEPTIONS.

(A) No lands within the corporate limits of the town, whether bordering on tidal waters, or otherwise, shall be dredged or excavated, and none of these 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 Manager or designee in compliance with the terms of this chapter, and F.S. Ch. 253, except as hereinafter set forth as exceptions to this section, and this chapter.

(1) The normal matters coming up in the construction and building of buildings, and the maintenance of grounds.

(2) Swimming pools.

(3) Projects initiated by the Town of Longboat Key and as approved by the Town Commission.

(B) All of the above exceptions shall refer only to the lands owned by the individual applicant.

('71 Code, § 8-1) (Ord. 98-24, passed 7-16-98) Penalty, see § 10.99

§ 152.02 APPLICATION; PROCESSING FEES AND COSTS.

(A) A sworn application for a permit under this chapter, accompanied by the required filing fee and the exhibits provided herein, shall be made to the Town Manager or designee. The application shall contain the following unless the Town Manager or designee determines that one or more of the following are not applicable to the particular development:

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

(2) An accurate, legal description of the land or submerged land from which fill material is to be dredged or excavated, if any. The 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.

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

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

(5) The names and addresses of all persons owning or holding any legal or equitable interest in the lands described pursuant to divisions (1) and (2) of this section, as shown by the public records of the county in which the lands are located.

(6) The names and addresses of all persons owning lands bordering on, or adjacent to, the mean high-water line within 1000 feet of the areas to be filled and dredged, as shown by the latest tax assessment roll in the county in which the lands are located.

(7) Satisfactory evidence of fee simple title to lands described pursuant to division (1), and satisfactory evidence of the ownership of lands described pursuant to division (2). 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.
('71 Code, § 8-2)

(B) The application fee for filing, processing, and considering an application for a permit under this chapter shall be set by resolution of the Town Commission.
('71 Code, § 8-3) (Ord. 93-25, passed 2-7-94; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98)

§ 152.03 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 water to fill material available for dredging in the area to be dredged.

(E) Showing the elevation of the proposed fill above the 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 any other matters and meeting any other requirements the Town Manager or designee may reasonably require in order that a comprehensive and complete plan of the proposed construction is presented.
('71 Code, § 8-6) (Ord. 98-24, passed 7-16-98)

§ 152.04 ISSUANCE; REVOCATION.

(A) Upon receipt of four copies of an application and all other matters required in this chapter, the Town Manager or designee shall evaluate and determine the appropriateness and completeness of the application. Within 90 days of the submission of a valid, complete application the Town Commission shall hold a public hearing on the application.

(B) Upon consideration, if the Commission finds that the work proposed in the application does not violate any statute, zoning law, ordinance, or other restriction which may be applicable thereto; no harmful obstruction to, or alteration of, the natural flow of the navigable waters within the area will arise from the proposed construction; no harmful or increased erosion, shoaling of channels, or stagnant areas of water will be created thereby; 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 agency of the state having jurisdiction.

(C) Upon Town Commission approval and receipt of a permit from the state and/or federal agency having jurisdiction, the Town Manager or designee shall issue a permit for the work proposed in the application, which shall be an authorization for the applicant to perform and complete the work described in the application within a period of two years after the date of the issuance of the permit. The Town Manager or designee may extend the time for completion of the work for good cause, upon a showing that all due efforts and diligence toward completion of the work have been made.

('71 Code,§ 88-4) (Ord. 182, passed 10-21-70; Amd. Ord. 98-24, passed 7-16-98)

Statutory reference:
Internal Improvement Trust Fund, see F.S. Ch. 253

§ 152.05 STAKING OF AREA 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.
('71 Code, § 8-7) (Ord. 98-24, passed 7-16-98)

§ 152.06 WAIVER OF REQUIREMENTS.

(A) The Town Manager or designee may waive any of the requirements of applicants to fill upland property of less than 10,000 square feet by dredging less than 500 cubic yards, provided the work proposed does not violate any zoning law, ordinance, or other restriction which may be applicable thereto; no harmful obstruction to, or alteration of, the natural flow of the navigable waters within the area will arise from the proposed construction; no harmful of increased erosion, shoaling of channels, or stagnant areas of water will be created thereby; and no material injury or monetary damage to adjoining land will accrue therefrom.

(B) The Town Manager or designee may waive any of the requirements of application to dredge any existing canal of 5,000 cubic yards or less when the work is for maintenance purposes, without reference to the Town Commission, and the permit shall be issued by the Town Manager or designee. The permit fee for a maintenance work permit shall be set by resolution of the Town Commission.
('71 Code, § 8-5) (Ord. 182, passed 10-21-72; Amd. Ord. 74-28, passed 9-18-74; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98)

IMPROVEMENTS AND SPECIAL ASSESSMENTS

§ 152.15 SPECIAL ASSESSMENTS FOR IMPROVEMENTS; RESOLUTION REQUIRED.

(A) The town, by its Town Commission, may provide for the construction, reconstruction, repair, cleaning, or dredging of canals or waterways within the boundaries of the town and provide for the payment of all or any part of the costs of any of these improvements by levying and collecting special assessments on the abutting, adjoining, contiguous, or other specifically benefited property. ('71 Code, § 8-8)

(B) When the Town Commission determines to make any improvement authorized by division (A) above, and defray the whole or any part of the expense thereof by special assessments, the Commission shall so declare by resolution stating the nature of the proposed improvement, designating the canal or waterway to be so improved, and the part or portion of the expense thereof to be paid by special assessments, the manner in which these assess-

ments shall be made, when the assessments are to be paid and what part, if any, shall be apportioned to be paid from the general improvement fund of the town, if any. The resolution shall also designate the lands upon which the special assessments shall be levied.

(1) In describing the lands, it shall be sufficient to describe them as "all lots and lands adjoining and contiguous or bounding and abutting the improvements or specially benefited thereby and further designated by the assessment plat hereinafter provided for."

(2) The resolution shall also state the total estimated cost of the improvement. The estimated cost may include the cost of construction or reconstruction, the cost of all labor and materials, financing charges, interest prior to and during construction and for one year after completion of construction, discount on the sale of special assessment bonds, cost of plans and specifications, surveys of estimates of costs and of revenues, cost of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of the construction or reconstruction, administrative expense, and any other expense necessary or incident to the financing herein authorized.
('71 Code, § 8-10) (Ord. 79-18, passed 11-7-79)

§ 152.16 PUBLICATION OF RESOLUTION.

Upon the adoption of the resolution provided for in § 152.15, the town shall cause the resolution to be published one time in a newspaper of general circulation published in the town, and if there is no newspaper published in the town, the governing authority of the town shall cause the resolution to be published once a week for a period of two weeks in a newspaper of general circulation published in the county in which the special assessment project is located.
('71 Code, § 8-12) (Ord. 79-18, passed 11-7-79)

§ 152.17 ASSESSMENT PLAT.

At the time of the adoption of the resolution provided for in § 152.15(B), there shall be on file with the Town Clerk, an assessment plat showing the area to be assessed, with plans and specifications, and an estimate of the cost of the proposed improvement. This assessment plat, plans, specifications, and estimate shall be open to the inspection of the public.
('71 Code, § 8-11) (Ord. 79-18, passed 11-7-79)

§ 152.18 ASSESSMENT ROLL.

Upon the adoption of the resolution in § 152.15, the Town Commission shall cause to be made an assessment roll in accordance with the method of assessment provided for in the resolution, which shall be completed and filed with the Tax Assessor's office in the county in which the special assessment project is located as promptly as possible. The assessment roll shall show the lots and lands assessed, the amount of the assessment against each lot or parcel of land, and if the assessment is to be paid in installments, the number of annual installments in which the assessment is divided shall also be entered and shown upon the assessment roll.
('71 Code, § 8-13) (Ord. 79-18, passed 11-7-79)

§ 152.19 PUBLIC HEARING BY EQUALIZING BOARD.

(A) Upon the completion of the assessment roll, the Town Commission shall by resolution fix a time and place at which the owners of the property to be assessed, or any other persons

interested therein, may appear before the governing authority and be heard as to the propriety and advisability of making the improvements, as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved.

(1) Ten days notice in writing of the time and place shall be given to these property owners, which shall be served by mailing a copy of the notice to each of the property owners at his last known address, the names and addresses of the property owners to be obtained from the records of the property appraiser or from any other sources the Town Clerk deems reliable, proof of the mailing to be made by the affidavit of the Clerk or Deputy Clerk of the town, which proof is to be filed with the Clerk. Failure to mail the notice or notices shall not invalidate any of the proceedings hereunder.

(2) Notice of the time and place of the hearing shall also be given by two publications a week apart in a newspaper of general circulation in the town, and if there is no newspaper published in the town, the Town Commission shall cause the notice to be published in like manner in a newspaper of general circulation published in the county in which the special assessment project is located; however, the last publication shall be at least one week prior to the date of the hearing.

(3) The notice shall describe the canal or other areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece or parcel of property may be ascertained at the office of the Town Clerk. Service by publication shall be verified by the affidavit of the publisher and filed with the Town Clerk.
('71 Code, § 8-14)

(B) At the time and place named in the notice provided for in division (A) above, the Town Commission shall meet as an Equalizing Board to hear and consider any and all complaints as to the special assessments and shall adjust and equalize the assessments on the basis of justice and right. When so equalized and approved by resolution or ordinance of the Town Commission, the assessments shall stand confirmed and remain legal, valid, and binding first liens upon the property against which the assessments are made, until paid. However, upon completion of the improvement, the town shall credit to each of the assessments the difference in the assessment as originally made, approved, and confirmed, and the proportionate part of the actual cost of the improvement to be paid by special assessments as finally determined upon the completion of the improvement. In no event shall the final assessments exceed the amount of benefits originally assessed.

(C) Promptly after confirmation, the assessments shall be recorded by the Town Clerk in the Public records in the office of the Clerk of the Circuit Court and the record of the lien shall constitute prima facie evidence of its validity. The Town

Commission may by resolution grant a discount equal to all or a part of the payee's proportionate share of the cost of the project consisting of bond financing costs, such as capitalized interest, funded reserves, and bond discount included in the estimated cost of the project, upon payment in full of any assessment during the period prior to the time the financing costs are incurred, as specified by the Town Commission.
('71 Code, § 8-15)
(Ord. 79-18, passed 11-7-79)

§ 152.20 ASSESSMENT IN PROPORTION TO BENEFITS.

Special assessments against property deemed to be benefited by local improvements, as provided for in § 152.15 shall be assessed upon the property specially benefited by the improvement in proportion to the benefits to be derived therefrom, the special benefits to be determined and prorated according to the foot frontage of the respective properties specially benefited by the improvement, or by any other method the Town Commission may prescribe.
('71 Code, § 8-9) (Ord. 79-18, passed 11-7-79)

§ 152.21 PAYMENT OF ASSESSMENT; LIEN.

Assessments shall be payable at the time and in the manner stipulated in the resolution providing for the improvements. Special assessments shall remain liens, co-equal with the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid, and shall bear interest at a rate not to exceed 8% per annum from the date of the acceptance of improvement. Special assessments may, by the resolution aforesaid, be made payable in not more than ten equal yearly installments, to which, if not paid when due, there shall be added a penalty at the rate of 1% per month, until paid; however, the assessments may be paid without interest at any time within 30 days after the improvement is completed, and a resolution accepting this has been adopted by the Town Commission.
('71 Code, § 8-16) (Ord. 79-18, passed 11-7-79)

§ 152.22 FORECLOSURE.

(A) Each special assessment and each annual installment provided for in § 152.21 shall be paid upon the dates specified in the resolution, with interest upon all deferred payments, until the entire amount of the assessment has been paid. On the failure of any property owner to pay any special assessment or any annual installment due, or any part thereof, or any annual interest upon deferred payments, the Town Commission shall cause to be brought the necessary legal proceedings by a complaint to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred, including a reasonable attorney's fee, to be assessed as part of the costs.

(B) In the event of default in the payment of any installment of an assessment, or any accrued interest on the assessment, the whole assessment, with the interest and penalties thereon, shall immediately become due and payable and subject to foreclosure. In the foreclosure of any special assessment, service of process against unknown, or nonresident defendants, may be had by publication, as now provided by law. The foreclosure proceedings shall be prosecuted to a sale and conveyance of the property involved in the proceedings as now provided by law in suits to foreclose mortgages.
('71 Code, § 8-17) (Ord. 79-18, passed 11-7-79)

§ 152.23 ISSUANCE OF BONDS.

(A) After the equalization, approval, and confirmation of the levying of the special assessments for improvements as provided by § 152.19 and as soon as a contract for the improvement has been finally let, the Town Commission may by resolution or ordinance authorize the issuance of bonds, to be designated "Improvement bonds, series No. _____," in an amount not in excess of the aggregate amount of the liens levied for the improvements. The bonds shall be payable from a special and separate fund, to be known as the "Improvement fund, series No. _____," which shall be used solely for the payment of the principal and interest of the "Improvement bonds, series No. ___" and for no other purpose. This fund shall be deposited in a separate bank account; and all the proceeds collected by the town from the principal, interest, and penalties of the liens shall be deposited and held in this fund.

(1) Bonds so issued shall never exceed the amount of liens assessed. The bonds shall mature not later than two years after the maturity of the last installment of the liens. The bonds shall bear certificates signed by the Town Clerk certifying that the amount of liens levied, the proceeds of which are pledged to the payment of the bonds, are equal to the amount of the bonds issued.

(2) The bonds may be delivered to the contractor in payment for his work and may be sold at public or private sale for not less than 95% of par and accrued interest, the proceeds to be used in payment for the cost of the work. The bond shall not be a charge on, or payable out of, the general revenues of the town, but shall be payable solely out of these assessments, installments, interest, and penalties. Any surplus remaining after payment of all bonds and interest thereon shall revert to the town and be used for any municipal purpose.
('71 Code, § 8-18)

(B) All bonds issued under this chapter shall be in the denomination of $100 or some multiple thereof, and shall bear interest at a uniform rate not exceeding 8% per annum, payable annually, or semiannually thereafter until maturity, and 10% per or annum after maturity, and both principal and interest shall be payable at the place or places the Town Commission may determine. The form of the bonds shall be fixed by resolution of the Town

Commission and the bonds shall be signed by the Mayor and the Clerk, under the town seal; the coupons, if any, shall be executed by the facsimile signatures of these officers. The delivery of any bond and coupon so executed at any time thereafter shall be valid, although before the date of delivery the person signing the bond or coupons shall cease to hold office. ('71 Code, § 8-22)

(C) This chapter shall, without reference to the Town Charter or any other state law, be full authority for the issuance and sale of the bonds by this chapter authorized, and shall be construed as an additional and alternative method for the financing of the improvements referred to herein. No election or proceeding in respect of the issuance of any bonds hereunder shall be necessary. No publication of any notice or proceeding relating to the issuance of the bonds provided for by this chapter shall be required, except such as required by this chapter. ('71 Code, § 8-23)

(D) Bonds issued under division (C) above shall have all the qualities of negotiable paper under the law merchant, shall not be invalid for any irregularity or defect in the proceedings for the issue and sale thereof, and shall be incontestable in the hands of bona fide purchasers or holders thereof for value. ('71 Code, § 8-24)
(Ord. 79-18, passed 11-7-79)

§ 152.24 SECOND ASSESSMENT.

If any special assessment made under the provisions of this chapter to defray the whole or any part of the expense of any improvement shall be either in whole or in part annulled, vacated, or set aside by the judgment of any court, the Town Commission shall take all necessary steps to cause a new assessment to be made for the whole, or any part of any improvement, or against any property benefited by any improvement, following as nearly as may be the provisions of this chapter. In case the second assessment is annulled, the Town Commission may obtain and make other assessments until a valid assessment is made.
('71 Code, § 8-19) (Ord. 79-18, passed 11-7-79)

§ 152.25 PAYMENTS BY TOWN.

The Town Commission may pay out of its general funds or out of any special fund that may be provided for that purpose, that portion of the cost of any improvement that it may budget and deem proper.
('71 Code, § 8-20) (Ord. 79-18, passed 11-7-79)

§ 152.26 IRREGULARITIES NOT AFFECTING VALIDITY.

Any informality or irregularity in the proceedings in connection with the levy of any special assessment under the provisions of this chapter shall not affect the validity of the assessment where the assessment roll has been confirmed by the Town Commission. The assessment roll as finally approved and confirmed shall be competent and sufficient evidence that the assessment was duly levied, that

the assessment was duly made and adopted, and that all other proceedings adequate to the adoption of the assessment roll were duly had, taken, and performed as required by this chapter. No variance from the directions hereunder shall be held material unless it is clearly shown that the party objecting was materially injured thereby.
('71 Code, § 8-21) (Ord. 79-18, passed 11-7-79)

[redacted]

LONGBOAT KEY - DREDGING AND FILLING

44

Section

153.01 Adoption of National Electrical Code
153.02 Amendments to National Electrical Code

§ 153.01 ADOPTION OF NATIONAL ELECTRICAL CODE.

The National Electrical Code, 1996 Edition, with appendices thereto, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, is hereby adopted as part of the building code of the town. If any provision of this chapter conflicts with any adopted provision of the National Electrical Code, the most restrictive provision shall apply. One copy of the Code shall be on file with the Town Clerk, identified as an official copy; and three or more copies shall be on file with the Town Planning, Zoning and Building Department and shall be kept there available for public use, inspection and examination. Any reference in the National Electrical Code, 1996 Edition, that uses the word "city" shall mean "town." The Code is adopted by reference as authorized by F.S. § 553.73.
(Ord. 81-25, passed 7-1-81; Amd. Ord. 84-14, passed 10-1-84; Amd. Ord. 87-3, passed 4-6-87; Amd. Ord. 90-29, passed 12-3-90; Amd. Ord. 93-01, passed 4-8-93; Amd. Ord. 96-06, passed 5-6-96)

§ 153.02 AMENDMENTS TO NATIONAL ELECTRICAL CODE.

The National Electrical Code of the National Fire Protection Association, is amended as follows:

PART I - ADMINISTRATIVE is amended to add to 1-4 as follows:

1-4 (a) The work under this Section applies to new construction, temporary installations, alterations, repairs and maintenance and shall be performed only under the supervision of Master Electricians holding an Operating Certificate issued by Sarasota or Manatee County.

PART II - GENERAL REQUIREMENTS is amended to read as follows:

2-1 All terms used in this section shall be the official National Fire Protection Association definitions, unless otherwise stated herein.

2-2 Electrical Metallic Tubing (EMT) shall be permitted only inside of a building and in concrete slabs and walls which are above grade level.

2-3 The use of aluminum or copper clad aluminum wiring for power, lighting, control, and signal circuits including all conductors from the load end of the service drop, or load end of the service lateral conductors to the outlet(s) shall be prohibited.

EXCEPTION: Wiring or busway internal to appliances, fixtures, motors, controllers, panels, meter center, motor control centers and similar equipment may be aluminum or copper clad aluminum.

2-4 Combustion type heaters shall have a wall mounted switch outside the heater room to serve as a disconnecting means.

PART IV - RESIDENTIAL is amended by deleting 4-6, thereby changing the numbering and adding a new 4-7, to read as follows:

4-6 All circuits which penetrate, pass through, or are concealed within a wall required to be fire rated, shall be in a complete conduit raceway system.

4-7 All exposed cable within seven and one-half (7 1/2) feet of the floor shall be protected by approved raceway.

PART VII - FEES is amended in 7-2 as follows:

7-2 Re-Inspection fees shall be set by resolution of the Town Commission.

(Ord. 81-25, passed 7-1-81; Amd. Ord. 83-14, passed 7-6-83; Amd. Ord. 84-14, passed 10-1-84; Amd. Ord. 87-3, passed 4-6-87; Amd. Ord. 90-29, passed 12-3-90; Amd. Ord. 93-25, passed 2-7-94; Amd. Ord. 98-19, passed 7-6-98; Amd. Ord. 98-25, passed 7-16-98)

Chapter 154: FLOOD CONTROL

Section

154.01	Purpose; applicability
154.02	Interpretation
154.03	Definitions
154.04	Compliance required
154.05	Disclaimer of liability
154.06	Town Manager designated administrator
154.07	Flood zones A1-30
154.08	Flood zones V1-30
154.09	Development permits
154.10	Minimum floor elevation
154.11	Floodproofing
154.12	Breakaway walls
154.13	Subdivision proposals
154.14	Utilities
154.15	Variances
154.99	Penalty
154.100	Form for estimating the cost of residential improvements

§ 154.01 PURPOSE; APPLICABILITY.

(A) It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to do the following:

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve those uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling and grading which may increase erosion or flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; ('71 Code, § 9C-1)

(B) This chapter shall apply to all lands within the jurisdiction of the town that are depicted on the community's flood insurance rate map as being a flood hazard district. ('71 Code, § 9C-3) (Ord. 77-9, passed 6-1-77)

§ 154.02 INTERPRETATION.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where this chapter and other provisions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under state statutes.
('71 Code, § 9C-5) (Ord. 77-9, passed 6-1-77)

§ 154.03 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ACCESSORY USE." A use of a nature customarily subordinate or incidental to, and located on the same parcel as, the principal use of any structure or property.

"ADDITION (TO AN EXISTING BUILDING)." Means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common loadbearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter loadbearing walls is construction.

"APPEAL." Means a request for a review of the Zoning Board of Adjustment's interpretation of any provision of this chapter or a request for a variance.

"APPRAISAL." The act or process of estimating value; an estimate of value meeting the requirements of Chapter 475, Part II, Florida Statutes.

"AREA OF SPECIAL FLOOD HAZARD." That area of and within a community in the floodplain which is subject to a one percent chance of flooding annually, that is, the 100-year-flood.

"BREAKAWAY WALLS." Includes but shall not be limited to any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material, which are not part of the structural support of the building and which are so designated as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any of the buildings to which they might be carried by floodwaters.

"COASTAL HIGH HAZARD AREA (ZONES V1-30)." That portion of the floodplain having special flood hazards that are subject to high-velocity waters, including hurricane wave wash and tsunami.

"ELEVATED BUILDING." Means a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls or breakaway walls.

"EXISTING MANUFACTURED HOME PARK OR SUBDIVISION." Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of the ordinance codified in this chapter.

"EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION." Means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets). Any expansion is considered "new construction."

"FLOOD" OR "FLOODING." A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation of runoff or surface waters from any source.

"FLOOD FRINGE AREA (ZONES A1-30)." That area of the floodplain lying outside of the floodway but still lying within the area of special flood hazard, that is, within the 100-year floodplain.

"FLOODPLAIN." Any normally dry land area that is susceptible to being inundated by waters of the 1% annual chance flood, that is, the 100-year flood.

"FLOODPROOFING." A combination of structural or nonstructural additions, changes, or adjustments to properties, water and sewer facilities, structures, and contents of buildings.

"FLOODWAY." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the velocity waters of the regulatory flood.

"FUNCTIONALLY DEPENDENT FACILITY." Means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as docking or port facility necessary for the loading and unloading of cargo or passengers, ship-building, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

"HIGHEST ADJACENT GRADE." Means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"LOWEST FLOOR (INCLUDING BASEMENT)." Any floor used for living, which includes working, laundry, sleeping, eating, cooking, or recreation facilities, or any combination thereof.

"MANGROVE STAND." Means an assemblage of mangrove trees which is mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contain one or more of the following species: black mangrove (*Avicennia nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Laguncularia racemosa*); and buttonwood (*Conocarpus erecta*).

"MANUFACTURED HOMES." New manufactured home parks and subdivisions; expansions to existing manufactured home parks and subdivisions; existing manufactured home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equal or exceed 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and manufactured homes placed on individual lots outside of manufactured home parks and subdivisions, shall have stands or lots (pads) elevated on compacted fill or on pilings so that the lowest floor of the manufactured home shall be elevated no lower than (BFE feet) above the base flood elevation, except in coastal high hazard areas, where the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than (BFE feet) above the base flood elevation.

"MARKET VALUE." The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and acting in what they consider their best interests; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale. Where required in its context, market value shall refer only to structural improvements and shall not include land and site improvement values.

"MARKET VALUE OF IMPROVEMENTS." The procedure for estimating the cost of repair, reconstruction, rehabilitation, addition or improvement to an existing residential structure for purposes of determining whether the proposed modification constitutes a substantial improvement shall be calculated in substantial compliance with the Form for Estimating the Cost of Residential Improvements (the "Estimating Form") annexed to this chapter as § 154.100. The square footage costs to be utilized within the Estimating Form shall be derived from the Southern Building Code Congress and the Means Building Construction Cost Data Manual applicable to the town and shall reasonably reflect prevailing costs in the town for typical residential construction. The initial square footage costs shall be as reflected in the Estimating Form attached to this chapter under § 154.100. Said figures shall be reviewed each year by the town and shall be modified, by resolution of the Town Commission, when the town finds that the prevailing costs for typical residential construction have changed such that the square footage cost estimates contained within the Estimating Form no longer reasonably reflect prevailing building costs for the town.

"MARKET VALUE OF STRUCTURE." The value of the structure shall be considered to be either (a) equal to the county's assessment of the structure plus 20%, or (b) the value assigned to the structure as determined by a state-certified appraiser meeting the requirements of F.S. Ch. 475, Pt. II. The election as to which methodology is used to value the structure shall be at the option of the applicant. If the appraisal method is chosen, the appraiser shall set forth under oath that he has personally visited the subject property and reviewed the structure in connection with his determination of the value.

"MEAN SEA LEVEL." The average height of the sea for all stages of the tide.

"NATIONAL GEODETIC VERTICAL DATUM (NGVD)." As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

"NEW CONSTRUCTION." Those structures the construction or relocation of which begin after June 1, 1975. "New Construction," for purposes of this chapter, shall also mean a parcel of land used for manufactured homes for which the construction of streets, utilities, and site grading or pads is commenced after June 1, 1975.

"REGULATORY FLOOD." For purposes of this chapter, a flood event having a 1% chance of occurring in any given year, although the flood may occur in any year, that is, the 100-year flood.

"REGULATORY FLOOD ELEVATION." The crest elevation in relation to mean sea level expected to be reached by the regulatory flood at any given point in an area of special flood hazard.

"START OF CONSTRUCTION."

(A) The first placement or permanent construction of a structure on a site, such as pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation such as clearing, grading, or filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(B) For a structure without a basement or poured footings for sites other than mobile home parks or manufactured home parks, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation or the affixing of any prefabricated structure to its permanent site.

(C) For manufactured home parks which are equipped with concrete pads on which manufactured homes are to be placed, "start of construction" means the dates on which the pouring of the pads has begun. For manufactured home parks which are not equipped with concrete pads, "start of construction" means the date on which installation of utilities and final site grading are completed.

"STRUCTURE." Means a walled and roofed building that is principally aboveground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures. The words "building" and "structure" shall have the same meaning for the purpose of this chapter.

"SUBSTANTIAL DAMAGE." Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

"SUBSTANTIAL IMPROVEMENT." Any repair, reconstruction, rehabilitation, addition, or improvement of a structure, where the actual cost, as determined by this chapter, of the improvement or repair of the structure to its pre-damage condition equals or exceeds, over a five-year period a cumulative total of 50% of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. The cumulative total cost does not include nonstructural interior finishings or roof coverings except when determining whether the structure has been substantially improved as a result of a single improvement or repair. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code requirements which are solely necessary to assure safe living conditions, or (b) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places, or (c) any expenditure to bring a structure into compliance with minimum FEMA elevation requirement or floodproofing as applicable.

"VARIANCE." A grant of relief to a person from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.
('71 Code, § 9C-2) (Ord. 77-9, passed 6-1-77; Amd. Ord. 81-13, passed 4-1-81; Amd. Ord. 84-7, passed 3-5-84; Amd. Ord. 87-33, passed 11-2-87; Amd. Ord. 90-10, passed 6-4-90; Amd. Ord. 92-30, passed 2-1-93; Amd. Ord. 94-17, passed 6-27-94; Amd. Ord. 96-12, passed 7-18-96; Amd. Ord. 97-06, passed 7-17-97; Amd. Ord. 97-25, passed 11-3-97)

§ 154.04 COMPLIANCE REQUIRED.

(A) No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(B) If the applicant chooses to determine market value of the structure by utilizing a state-certified appraiser in accordance with and as described in the definition of "market value of structure," the value assigned to the structure by the appraiser shall remain fixed for a five-year period beginning upon the date of the issuance of a building permit for the improvement.

(C) The improvement to the structure shall not exceed 50% of the market value of the structure.

(D) The determination of substantial improvement shall be in compliance with the terms and conditions of this chapter as well as all federal and state regulations and, if residential, shall be determined pursuant to § 154.100.

(E) Once any repair, reconstruction, rehabilitation, addition or improvement of a structure is undertaken, the market value of the structure may not reflect that improvement for five years from the initial construction of that improvement.
('71 Code, § 9C-4) (Ord. 77-9, passed 6-1-77; Amd. Ord. 94-17, passed 6-27-94; Amd. Ord. 96-12, passed 7-18-96; Amd. Ord. 97-06, passed 7-17-97) Penalty, see § 154.99

§ 154.05 DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that areas outside the boundaries of the flood hazard districts or land uses permitted within those districts will be free from flooding or flood damages. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
('71 Code, § 9C-6) (Ord. 77-9, passed 6-1-77)

§ 154.06 TOWN MANAGER DESIGNATED ADMINISTRATOR.

The Town Commission hereby appoints the Town Manager or designee as local administrator. The Town Manager shall be appointed to implement the elevation and floodproofing provisions of this chapter and such other duties as are assigned to him herein, including the following:

(A) Reviewing proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law;

(B) Notifying adjacent communities and the Tampa Bay Regional Planning Council prior to any alteration or relocation of a watercourse, and shall submit evidence of notification to the Federal Insurance Administration;

(C) Assuring that all records pertaining to the provisions of this chapter shall be maintained in official offices of the Town of Longboat Key and shall be open for public inspection during normal business hours.
('71 Code, § 9C-7) (Ord. 77-9, passed 6-1-77; Amd. Ord. 87-33, passed 11-2-87; Amd. Ord. 97-25, passed 11-3-97)

§ 154.07 FLOOD ZONES A1-30.

(A) Applicability. The provisions of this section shall apply to all residential and nonresidential structures in Zones A1-30 on the community's flood insurance rate map.

(B) Requirements for Development.

(1) Development permits will be required for all proposed construction, repair, improvement or alteration of a structure within Zones A1-30.

(2) The Director or designee of the Planning, Zoning and Building Department shall review all building permit applications to determine if the proposed construction is designed and anchored to prevent flotation, collapse, or lateral movement of the structure.

(3) New or replacement water supply and sanitary sewer systems located within Zones A1-30 must be floodproofed as specified in § 154.11.

(4) New construction or substantial improvement of any residential structure within Zones A1-30 shall have the lowest habitable floor, including basement, elevated to the regulatory flood elevation.

(5) New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot above grade; and

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(b) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(d) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(6) New construction or substantial improvement of any commercial-industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the regulatory flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed to the level of the regulatory elevation. All floodproofing shall meet the requirements of § 154.11.

(C) Manufactured Home Requirements.

(1) The construction of a new manufactured home park, the expansion of an existing manufactured home park, the placement of a new manufactured home not in a manufactured home park, or the substantial improvement of any of the above in Zones A1-30 shall be allowed only if the following criteria are met:

(a) Ground anchors for tie-downs are provided.

(b) Tie-down requirements. Over-the-top ties are required at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with one additional tie per side for manufactured homes more than 50 feet long. Frame ties are required in conjunction with each over-the-top tie. All components of the anchoring must be capable of carrying a force of 4,800 pounds.

(c) Lots or pads are elevated on compacted fill or by any other method approved by the Director of Public Works so that the lowest habitable floor of the manufactured home is at or above the regulatory flood level.

(d) Adequate surface drainage and easy access for a manufactured home hauler are provided.

(e) Load-bearing foundation supports such as piers or pilings must be placed on stable soil or concrete footings no more than 10 feet apart; and if the support height is greater than 72 inches, the support must contain steel reinforcement.

(2) In the event that a manufactured home location or relocation is not deemed to constitute the expansion of an existing manufactured home park as used in division (C)(1) above and as defined in § 154.03, the location or relocation shall be allowed provided that the following requirements are met.

(a) Any manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood shall be elevated to or above the base flood elevation. All other manufactured homes placed, relocated or substantially improved in these existing manufactured home parks and subdivisions shall be elevated on reinforced piers or other foundation elements that are no less than 36 inches in height above grade or have their lowest floor at or above the base flood elevation if this allows for a lower foundation.

(b) Easy access for a manufactured home hauler is provided.

(3) New manufactured home parks and subdivisions, expansions to existing manufactured home parks and subdivisions, existing manufactured home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equal or exceed 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced, and manufactured homes placed on individual lots outside of manufactured home parks and subdivisions, shall have stands or lots (pads) elevated on compacted fill or on pilings so that the lowest floor of the manufactured home shall be elevated no

lower than (BFE feet) above the base flood elevation, except in coastal high hazard areas, where the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than (BFE feet) above the base flood elevation.
('71 Code, § 90-10) (Ord. 77-9, passed 6-1-77; Amd. Ord. 81-13, passed 4-1-81; Amd. Ord. 87-33, passed 11-2-87; Amd. Ord. 90-10, passed 6-4-90; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 97-25, passed 11-3-97)

§ 154.08 FLOOD ZONES V1-30.

(A) Applicability. The provisions of this section shall apply to all residential and nonresidential structures in Zones V1-30 on the community's flood insurance rate map.

(B) Requirements for Development.

(1) Development permits will be required for all proposed construction, repair, improvement, or alteration of a structure within Zones V1-30.

(2) Except as otherwise provided herein, all new construction and substantial improvements within a designated Zone V1-30 shall meet the following requirements.

(a) Be located landward of the mean high tide.

(b) Be elevated on adequately anchored piles or columns so that the structural members of the lowest floor are elevated at least to the regulatory flood elevation and securely anchored to the piles or columns; provided, however, construction on property fronting the Gulf of Mexico and west of Gulf of Mexico Drive within 250 feet of the mean high-water line of the Gulf of Mexico shall hereby be prohibited except for construction on piles in accordance with § 1303 of the Standard Building Code, adopted by reference in § 150.01, or the equivalent thereof approved by the Director or designee of the Planning, Zoning and Building Department at the expense of the applicant.

(c) Have the space below the lowest floor free of obstruction or constructed with breakaway walls intended to collapse under stress without jeopardizing the structural integrity of the building; all breakaway walls shall meet the requirements of § 154.12. If breakaway walls are utilized, the enclosed space shall not be used for human habitation.

(d) Be designated and constructed so as to minimize the impact and effect of abnormally high tides, wind-driven water, or waves on the building.

(3) The adequacy of provisions contained in division (B)(2)(b) and (d) above shall be certified to by a registered professional engineer or architect.

(4) Fill shall not be used for structural support within Zones V1-30.

(5) Alteration of sand dunes and mangroves which would increase potential flood damage is prohibited.

(C) Manufactured Home Requirements.

(1) No new manufactured home parks, expansion of existing manufactured home parks, or placement of any manufactured home not in a manufactured home park shall be allowed within a designated Zone V1-30.

(2) In the event that a manufactured home park location or relocation is not deemed to constitute the expansion of an existing manufactured home park as used in division (C)(1) above and as defined in § 154.03, the location or relocation shall be allowed provided that the following requirements are met.

(a) Any manufactured home moved into or relocated within an existing manufactured home park shall be anchored in accordance with the provisions in § 154.07(C)(1)(a), (b) and (d).

(b) Easy access for a manufactured home hauler is provided.

(3) New manufactured home parks and subdivisions, expansions to existing manufactured home parks and subdivisions, existing manufactured home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equal or exceed 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced and manufactured home parks and subdivisions, shall have stands or lots (pads) elevated on compacted fill or on pilings so that the lowest floor of the manufactured home shall be elevated no lower than (BFE feet) above the base flood elevation, except in coastal high hazard areas, where the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than (BFE feet) above the base flood elevation.
('71 Code, § 9C-11) (Ord. 77-9, passed 6-1-77; Amd. Ord. 81-13, passed 4-1-81; Amd. Ord. 87-33, passed 11-2-87; Amd. Ord. 97-25, passed 11-3-97) Penalty, see § 154.99

§ 154.09 DEVELOPMENT PERMITS.

(A) A development permit issued by the Town Manager or designee in conformity with the provisions of this chapter shall be secured prior to the erection, addition, or alteration of any building or structure or portion thereof or other development including, but not limited to, dredging, filing, grading, paving, or excavation within the permitted area prior to the change of use of a building, structure, or land, and prior to the change or extension of a nonconforming use.

(B) Development permits issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in the approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and enjoinable or punishable as provided by § 154.99.
('71 Code, § 9C-8) (Ord. 77-9, passed 6-1-77; Amd. Ord. 97-25, passed 11-3-97) Penalty see § 154.99

§ 154.10 MINIMUM FLOOR ELEVATION.

The following minimum building floor elevations for construction within the town are established: As indicated on the National Flood Insurance Program, Flood Insurance Rate Maps for the Town of Longboat Key in Manatee and Sarasota Counties, Panel 5 of 10, map revised 10-1-83 and Panel 10 of 10, map revised 8-15-83 and as such maps, or their equivalents, may from time to time be revised and made effective.
('71 Code, § 9C-9) (Ord. 77-9, passed 6-1-77; Amd. Ord. 82-12, passed 7-7-82; Amd. Ord. 84-5, passed 3-5-84; Amd. Ord. 97-25, passed 11-3-97) Penalty see § 154.99

§ 154.11 FLOODPROOFING.

(A) Whenever any of the provisions of this chapter require that a building be floodproofed or specify that floodproofing may be used as an alternative to elevating a structure above the regulatory flood level, floodproofing shall be deemed to include all of the following.

(1) Wherever possible, the location, construction, and installation of all electrical and gas utility systems in such a manner as to assure the continuing functioning of those systems in the event of a regulatory flood.

(2) The location, construction, and installation of all potable water supply systems in such a manner as to prevent contamination from floodwaters during the regulatory flood.

(3) Approved backflow preventers or devices shall be installed on main water service lines, at water wells, and at all building entry locations to protect the system from backflow or backsiphonage of floodwaters of other contaminants.

(4) Sanitary sewer and storm drainage systems that have openings below the regulatory flood elevation shall be equipped with automatic backwater valves or other automatic backflow devices that are installed in each discharge line passing through a building exterior wall.

(5) A registered professional engineer or architect shall certify that any new construction or substantial improvement has been designed to withstand the flood depths, pressure, velocities, impact, and uplift forces associated with the regulatory flood at the location of the building and that the walls below the regulatory flood level are substantially impermeable to the passage of water.

(B) Prior to construction, plans for any structure that is required to be floodproofed must be submitted to the Director or designee of the Planning, Zoning and Building Department for approval. The Director or designee of the Planning, Zoning and Building Department will review the plans for compliance with the provisions of division (A) above and for compliance with any other applicable building codes or regulations. The Director or designee of the Planning, Zoning and Building Department shall approve, reject, or recommend modifications of the plans within 30 days from the receipt of the plans.
('71 Code, § 9C-12) (Ord. 77-9, passed 6-1-77; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 97-25, passed 11-3-97) Penalty see § 154.99

§ 154.12 BREAKAWAY WALLS.

(A) Wherever any of the provisions of this chapter allow for a breakaway wall to be located below the regulatory flood level, the following conditions must be met.

(1) All new construction and substantial improvements within Zone V1-30 shall have the space below the lowest habitable floor free of obstructions; or be constructed with breakaway walls intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or wind-driven water is minimized.

(2) The temporarily enclosed space shall not be used for human habitation.

(B) Prior to construction, plans for any structure that will have breakaway walls must be submitted to the Director or designee of Planning, Zoning and Building Department for approval. The Director or designee of Planning, Zoning and Building Department will review the plans for compliance with the provisions of division (A) above. The Director or designee of Planning, Zoning and Building Department shall approve, reject, or recommend modifications of the plans within 30 days from receipt of the plans.
('71 Code, § 9C-13) (Ord. 77-9, passed 6-1-77; Amd. Ord. 93-22, passed 9-27-93; Amd. Ord. 97-25, passed 11-3-97) Penalty see § 154.99

§ 154.13 SUBDIVISION PROPOSALS.

The Town Manager or designee shall review subdivision proposals and other proposed new developments to assure that all such proposals are consistent with the need to minimize flood damage; all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; adequate drainage is provided so as to reduce exposure to flood hazards; and all the proposals include flood elevation data.
('71 Code, § 9C-14) (Ord. 77-9, passed 6-1-77; Amd. Ord. 97-25, passed 11-3-97)

§ 154.14 UTILITIES.

(A) The Town Manager or designee shall require new or replacement water supply systems or sanitary sewer systems to be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

(B) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
('71 Code, § 9C-15) (Ord. 77-9, passed 6-1-77; Amd. Ord. 87-33, passed 11-2-87; Amd. Ord. 97-25, passed 11-3-97)

§ 154.15 VARIANCES.

(A) The Town Commission, upon receipt of a written application for a variance from the criteria of this chapter, shall approve or disapprove a request for variance in accordance with the procedures set forth below. Flood insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The procedure for the granting of variances is as follows:

(1) Variances shall not be issued by the Town Commission within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of paragraphs (3), (4), (5) and (6) of this section.

(3) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) The town shall notify the applicant in writing over the signature of the Town Manager that (i) the issuance of a variance to construct a structure below the base flood level will result in significantly increased premium rates for flood insurance, and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph (6) of this subsection.

(6) The town shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual report submitted to the Administrator of the Federal Emergency Management Agency.

(B) Fee; Contents of Application. Each written application for a variance shall be accompanied by a fee as set by resolution of the Town Commission. Such an application shall reflect the type of structure for which a variance is sought, the size of the structure, the approximate location on the parcel, the intended use thereof and the facts which form the basis for granting a variance in accordance with the criteria set forth in this section.
('71 Code, § 9C-16) (Ord. 77-9, passed 6-1-77; Amd. Ord. 77-18, passed 7-6-77; Amd. Ord. 84-7, passed 3-5-84; Amd. Ord. 97-25, passed 11-3-97; Amd. Ord. 98-25, passed 7-16-98)

§ 154.99 PENALTY.

Any person, firm, company, corporation, or association, or the managing agent of any person, firm, company, corporation, or association, who violates this chapter shall be fined in a sum not more than $500, with each day of the violation constituting a separate offense.
('71 Code, § 9C-18) (Ord. 77-9, passed 6-1-77)

§ 154.100 FORM FOR ESTIMATING THE COST OF RESIDENTIAL IMPROVEMENTS.

This form establishes the procedure for estimating the cost of an addition to or the remodeling of (remodeling includes repair, reconstruction, rehabilitation, renovation or other improvements to an existing structure), an existing structure for purposes of determining the cost of construction. This form will establish if the proposed work is a substantial improvement (as defined in the Town of Longboat Key Code of Ordinances Chapter 154) to the structure.

The calculation of the overall estimate is based on both decorative and structural items. Labor, materials, overhead, profit and demolition costs are to be included. Excluded from the overall cost are plans, specifications, surveys and building and development permits, and other items which are separate from and incidental to the improvements, e.g., walkways, driveways, landscaping.

This cost estimate furnished by following the procedures set forth below shall be accepted as an estimate of costs based upon the prevailing costs in the town for typical residential construction.

Procedure: The cost of the construction multiplier in Parts 1 and 2 may be amended from time to time by resolution of the Town Commission based in the SBCCI Building Valuation Data Tables and Regional Modifier, Means Building Construction Cost Data Manual, and actual cost of local construction.

Please follow these step-by-step instructions, fill in the blanks as appropriate and furnish any attachments as may be called for.

Part 1. For new floor area (square footage added to an existing structure):

(A) If the addition is for space that is typically air-conditioned space, then complete this Part 1A.

Gross s.f. of new floor area including kitchen & baths: _____ s.f.

Multiply: X $55.00/ s.f.

Sub-total is 1A $ _____

(B) If the addition includes a new or relocated kitchen, also complete this Part 1B.

Gross s.f. in kitchen: _____ s.f.

If the kitchen addition exceeds 100 gross s.f. subtract: - 100 s.f.

Enter difference, or enter zero if gross s.f. are less than 100,

Multiply difference by: X $12.00/ s.f.

(This line cannot be less than zero): $_____ .

Add: + $5000.00 .

Sub-total is 1B $_____ .

(C) If the addition includes a new or relocated bathroom, also complete this Part 1C.

Gross s.f. in bath: _____ s.f.

If the bath addition exceeds 60 gross s.f. subtract: - 60 s.f.

Enter difference, or enter zero if gross s.f. are less than 60,

Multiply difference by: X $12.00/ s.f.

(This line cannot be less than zero): $_____ .

Add $2500 for complete bath
(lavatory, water closet, tub and/or shower)

Add $1500 for half bath (lavatory, water closet)

Add: + $1500 or $2500 .

Sub-total 1C $_____ .

REPEAT THIS PART 1C CALCULATION FOR EACH BATH AND EACH HALF BATH.

(D) If the addition includes unfinished, typically non-air-conditioned square footage, e.g., garages, porches, storage rooms, workshops, mechanical rooms and attics (if the attic space contains 60 s.f. or more of floor area and minimum ceiling height of 7'-0"), then complete this Part 1D.

Gross s.f. of space described in this Part 1D: _____ s.f.

Multiply: x $32.00/ s.f.

Sub-total 1D $_____ .

(E) Total Estimated Cost for New Floor Area (Square Footage Added to an Existing Structure).

Sub-total 1A	$_____
Sub-total 1B	$_____
Sub-total 1C	$_____
Sub-total 1D	$_____
PART 1 TOTAL	$_____.

Part 2. For remodeling floor area (square footage improved within existing wall(s) of the structure, covered by an existing permanent roof):

Under this part, two options are available for providing estimated cost of construction: (1) Utilize this form as provided; or (2) provide a complete breakdown of project cost, i.e., labor, materials, from the most recently published Means Building Construction Cost Data Manual. The second option will also require a summary invoice from your material suppliers and subcontractors prior to final inspection, and the project total will be adjusted accordingly provided the accumulative improvement at the site has not exceeded the FEMA 50% rule prior to permit issuance.

(A) If the project includes minor remodeling, such as new/replacement doors, windows, interior finishes and painting only; or ceiling support structure modification to accommodate a second story addition, complete this Part 2A.

Gross s.f. of this minor remodeling: _____ s.f.

Multiply: x $12.00/ s.f.

Sub-total 2A $_____ .

(B) If the project includes minor remodeling, such as new/replacement walls, doors or windows and new interior finishes, electrical and relocated HVA, complete this Part 2B.

Gross s.f. of this minor remodeling: _____ s.f.

Multiply: x $30.00/ s.f.

Sub-total 2B $_____ .

(C) If the project includes major remodeling, such as exterior wall removal and/or relocation, removal of ceiling support structures, roof removal, creation of volume ceilings (above 8'-00" fin. flr.) clerestories, relocated electrical and HVAC, etc., complete this Part 2C.

Gross s.f. of this major remodeling: _____ s.f.

Multiply: x $63.00/ s.f.

Sub-total 2C $_____ .

(D) If the project includes a new or relocated kitchen, also complete this Part 2D.

Gross s.f. in kitchen: _____ s.f.

If the kitchen addition exceeds 100 gross s.f. subtract: - 100 s.f.

Enter difference, or enter zero if gross s.f. are less than 100,

Multiply difference by: X $30.00/ s.f.

(This line cannot be less than zero): $_____ .

Add: + $5000.00 .

Sub-total 2D $_____ .

(E) If the project includes a new or relocated bathroom, also complete this Part 2E.

Gross s.f. in bath: _____ s.f.

If the bath addition exceeds 60 gross s.f. subtract: - 60 s.f.

Enter difference, or enter zero if gross s.f. are less than 60,

Multiply difference by: X $12.00/ s.f.

(This line cannot be less than zero): $_____ .

Add $2500 for complete bath (lavatory, water closet, tub and/or shower)

Add $1500 for half bath (lavatory, water closet)

Add: +$1500 or $2500.

Sub-total 2E $_____ .

REPEAT THIS PART 2E CALCULATION FOR EACH BATH AND EACH HALF BATH.

(F) If existing, previously non-air-conditioned space is being air conditioned, such as when a garage is converted to a family room, or if an existing air conditioning system is being totally replaced, then complete this Part 2F.

Gross s.f. of newly air conditioned space or space for which A/C system was replaced: _____ s.f.

Multiply: X $3.00/ s.f.

(This line cannot be less than zero): $_____ .

Sub-total 2F $_____ .

(G) Total estimated cost for remodeled floor area (square footage improved within existing walls of the structure, covered by an existing permanent roof).

Sub-total 2A	$_____
Sub-total 2B	$_____
Sub-total 2C	$_____
Sub-total 2D	$_____
Sub-total 2E	$_____
Sub-total 2F	$_____
PART 2 TOTAL	$_____

Part 3: If the project involves construction costs that were not included in the Part 1 or 2 above, then submit itemized estimate of these additional costs and add this total to the totals of Parts 1 and 2.

Part 4:

Total Part 1	$_____
Total Part 2	$_____
Total Part 3	$_____
Grand Total	$_____

COMPLETED BY: _____

Signature

_____

Print or type name

_____

Date

COMPLETED FOR: _____

Property owner's name

_____

Brief description of project

_____

LOCATION: _____

Street address of project

(Ord. 92-30, passed 2-1-93; Amd. Ord. 97-25 Exh. A, passed 11-3-97)

Section

155.01 Adoption of Standard Plumbing Code
155.02 Amendments to Standard Plumbing Code

§ 155.01 ADOPTION OF STANDARD PLUMBING CODE.

The Standard Plumbing Code, 1994 Edition, with appendices thereto, published by the Southern Building Code Conference International, Inc., 900 Montclaire Road, Birmingham, AL 35213, is hereby adopted as part of the building code of the town. If any provision of this chapter conflicts with any adopted provision of the Standard Plumbing Code, the most restrictive provision shall apply. One copy of the Code shall be on file with the Town Clerk, identified as an official copy; and three or more copies shall be on file with the Town Planning, Zoning and Building Department and shall be kept there available for public use, inspection and examination. Any reference in the Standard Plumbing Code, 1994 Edition, that uses the word "city" shall mean "town." The Code is adopted by reference as authorized by F.S. § 553.73. ('71 Code, § 16-1) (Ord. 73-22, passed 9-12-73; Amd. Ord. 74-32, passed 11-6-74; Amd. Ord. 76-7, passed 4-7-76; Amd. Ord. 81-35, passed 10-7-81; Amd. Ord. 87-10, passed 7-16-87; Amd. Ord. 90-30, passed 12-3-90; Amd. Ord. 92-10, passed 3-2-92; Amd. Ord. 96-07, passed 5-6-96)

§ 155.02 AMENDMENTS TO STANDARD PLUMBING CODE.

The following modifications, changes, and additions to the Standard Plumbing Code, 1994 Edition, are hereby adopted:

(A) Section A103.7.4, Schedule of Permit Fees, is amended and shall be as set by resolution of the Town Commission.

(B) Section 409.8.2.1, Construction, is amended by adding the following new subsection:

"4.09.8.2.1 Top of shower strainer 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."

(C) Section 501.7, Location, is amended by adding the following new subsection:

"501.7.1 Water heaters shall not be installed in the attic or loft of any building."

(D) Section 606.4, Backflow Preventer Installation, is amended by adding the following new subsection:

"606.4.4 BACKFLOW PREVENTION

1. Each service line, either commercial or residential, shall be equipped with its own cut off valve and backflow prevention device. Cut off valves to be full flow and backflow prevention devices shall be selected according to the degrees of hazard present.

2. The following devices shall be installed in specified applications and shall conform to the requirements of Appendix D.

APPLICATION	DEVICE
Residential and individual	FEBCO 805Y or equal
Condominium units and commercial	FEBCO 805Y or equal
Applications where the installation only includes fixtures common to residential use	FEBCO 805Y or equal
Condominium (up to 3 stories)	FEBCO 805Y or equal
Condominium (3 stories and above)	FEBCO 825Y or equal
Commercial (3 stories and above)	FEBCO 825Y or equal
Fire lines	FEBCO 806Y or equal
Lawn sprinkler/irrigation (metered)	FEBCO 805Y or equal
Lawn sprinkler/irrigation (well)	FEBCO 825Y or equal"

(E) Section 607.8, Hazard and Noise, is amended by adding the following new subsection:

"607.8.4 Air chamber fifteen (15) inches long or equal shall be provided on each lavatory or washbasin."

(F) Section 608.1.1, the first sentence of said section is replaced with the following new sentence:

"608.1.1 Materials for underground water service pipe and lawn sprinkler systems shall be Type L copper tube, brass, cast iron pressure pipe, galvanized steel, or pressure-rated plastic as listed in Table 603."

(G) Section 611.2 and Section 611.3 are replaced with the following new sections:

"611.2 Materials Above Ground

Above ground materials for water-distribution pipes and tubing shall be brass, copper water tube Type L or K, stainless steel water tube minimum Grade H, all to be installed with approved fittings; except that changes in direction in copper tube (ASTM B 88) may be made with bends having a radius of not less than four diameters of the tube, providing that such bends are made by use of forming equipment which does not deform or create a loss in cross-sectional area of the tube.

611.3 Materials Below Ground

"Inaccessible water distribution piping under slabs shall be copper water tube Type L or K or brass, all to be installed with approved fittings or bends. Any material subject to corrosion

shall be protected when used in corrosive soils."
('71 Code, § 16-2) (Ord. 190, passed--; Amd. Ord. 74-32, passed 11-6-74; Amd. Ord. 76-7, passed 4-7-76; Amd. Ord. 81-35, passed 10-7-81; Amd. Ord. 83-12, passed 7-6-83; Amd. Ord. 84-3, passed 3-5-84; Amd. Ord. 85-15, passed 11-4-85; Amd. Ord. 85-23, passed 1-6-86; Amd. Ord. 87-10, passed 7-16-87; Amd. Ord. 88-14, passed 5-2-88; Amd. Ord. 90-27, passed 10-8-90; Amd. Ord. 90-30, passed 12-3-90; Amd. Ord. 98-20, passed 7-6-98; Amd. Ord. 98-25, passed 7-16-98)



Chapter 156: SIGN CODE

Section

156.01 Purpose and objectives
156.02 Applicability of other code or regulatory requirements
156.03 Administration fees
156.04 Exempt signs
156.05 Prohibited signs
156.06 Permitted temporary signs
156.07 Permitted permanent signs
156.08 Illuminated signs
156.09 Historical signs
156.10 Placement and construction standards
156.11 Variances
156.12 Nonconforming signs
156.13 Maintenance and abandonment
156.14 Violations and sign removal
156.15 Revocation of permits
156.16 Enforcement and penalties
156.100 Definitions

Cross reference:

Zoning use regulations, see § 158.037

Prior History:

1971 Code §§ 18-1, 18-2, 18-3, 18-4, 18-5, 18-6, 18-7, 18-8, 18-9, 18-10, 18-11, 18-12, 18-13, 18-14.

Ord. 73-12, passed 5-24-73; Amd. Ord. 78-12, passed 10-25-78; Amd. Ord. 79-14, passed 8-1-79; Amd. Ord. 84-13, passed 12-3-84; Amd. Ord. 88-29, passed 11-7-88; Ord. 90-06, passed 3-19-90; Amd. Ord. 92-17, passed 6-18-92; Ord. 93-25, passed 2-7-94; Amd. Ord. 94-01, passed 3-24-94

§ 156.01 PURPOSE AND OBJECTIVES.

The ordinance codified in this chapter creates the legal framework for a comprehensive sign code intended to assure consistent and fair regulation, permitting and enforcement for all outdoor signs and sign structures. Its objective shall be to protect the health, safety and general welfare of those residing, visiting, and working on this barrier island. It is intended to improve pedestrian and vehicular traffic safety. Further, it shall be used to promote efficient communication and identification for business, residents and government and to preserve the property values and the aesthetic quality of the town. The Town Manager shall be responsible for the administration of this chapter in coordination with other appropriate town, state and federal agencies or departments.

(Ord. 95-04, passed 5-1-95)

strict conformity with the Town Fire Protection Code (§ 94), the Town Tree Code (§ 98), the Town Building Code (§ 150), the Town Electrical Code (§ 153), the Town Zoning Code (§ 158), Florida Statutes, and all other applicable regulations.

In the event of any of the provisions of this section are in conflict with other sections of this Code or other applicable requirements, the more restrictive requirements shall apply. (Ord. 95-04, passed 5-1-95)

§ 156.03 ADMINISTRATION FEES.

(A) Permits.

(1) All work to demolish, alter, rebuild, enlarge, extend, relocated, attach to, suspend from, or support from a building or structure a permanent or temporary sign requires a permit issued by the town unless the sign is specifically exempted from the permit requirements of this chapter.

(2) It shall be unlawful to change, modify, alter or otherwise deviate from the terms or conditions of a sign permit without the prior approval of the Town Manager. Written record of such approval shall be entered upon the original permit application and maintained in the files of the town.

(3) No permit for any permanent on-site sign shall be issued until a building permit has been issued for the building, structure or establishment to which it relates.

(4) No sign permits will be issued for a premises when existing signage of the same type exceeds the limits of this chapter.

TYPES OF SIGNS THAT REQUIRE A SIGN PERMIT

A. Temporary Signs

1. Special Event Signs
2. Real Estate, For Sale or Lease Signs
3. Open House Signs
4. Future Project Signs
5. Yard, Garage and Household Sale Signs

B. Permanent Signs

1. Freestanding Signs
2. Wall Signs
3. Overhang and Covered Walkway Signs
4. Directory Signs
   a. On-site Directory Signs
   b. Off-premises Directory Signs for one business organization or activity
   c. Off-premises Directory Signs for multiple business organizations or activities
5. Changeable Copy Signs

(B) Application.

(1) Who Must Apply: For all signs not specifically exempted or prohibited, the real property owner or his authorized agent shall submit an application on forms furnished by the town, together with applicable fees. If the applicant is not the owner, then written consent of the real property owner is required.

(2) The Application: Each application shall contain an agreement to indemnify and hold the town harmless for all damages, demands, or expenses caused by the sign or sign structure. The application shall be filed in triplicate and may require the following information, depending upon the type of sign requested:

(a) The name, address and telephone number of the real property owner, lessee (if applicable) and sign contractor (if applicable). If the applicant is not the owner, then written consent of the real property owner is required;

(b) The legal description, boundary survey, parcel identification number, and the street address of the property upon which the sign is to be placed;

(c) Plot plans, site plans or survey showing the location(s) of the existing and/or proposed sign(s), building, parking, streets, driveways, rights-of-way, easements, property lines, overhead utilities and applicable intersection visibility standards;

(d) Drawings or photographs of the proposed sign and sign structure including footings, dimensions, height, setbacks, clearances, spacing, size of sign face, percentage of sign face illuminated, sign area, colors, elevation of building walls (if applicable) and existing signs;

(e) Drawings shall reflect all required electrical information in accordance with the Town's Electrical Code;

(f) For all permanent signs, certification by an engineer registered in the State of Florida of the plans and specifications. Engineering specifications shall include stress diagrams and calculations showing that the structure is designed for deadload and wind pressure in any direction in the amount required by the Standard Building Code and this chapter;

(g) For all off-premises signs, including open house signs, written permission from the property owner for which the off-premises sign is to be placed.

(3) Renewals: Any application for renewal of a permit for a temporary sign shall be filed in triplicate and shall contain as much of the information requested in (2) above as deemed appropriate by the Town Manager.

(4) Prior Violations: Previous violators of this Chapter will not be issued a new sign permit unless they have paid the appropriate fine or storage cost for all previous sign violations and have corrected the sign violation.

(5) Duration: An application of a sign permit shall be void 90 days after the date of the application unless a permit has been issued. One or more extensions of time for a period not to exceed 90 days may be granted by the Town Manager so long as: (i) the conditions under which the permit was issued are the same at the time of permit extension; and (ii) the construction, specifications and placement of the sign(s) are substantially the same contained in the approved permit application; and (iii) the delay in erection of the sign is not within the control of the property owner, lessee, or their authorized agent.

(C) Permit Identification Tag.

(1) A permit identification tag issued by the town shall be permanently attached to all signs or sign structures in an accessible place, visible from the adjacent street and legible from ground level. The permit identification tag shall bear the number of the sign permit. Absence of this tag from any sign, except exempted signs, shall constitute prima facie evidence of the violation of this chapter.

(2) No sign, unless specifically exempted herein, shall be erected, displayed, rebuilt, repaired, or otherwise maintained which does not have a permit identification tag attached as described above.

(3) The property owner (or the authorized agent) is responsible for maintaining a valid permit identification tag on each permitted sign at all times.

(D) Fee Schedule. All fees shall be paid prior to the issuance of a permit or renewal. Fees for each category of sign shall be in the amounts determined by the Town Commission in a Fee Schedule which may be adopted and amended by resolution.
(Ord. 95-04, passed 5-1-95)

2000 TOWN CODE

§ 156.04 EXEMPT SIGNS.

(A) The following signs are exempted from the permit requirements of this chapter provided that the signs are located in accordance with the placement standards in § 156.10(A), except § 156.10(A)(4):

(1) Permanent on-site signs which do not exceed two square feet in area and which are:

(a) An identification sign,

(b) A directional sign, or

(c) A sign located in a yard indicating danger, no trespassing, or similar information, provided such signs shall be located only along the boundary or perimeter of the property and that there shall be no more than one such sign located within or along each 100 lineal or curvilinear feet, or fraction thereof, of the property's boundary or perimeter;

(2) Government signs;

(3) One national flag and one state flag and one foreign national flag or flag, emblem or insignia of a not-for-profit organization. In no case may more than three flags be flown at any one time on each lot, tract or parcel;

(4) Private navigational aids in conformance with state regulations;

(5) On-site religious symbols or identification emblems of religious orders at houses of worship;

(6) Other on-premises religious symbols or identification emblems of religious orders, not to exceed two square feet in area;

(7) Signs officially recognized by the Town Commission as having historical significance in accordance with § 156.09;

(8) Manatee protection signs and watercraft speed signs as specified in § 158.102(F)(5)(d);

(9) Vehicle identification signs;

(10) Signs incorporated on machinery or equipment at the manufacturers or distributors level which identify or advertise only the product(s) or service(s) dispensed by the machine or equipment; such as signs customarily affixed to beverage machines, newspaper racks, telephone booths, gasoline pumps, ATMs, and similar machines or equipment;

(11) Seasonal, holiday or commemorative decorations containing no advertising, provided that such decorations are not displayed for a period of more than 45 days per occasion. Such signs shall not be displayed in such a manner to cause a nuisance or hazard to public health, safety or welfare;

(12) Political signs, subject to the following criteria:

(a) Each sign shall not exceed five square feet in area,

(b) A maximum of two political signs are permittable per lot, parcel or tract,

(c) The signs shall be prohibited within street rights-of-way, but may be erected on private property and shall be removed from the premises within 48 hours after the issue or campaign has been decided or resolved;

(13) Window signs, subject to the following criteria:

(a) In addition to any other sign or signs allowed, a commercial establishment shall be entitled to use window signs for the display of the name of the establishment, and for temporary advertisements of special events at their places of business. Window signs may be a banner sign, but no more than one window sign may be used for each 20 feet or fraction thereof of display window frontage, nor may any such sign exceed six square feet in area. Except for "open" and "closed" signs, window signs shall not be electrical signs. Displays of photographs, merchandise, or a maximum of four decals in the display window of a commercial establishment, which are customary to the business, will not be subject to the requirements of this chapter,

(b) Window signs are not permitted in residential districts,

(c) Window signs shall only be placed on the inside surface of windows;

(14) Informational decals and bumper stickers placed on vehicles;

(15) Nonilluminated advertising signs located on vehicles whose primary purpose is mass transit;

(16) Balloons not to exceed two feet in diameter together with associated party, commemorative, or celebratory banners or signs, displayed for less than 24 hours and displayed solely for noncommercial purposes.

(B) The following signs are exempted from the permit requirements of this chapter provided that the signs are located in accordance with the placement standards in § 156.10(A):

(1) Chamber of Commerce signs, one placed at each the north and south entrances to the town on Gulf of Mexico Drive; and one sign not to exceed six square feet at the location of the Chamber of Commerce's main office;

(2) Off-premises directional signs for emergency medical services, not to exceed four square feet.

(Ord. 95-04, passed 5-1-95; Amd. Ord. 96-03, passed 5-6-94; Amd. Ord. 97-08, passed 7-7-97)

§ 156.05 PROHIBITED SIGNS.

The following signs are specifically prohibited unless exempt pursuant to § 156.04:

(A) Any sign which:

(1) Bears or contains statements, words, or pictures of any obscene, pornographic or immoral character,

(2) Employs motion picture projection,

(3) Emits audible sound, vapor, smoke, odor, or gaseous matter,

(4) Has unshielded illuminated devices that produce glare or are a hazard or nuisance to motorists, cyclists, pedestrians or occupants of adjacent properties, or in any way threatens or endangers sea turtles as set forth in Chapter 100 of the Town Code, Sea Turtles,

(5) Causes radio, television or other communication interference,

(6) Is erected or maintained so as to obstruct any fire fighting equipment, window, door, or opening used as a means of ingress or egress for fire escape purpose including any opening required for proper light and ventilation,

(7) Uses the words "stop," "look," "slow," "yield" or similar messages, except as may be necessary to provide traffic safety within a particular premises,

(8) For any reason impairs, interferes with the view of, or be confused with any emergency vehicle lighting, or interferes with, misleads or confuses traffic,

(9) Was constructed in violation of the Building Code or Electrical Code as adopted by the town,

(10) Is a non-governmental sign which does not comply with the intersection visibility standard, or

(11) Is a permanent sign, except for a residential development name sign, located on or in conjunction with property that is residentially used or zoned;

(B) Abandoned signs;

(C) Off premises signs unless expressly permitted in this chapter;

(D) Handwritten signs;

(E) Wind signs, snipe signs, party balloons, banners, pennants, flags, streamers or similar devices located so as to be visible from public or private roads or waterways unless otherwise permitted pursuant to this chapter;

(F) Mailbox signs other than letters and numbers which conform to applicable United States Postal Service criteria, not to exceed three inches in height;

(G) Containers attached to a mailbox or mailbox post advertising a business or product;

(H) Portable signs, except open house signs in compliance with § 156.06(B)(3);

(I) Vehicle or trailer signs, except political signs or signs affixed to vehicles whose primary purpose is mass transportation;

(J) Roof signs;

(K) Signs on the side or rear of any non-residential building or property (excluding the front of buildings) directly facing residentially zoned property;

(L) Permanent or temporary signs in any public right-of-way;

(M) Future project signs, except for projects that have received site plan approval;

(N) Animated signs;

(O) Search lights, flashing lights, strobe lights, animated or moving lights, border lighting and beacon lights used for display purposes;

(P) Reflective backgrounds, except on directional signs;

(Q) Neon tubing which is not completely enclosed within a U.L. approved sign cabinet;

(R) Any accessory sign attached to a temporary or permanent sign or its sign structure. Multiple listing strips, broker identification strips, sold signs and similar informational strips or riders are prohibited;

(S) Signs on canvas and/or vinyl materials used as awnings, canopies, or other structures, except for addresses and directional information located only on the face of the awning;

(T) All signs not expressly permitted or exempted by this chapter.

(Ord. 95-04, passed 5-1-95; Amd. Ord. 96-08, passed 6-3-96; Amd. Ord. 97-08, passed 7-7-97)

§ 156.06 PERMITTED TEMPORARY SIGNS.

(A) General Conditions and Permit Requirements. All temporary signs which are not specifically exempted or prohibited under this chapter shall require a site specific sign permit for temporary use prior to the placement of the sign on private or public property. All temporary signs shall be erected in conformance with the placement standards of § 156.10. Temporary signs shall be permitted for a period of time not to exceed nine months, unless the time frame for that specific permitted temporary sign is less as provided herein. Any sign which is permitted for a nine month period shall be entitled to a renewal(s) for a period of time not to exceed 90 days, upon the demonstration by the applicant that:

(1) The conditions under which the permit was issued are the same at the time of the requested extension; and

(2) The intended action or result requested by the sign has not been fulfilled despite reasonable efforts to accomplish it.

(B) Types of Permitted Temporary Signs.

(1) Special Event Signs.

(a) Signs announcing special events for civic purposes which are sponsored by a not-for-profit organization, including the Chamber of Commerce, may be permittable subject to the following additional criteria:

(i) The sign(s) may be displayed up to seven consecutive days, and may be extended for a reasonable amount of time subject to written authorization from the Town Manager;

(ii) The sign(s) shall not be constructed of reflective material or illuminated;

(iii) The maximum size of home tour directional signs shall not exceed four square feet.

(b) On-site grand opening signs announcing the grand opening of developments, construction sites, or changing ownership or management shall not be displayed more than seven consecutive days. Such on-site grand opening signs shall be permitted once per owner or tenant for each property subject to the opening.

(2) Real Estate, For Sale or Lease Signs. A real estate sign can be placed only by: (i) the owner of the specific property for sale, rent or lease; or (ii) the owner's authorized agent. Real estate signs are permittable subject to the following additional criteria:

(a) One non-illuminated sign shall be allowed to be placed along the road frontage of a specific lot, parcel or tract to advertise that property.

(b) The maximum size of the sign shall be four square feet.

(c) The sign shall be free-standing with a 4" x 4" support post with the top of the supporting arm a maximum of four feet from the ground.

(d) The sign shall have a single background color and shall have no more than a total of three colors, exclusive of a registered logo, trademark or designation required by federal, state or local law. Black and white are considered colors.

(e) The sign structure shall be painted white.

(f) Multiple listing strips, broker identification strips, sold signs and similar informational strips or riders are prohibited.

(g) The sign shall be removed within two business days after transfer of ownership, when the property is no longer for rent, sale or lease, when the lease or rent period commences, or when the temporary sign permit expires, whichever occurs first.

(h) Signs, indicating "vacancy", "no-vacancy", "for lease", "for rent", or other language indicating availability of temporary occupancy are prohibited in all non-residentially zoned property or property which is zoned residential but has a legal nonconforming use.



(3) Open House Signs.

(a) On-premises open-house signs associated with the sale or rental of property are permittable subject to the following additional criteria:

(i) The maximum size of the sign shall be three square feet.

(ii) No balloons, streamers, flags or similar attention attracting items may be attached to the sign.

(iii) A maximum of one open-house sign may be placed on the lot, parcel or tract that is advertised for sale, lease or rent.

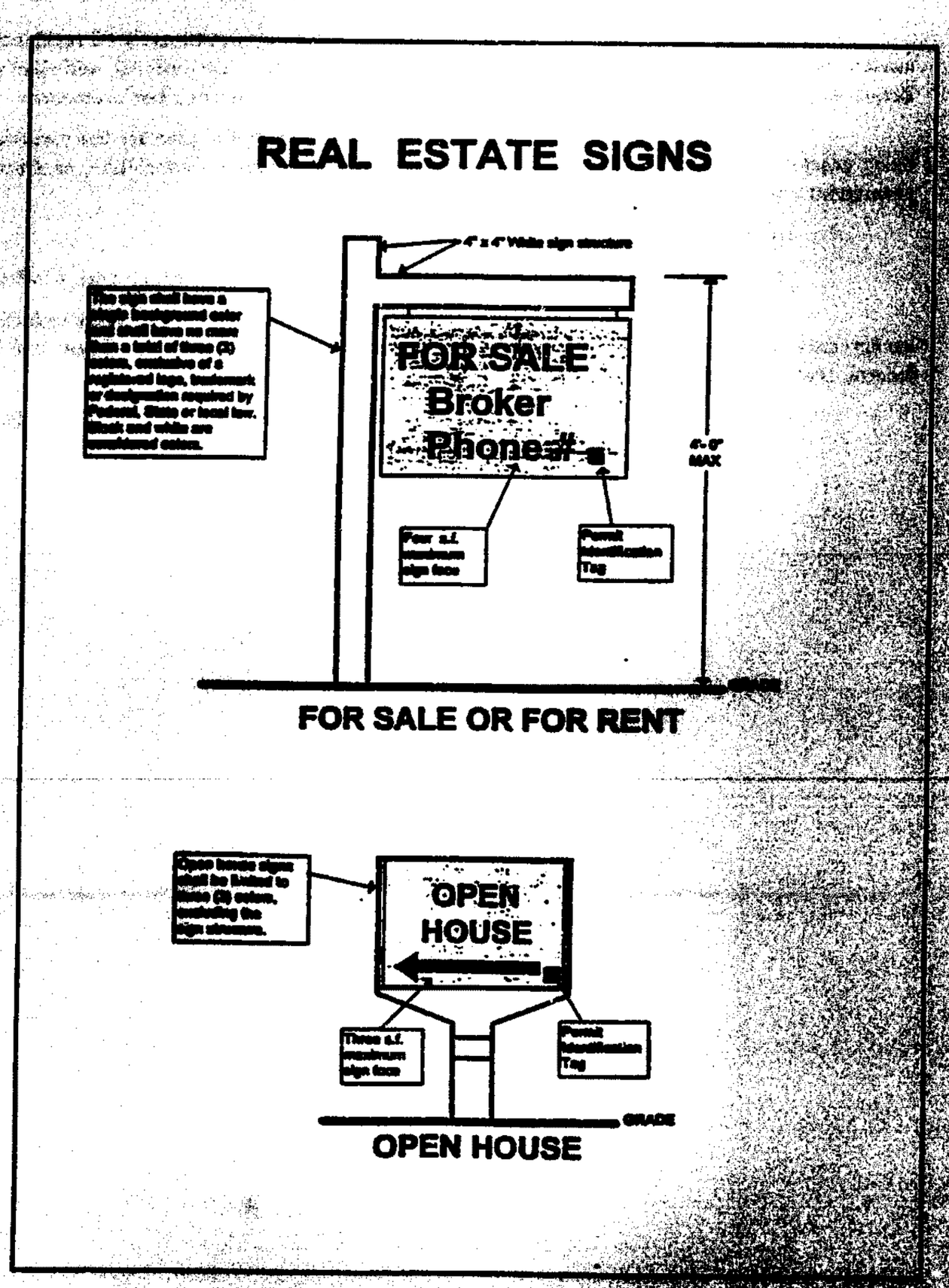
(iv) The sign shall not be displayed more than one hour prior to when the house is open for public viewing and removed not later than one hour after the house is closed.

(v) Open-house signs shall be limited to three colors, excluding the sign structure.

(b) Off-premises open-house signs are subject to the above criteria except that:

(i) No more than one off-premises open-house sign shall be placed at one connecting street to Gulf of Mexico Drive, and no more than one off-premises open-house sign shall be placed at other street intersections leading to the advertised property. The granting of an on-site open-house sign permit and payment of the permit fee shall entitle the applicant to a maximum of three off-premises open-house signs. These off-premises open-house signs shall be erected on a first-come, first-served basis.

(ii) Off-premises open-house signs shall be directional only.


REAL ESTATE SIGNS
FOR SALE
Broker
Phone#
FOR SALE OR FOR RENT
OPEN
HOUSE
OPEN HOUSE

(4) Future Project Signs. Temporary freestanding future project signs for all residential construction requiring site plan approval, and all commercial, office, institutional, and all other Zoning Districts are permittable subject to compliance with the following requirements:

(a) The sign may be erected only after approval of a site plan for the structure being erected and shall be removed after certificate of occupancy or completion, or once a permanent sign has been erected, whichever occurs first;

(b) One sign permitted per site;

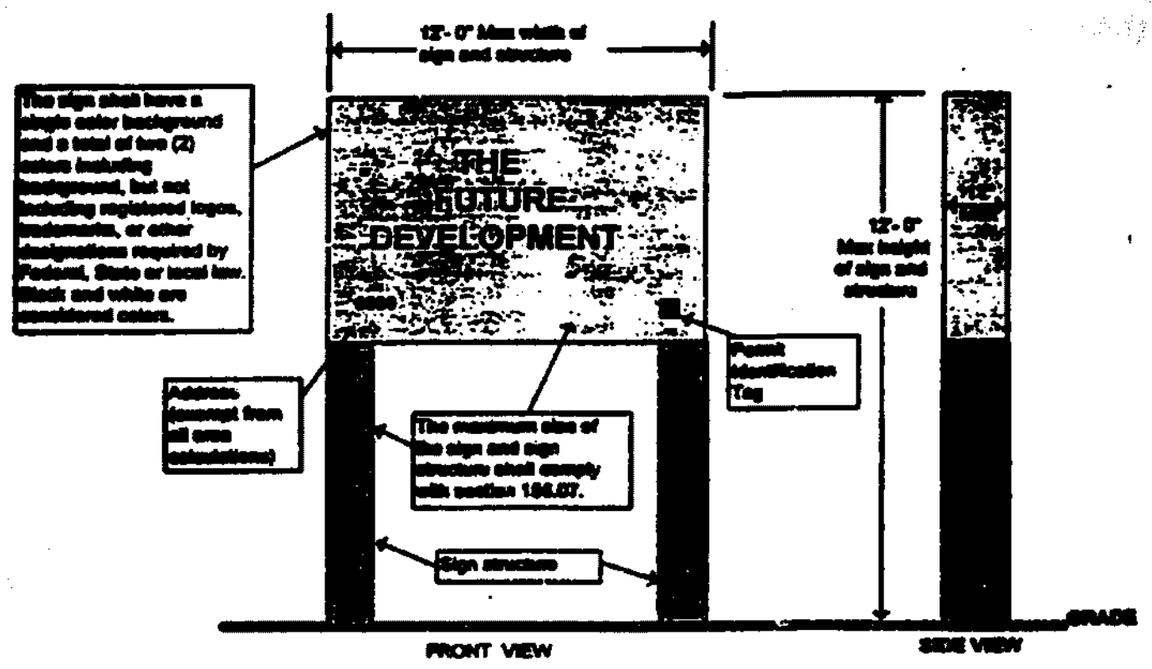
(c) The maximum size of the sign and sign structure shall comply with § 156.07;

(d) The sign shall have a single color background and a total of two colors including background, but not including registered logo, trademark or other designation required by federal, state or local law. Black and white are considered colors;

(e) The sign shall not be illuminated or constructed with reflective materials.

2000 TOWN CODE

FUTURE PROJECT SIGNS.



Temporary freestanding future project signs for all residential construction requiring site plan approval, and all commercial, office, institutional, and all other Zoning Districts are permittable subject to compliance with the following requirements:

The sign may be erected only after approval of a site plan for the structure being erected and shall be removed after certificate of occupancy or completion, or once a permanent sign has been erected, whichever occurs first.

The sign shall comply with the standards for future project signs contained in section 156.06(B)(4).

The maximum size for a permitted freestanding future project sign and its structure is determined by the lineal feet of frontage on the right-of-way for the lot on which the building is located and faces in accordance with the following schedule:

LINEAL FEET OF FRONTAGE	MAXIMUM SIZE OF SIGN FACE (Single-Face)	MAXIMUM SIZE OF SIGN FACE (Double-Face)	MAXIMUM SIZE OF STRUCTURE
0 - 73 Ft.	16 Sq.Ft.	32 Sq. Ft.	32 Sq. Ft.
73 - 89 Ft.	24 Sq.Ft.	48 Sq. Ft.	48 Sq. Ft.
89 + Ft.	32 Sq.Ft.	64 Sq. Ft.	64 Sq. Ft.

(5) Yard, Garage and Household Sale Signs.

(a) On-premises, yard, garage and household sale signs are permittable; provided, that no more than two permits for any address may be issued within any consecutive 12-month period, and shall be subject to the following criteria:

(i) The maximum size of the sign shall be three square feet.

(ii) No balloons, streamers, flags or similar attention attracting items may be attached to the sign.

(iii) A maximum of one sign may be placed on the lot, parcel or tract where the sale is held.

(iv) The sign shall not be displayed more than one hour prior to the commencement of the sale and removed not later than one hour after the conclusion of the sale.

(v) The sign shall be limited to three colors, excluding the sign structure.

(b) Off-premises yard, garage and household sale signs are subject to the criteria in (5) above except that:

(i) No more than one off-premises sign shall be placed at one connecting street to Gulf of Mexico Drive, and no more than one sign shall be placed at other street intersections leading to the advertised property. The granting of an on-site yard, garage or household sale sign permit and payment of the permit fee shall entitle the applicant to a maximum of two off-premise yard, garage or household sale signs. These off-premise yard, garage and household sale signs shall be erected on a first come, first-served basis.

(ii) Off-premises signs shall be directional only.

(6) Construction Signs.* Construction signs identifying the owner/developer(s), architect(s) and/or contractor(s), are permittable subject to the following additional criteria:

(a) All residential construction when the building(s) being (re)constructed are residential and less than 10 units, or individual dwelling units within a multi-family building;

(i) The sign may be erected only after issuance of a building permit for the structure being erected and shall be removed after certificate of occupancy or completion, whichever occurs first,

(ii) One sign permitted per site,

(iii) The maximum size of sign shall be four square feet,

(iv) The sign shall be freestanding with a 4" x 4" support post. The top edge of supporting arm shall be a maximum of four feet off the ground. All supports shall be painted white,

(v) The sign shall not be illuminated or constructed with or of reflective materials,

(vi) No more than two colors including single-color background, but not including registered logos, trademarks, or other designations required by federal, state or local law. Black and white are considered colors;

(b) All residential (re)construction of 10 or more units, and all commercial, office, institutional, and all other zoning districts shall comply with (6)(a) above except that:

(i) The maximum size of the sign and sign structure shall comply with § 156.10 156.07

(ii) The sign shall have a single color background and total of three colors including background, but not including registered logo, trademark or other designation required by federal, state or local law. Black and white are considered colors.

(Ord. 95-04, passed 5-1-95; Amd. Ord. 96-08, passed 6-3-96)

* See also the diagram entitled "Temporary Construction Signs" on the following page.

§ 156.07 PERMITTED PERMANENT SIGNS.

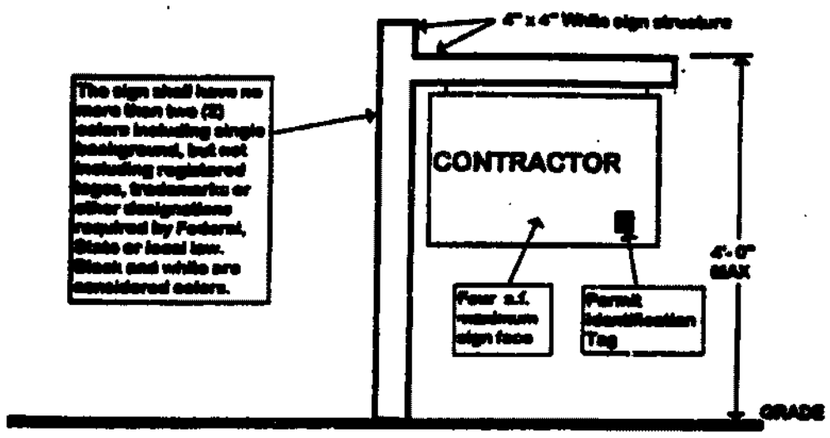
(A) General Conditions and Permit Requirements.

(1) Permanent signs not specifically exempted or prohibited under this chapter, shall require a site specific sign permit prior to the placement of the sign on private or public property. All permittable permanent signs must meet the construction and placement requirements contained in § 156.10.

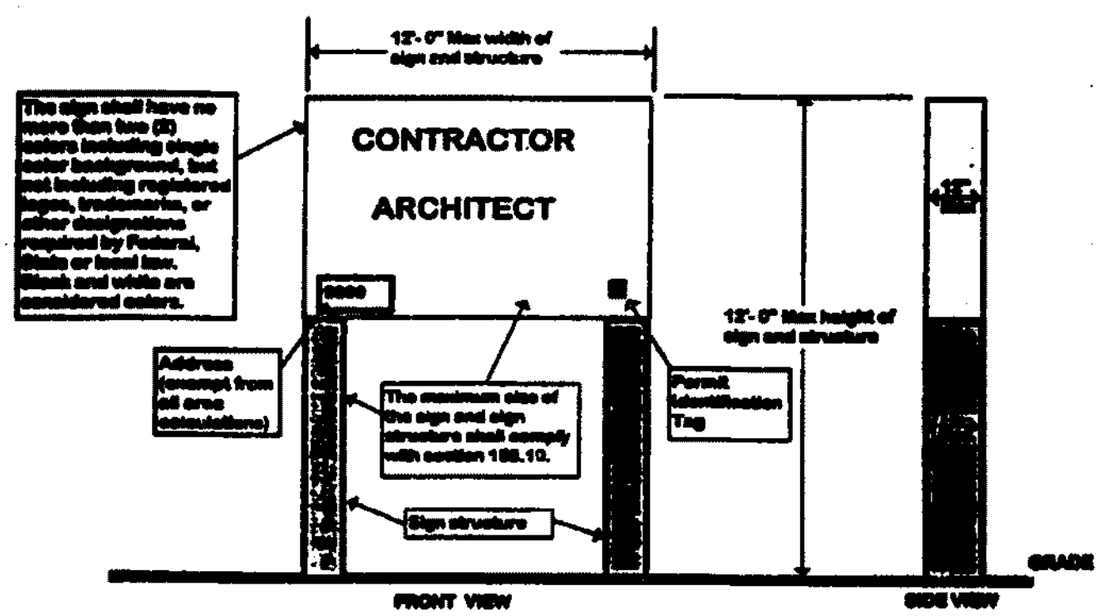
(2) One wall sign shall be permitted per occupant/tenant space, however, if only one occupancy/tenant space exists per property, a wall sign or freestanding sign is permittable, but not both. In addition, if an overhanging sign is placed parallel to the building, a wall sign for that occupant/tenant space shall be prohibited.

(B) Freestanding Signs. Freestanding signs are permittable subject to the following additional criteria:

TEMPORARY CONSTRUCTION SIGNS



Residential construction of less than 10 units or individual dwelling units within a multi family building



Residential construction of 10 or more units or non residential projects

(1) The maximum size for a permanent permitted freestanding sign and its structure is determined by the lineal feet of frontage on the right-of-way for the lot on which the building is located and faces in accordance with the following schedule:

LINEAL FEET OF FRONTAGE	MAXIMUM SIZE OF SIGN FACE (Single-Face)	MAXIMUM SIZE OF SIGN FACE (Double-Face)	MAXIMUM SIZE OF STRUCTURE
0 - 73 Ft.	16 Sq. Ft.	32 Sq. Ft.	32 Sq. Ft.
73 - 99 Ft.	24 Sq. Ft.	48 Sq. Ft.	48 Sq. Ft.
99+ Ft.	32 Sq. Ft.	64 Sq. Ft.	64 Sq. Ft.

(2) Only one freestanding sign is allowed per lot, tract or parcel, except residential developments which may have one residential development name sign at each principal entrance.

(3) Sign structures shall not contain advertising matter, nor shall the form or substance of the sign structure be such as to advertise or denote the business or other activity of the establishment, organization or entity owning the sign.

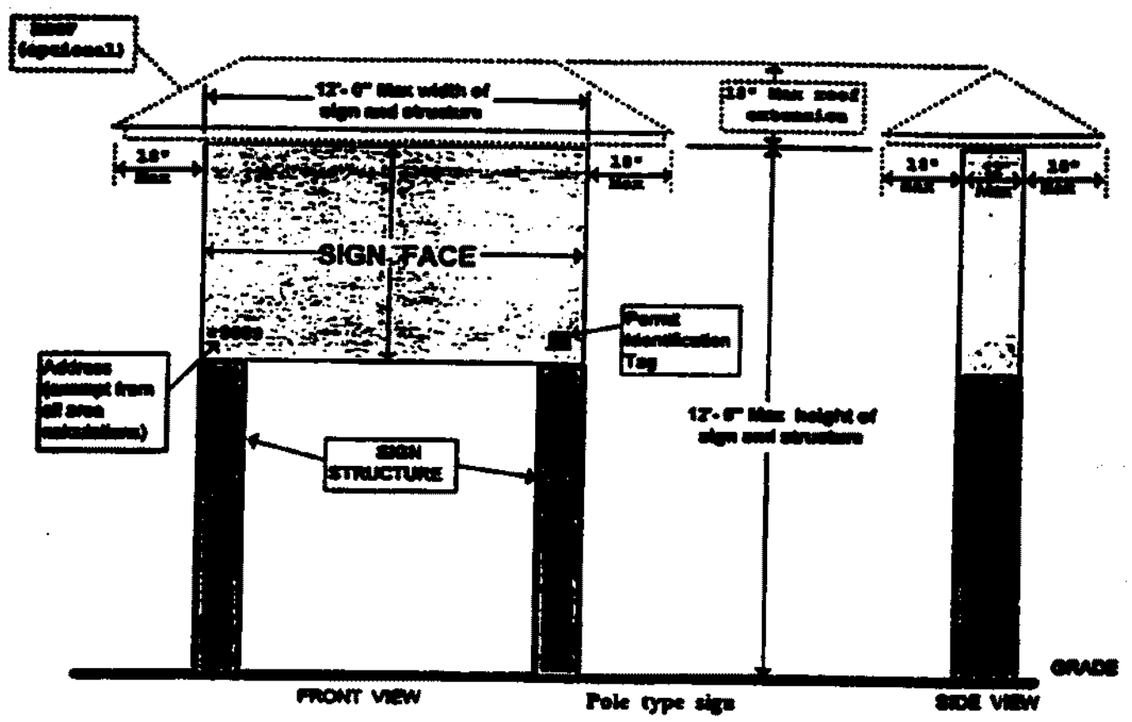
(4) The numerical address of the business, service or establishment may be included on the sign itself or on the sign structure, and if on the sign structure, the numerical address will not cause the structure to be included in the calculation of the maximum size of sign face. As per Town Code § 94.44(A), the size of numerical address numbers for single-family residential properties shall be four inches and all others shall be six inches.

(5) The maximum height of a sign and its structure shall not exceed 12 feet. The maximum width of a sign and its structure shall not exceed 12 feet. The maximum depth (thickness) of a sign and its structure shall not exceed 12 inches. Roofs on signs, where allowed for the purpose of sign protection or concealment of a light source, are allowed to extend a maximum of 18 inches on all sides of the sign; however, the total width of the roof on the sign shall not to exceed 48 inches.

(6) No more than three colors shall be allowed for one sign and its supporting structure, including the color used for the background, but excluding the registered logo, trademark or other designation required by federal, state or local law. Black and white are considered colors. However, if the sign structure is constructed from wood or stone, the natural color of the product may be an exception from the three color rule. A liquid preservation coating may be applied to the stone or wood sign structure without compromising this exception.

(7) Double-faced signs must contain the same message on both sides.

PERMANENT FREE STANDING SIGNS



The design of this sign is not mandatory, and is intended for illustrative purposes only.

No more than three (3) colors shall be allowed for one sign and its supporting structure, including the color used for the background, but excluding the registered logo, trademark or other designation required by Federal, State or local law. Black and white are considered colors. However, if the sign is constructed from wood or stone, the natural color of the product may be an exception from the three (3) color rule. A liquid preservation coating may be applied to the stone or wood sign structure without compromising this exception

The maximum size for a permanent permitted freestanding sign and its structure is determined by the lineal feet of frontage on the right-of-way for the lot on which the building is located and faces in accordance with the following schedule:

LINEAL FEET OF FRONTAGE	MAXIMUM SIZE OF SIGN FACE (Single-Face)	MAXIMUM SIZE OF SIGN FACE (Double-Face)	MAXIMUM SIZE OF STRUCTURE
0 - 73 Ft.	16 Sq.Ft.	32 Sq. Ft.	32 Sq. Ft.
73 - 99 Ft.	24 Sq.Ft.	48 Sq. Ft.	48 Sq. Ft.
99 + Ft.	32 Sq.Ft.	64 Sq. Ft.	64 Sq. Ft.

(C) Wall Signs. Wall signs are permittable signs provided they meet the following additional criteria:

(1) One wall sign shall be permitted per occupancy/tenant.

(2) Wall signs shall not be painted on the building surface.

(3) The wall sign shall be attached to the building and supported throughout its entire length by the facade of the building.

(4) The maximum area of a wall sign shall be in accordance with the following schedule:

LINEAL FEET OF FRONTAGE OF OCCUPANT/TENANT SPACE	MAXIMUM SIGN AREA
0-74 feet	16 square feet
74-99 feet	24 square feet
99+ feet	32 square feet

(5) Calculation of wall sign area.

(a) When a sign panel or similar device is attached to a building wall the sign area is determined by the area of the sign face.

(b) When individual letters or symbols are directly attached to a building wall without the use of a sign panel or similar device, the sign area is determined in accordance with § 156.100, definition of sign area.

(6) Legal conforming wall bearing signs will be exempted from sign structure size, but shall be subject to sign area requirements.

(D) Overhang and Covered Walkway Signs. Overhang signs are permittable provided that the signs meet the following additional criteria:

(1) The sign shall not protrude beyond the face of the overhang or roof of the walkway and may be placed either parallel or perpendicular to the building face. However, if an overhang sign is placed parallel to the building face, a wall sign for that occupant/tenant space shall be prohibited.

(2) The maximum size of sign allowed shall not exceed six feet in length and 18 inches in height.

(3) Two signs shall be permitted per occupancy/tenant space.

(E) Directory Signs. Directory signs shall be permitted provided they are within one of the three categories below and meet the following additional criteria:

(1) On-site directory signs are permittable subject to the following additional criteria:

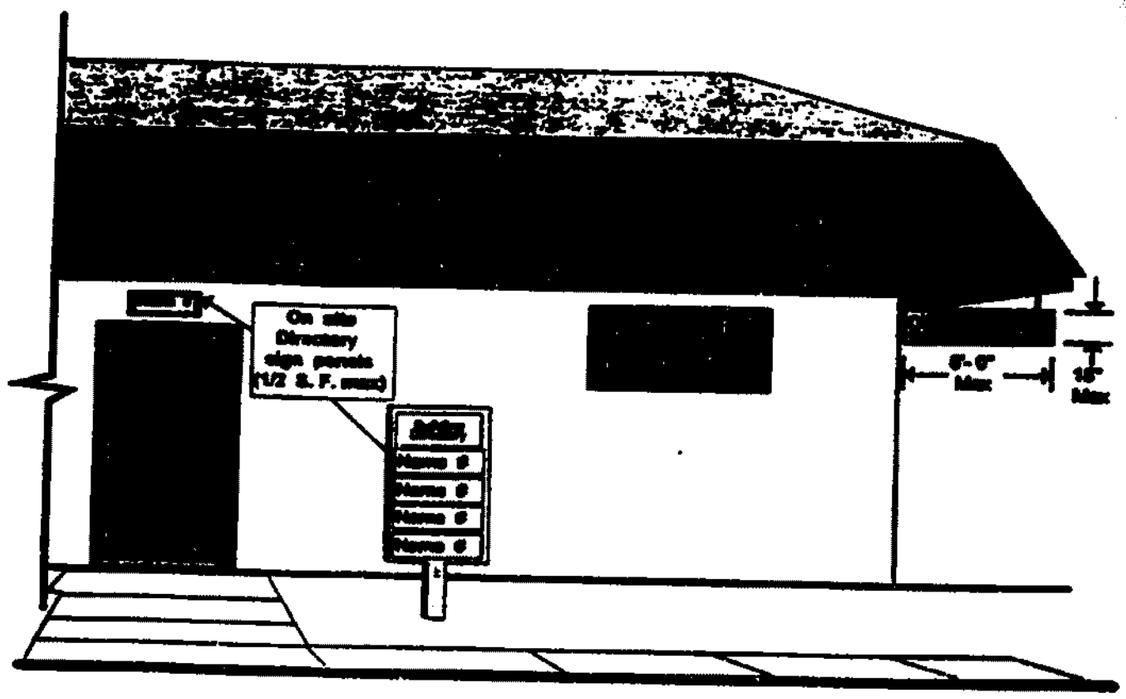
(a) Shall be erected only on nonresidential property.

(b) Shall be used to identify multiple tenants occupying the same property.

(c) Shall consist of a unified sign face that has the appearance of a single sign and shall be limited to the name of the tenant. One sign panel per tenant/occupant space is allowed, and the size of the sign panel shall not exceed one-half square foot per tenant/occupant space.

(d) In addition to (c) above, where multiple buildings with multiple tenants are located on the same property, one free-standing, uniform, directory sign per building is allowed to identify occupants/tenants located within that building, subject to the size limitations within (c) above.

WALL SIGNS, ON-SITE DIRECTORY SIGNS, AND OVERHANG / COVERED WALKWAY SIGNS



One (1) wall sign shall be permitted per occupant/tenant space, however, if only one (1) occupant/ tenant space exists per property, a wall sign or freestanding sign is permittable, but not both. In addition, if an overhanging sign is placed parallel to the building, a wall sign for that occupancy/tenant space shall be prohibited.

The maximum area of a wall sign is based on the linear feet of frontage of occupant/tenant space and shall comply with the following schedule:

Lineal Feet of Frontage of Occupant/Tenant Space	Maximum Sign Area
0-74 Feet	16 Sq. Ft.
74-99 Feet	24 Sq. Ft.
99 + Feet	32 Sq. Ft.

Overhang and covered walkway signs shall not protrude beyond the face of the overhang or roof of the walkway and may be placed either parallel or perpendicular to the building face. However, if an overhang sign is placed parallel to the building face, a wall sign for that occupant / tenant space shall be prohibited.

All signs are required to have a permit identification tag.

(2) Off-Premise Directory Signs are permissible only where a business organization or activity seeking to place a directional sign does not have frontage on Gulf of Mexico Drive and are permittable provided they meet the following additional criteria:

(a) The sign shall be located only on nonresidential property.

(b) The sign shall not exceed four square feet in area.

(c) Shall denote only the name, business, and direction of the business or organization.

(d) A uniform logo, not to be considered as part of the sign areas, shall be on top of the sign structure and shall include a white hibiscus flower on a blue background to match Printers Measurement Systems (PMS) number 3015c.

(e) The sign design shall be white lettering on a blue background to match Printers Measurement Systems (PMS) number 3015c.

(f) Signs may be double-faced.

(3) For Off-Premise Directory Signs where two or more applicants seek permission to erect directional signs in the same general location, such Directory Signs will be permittable subject to the following additional criteria:

(a) Where two or more applicants seek permission to erect off-premise directory signs in the same general location, the Town Manager shall require the applicants to join in the erection of a directory sign in lieu of separate directory signs, and, if the applicant(s) are unwilling to do so, the Town Manager shall deny the application(s) for individual off-premise signs and shall give 30 days with notice of the intent to revoke any permit to erect a single off-premise directory sign as described in subsection (2) above.

(b) Not more than one off-premise sign structure per street and one sign panel per building shall be allowed.

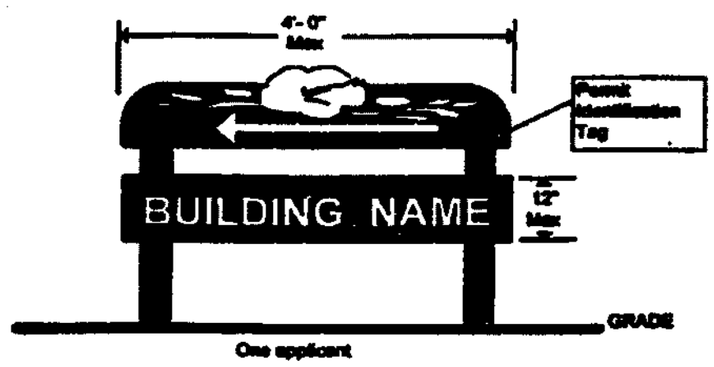
(c) The structure of the directory sign shall not exceed 12 feet in height or four feet in width.

(d) Individual panels or nameplates of the directory sign shall be uniform in size, color, and lettering.

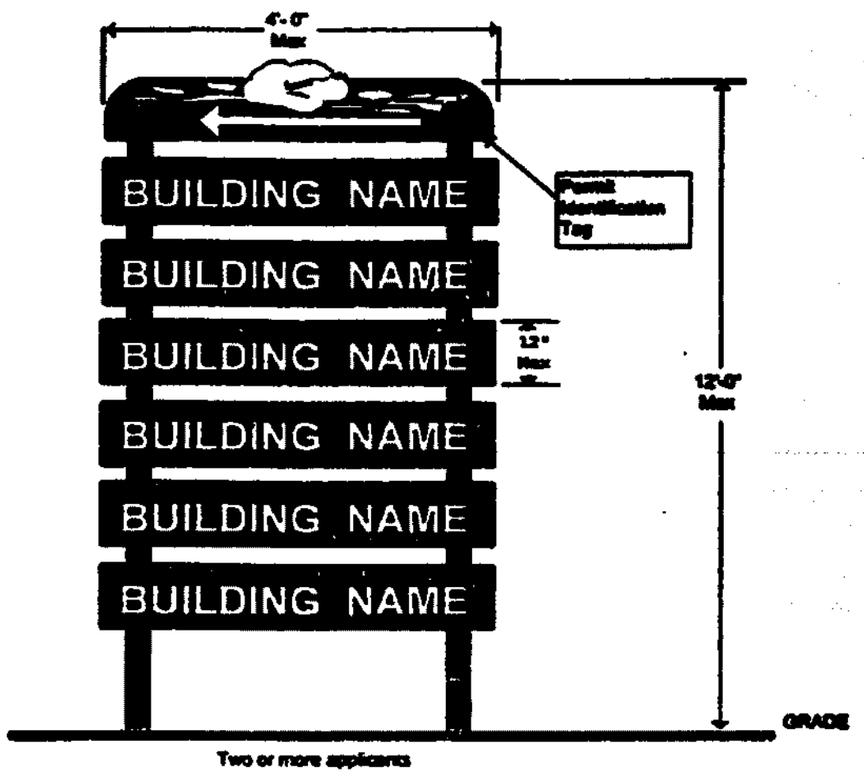
(e) Individual panels or nameplates may not exceed one foot in width, four feet in length, or four square feet in area.

(f) The aggregate area of all panels or nameplates shall not exceed 24 square feet.

OFF - PREMISE DIRECTORY SIGN



One applicant



Two or more applicants

A uniform logo, not to be considered as part of the sign areas, shall be on top of the sign structure and shall include a white hibiscus flower on a blue background to match Printers Measurement Systems (PMS) number 3015c.

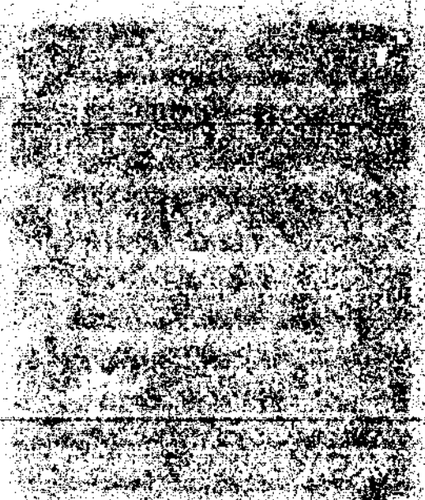
The sign design shall be white lettering on a blue background to match Printers Measurement Systems (PMS) number 3015c.

The aggregate area of all panels or nameplates shall not exceed 24 square feet.

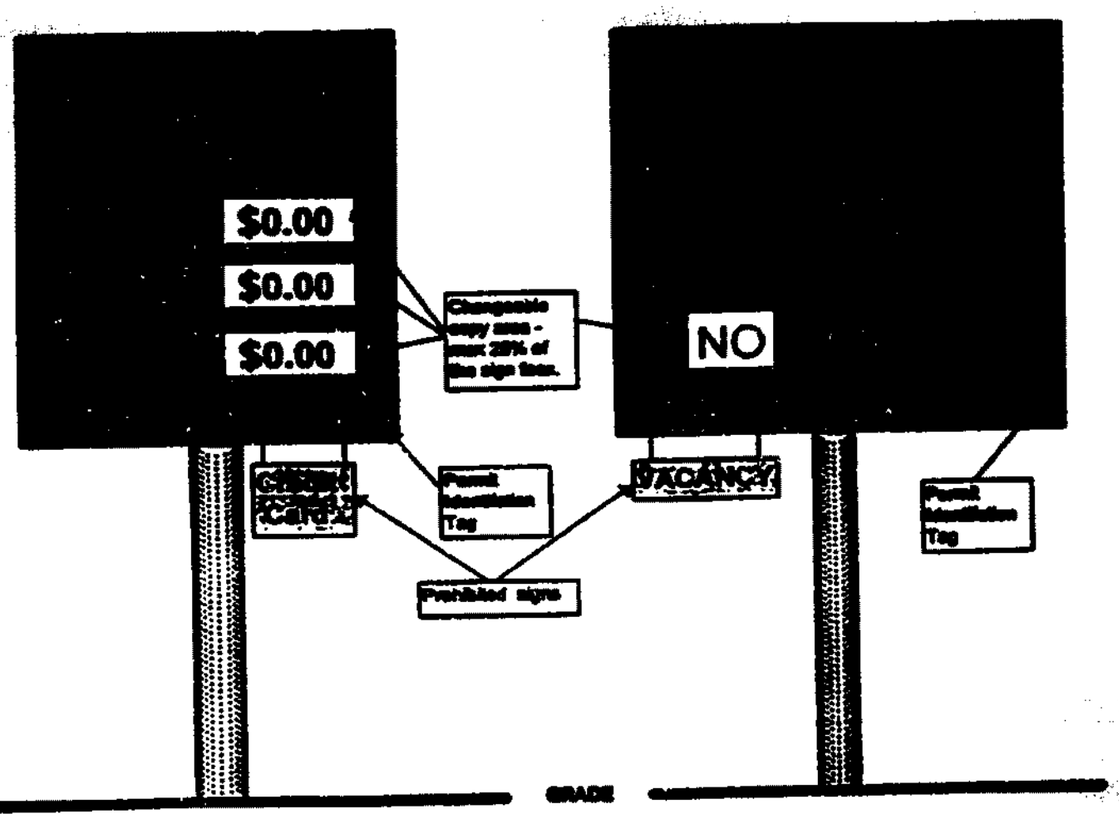
(F) Changeable Copy Signs. Changeable Copy Signs are permittable subject to the following additional criteria:

(1) the signs are permitted only as part of a permanent sign and shall be incorporated into the sign face, but not the sign structure.

(2) the signs can only be erected in non-residentially zoned property or property which is zoned residential but has a legal nonconforming use and shall only indicate "vacancy," "no vacancy," "for lease," "for rent," or other language indicating the availability of temporary occupancy or the price of gasoline, and shall not exceed 25 percent of the sign face.
(Ord. 95-04, passed 5-1-95)



CHANGEABLE COPY SIGNS



Changeable Copy Signs are permittable subject to the following additional criteria:

(1) the signs are permitted only as part of a permanent sign and shall be incorporated into the sign face, but not the sign structure.

(2) the signs can only be erected in non-residentially zoned property or property which is zoned residential but has a legal nonconforming use and shall only indicate "vacancy", "no vacancy", "for lease", "for rent", or other language indicating the availability of temporary occupancy or the price of gasoline, and shall not exceed twenty-five (25) percent of the sign face.

§ 156.08 ILLUMINATED SIGNS.

(A) Except for Government Signs, only permittable permanent signs may be illuminated. No illuminated sign may be erected or maintained along or adjacent to any public rights of way unless the source of illumination is shaded and not directly visible from any public street. In addition, the source of the illumination shall in no way threaten or endanger sea turtles as set forth in Chapter 100 of the Town Code, Sea Turtles. Additionally, illuminated signs must meet the following additional criteria:

(1) Internally Illuminated Signs. Signs which are internally illuminated are permittable if they meet the following additional criteria:

(a) Illumination shall be emitted through letters and logo which shall not consume more than 25 percent of the sign face.

(b) Excluding the illuminated sign area, the remainder of the sign face shall be opaque.

(c) No more than three colors shall be allowed for one sign, including the color used for the background, but excluding the registered logo, trademark or other designation required by federal, state or local law. Black and white are considered colors.

(d) Internal illumination shall be provided by fluorescent lighting comprised of florescent lamps with a designation of "cool white," "warm white" or "daylite."

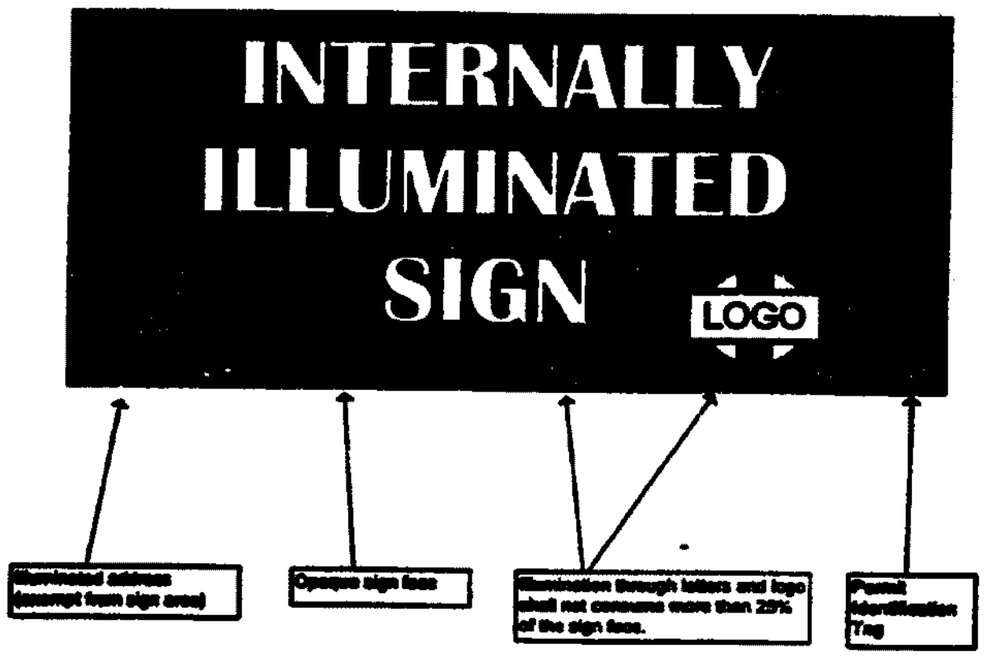
(e) Internal lamps shall be installed no closer than six inches to any translucent sign surface.

(f) Internal lamps shall not be spaced closer than ten inches center to center.

(g) Cabinets and internal wiring shall meet or exceed Underwriter Laboratory specifications.

(h) Illuminated letters of the sign are restricted to one uniform and consistent color.

INTERNALLY ILLUMINATED SIGNS



NOTES-

No more than three (3) colors shall be allowed for one sign, including the color used for the background, but excluding the registered logo, trademark or other designation required by Federal, State or local law. Black and white are considered colors.

The intensity of illumination shall be in compliance with Section 156.06(A)(1).

The size of the sign is dependent upon the type of sign.

Illuminated letters of the sign are restricted to one uniform and consistent color.

(2) Externally Illuminated Signs. Signs which are externally illuminated are permittable if they meet the following additional criteria:

(a) No more than three colors shall be allowed for one sign, including the color used for the background, but excluding the registered logo, trademark or other designation required by federal, state or local law. Black and white are considered colors.

(b) External lighting shall be provided by either fluorescent, quartz, halogen, metal halide, par type flood lights or similar Underwriter Laboratory approved type lighting fixture not to exceed a total of 300 watts of illumination per face of sign.

(c) Lighting fixtures shall be Underwriter Laboratory approved and all wiring shall comply with National Electrical Code specifications.
(Ord. 95-04, passed 5-1-95)

§ 156.09 HISTORICAL SIGNS.

(A) Designation as an Historical Sign. An owner of a sign may petition the Town Commission for desighation of that sign as historical. In making its determination, the Town Commission shall consider whether:

(1) The sign is registered or certified by the Manatee County Historical Preservation Board or the Sarasota County Historical Preservation Board;

(2) The sign is a minimum of 25 years old;

(3) The sign is unique and enhances the cultural, historical or aesthetic quality of the community;

(4) The sign is structurally and electrically safe or is capable of being made so without substantially altering its historical significance;

(5) The sign is of exemplary technology, craftsmanship or design of the period in which it was constructed; uses historic sign materials, and is not significantly altered from its historic period. If the sign has been altered it must be restored to its historic function and appearance.

(B) Historical signs shall be exempt from this Chapter unless they are enlarged, added to, modified, removed, or replaced unless that modification has been approved by the Town Commission.
(Ord. 95-04, passed 5-1-95)

§ 156.10 PLACEMENT AND CONSTRUCTION STANDARDS.

(A) Placement of Signs. All signs, except governmental signs, including exempt and permittable signs, shall:

(1) Not be located in any public right-of-way;

(2) Not be located as to obstruct entrances or exits from buildings or impede the visibility of oncoming traffic;

(3) Not be placed in a location which would prove dangerous to individuals or the public;

(4) Be located in the yard facing the street, driveway, or other vehicular access point and shall be no closer to a public street than as follows:

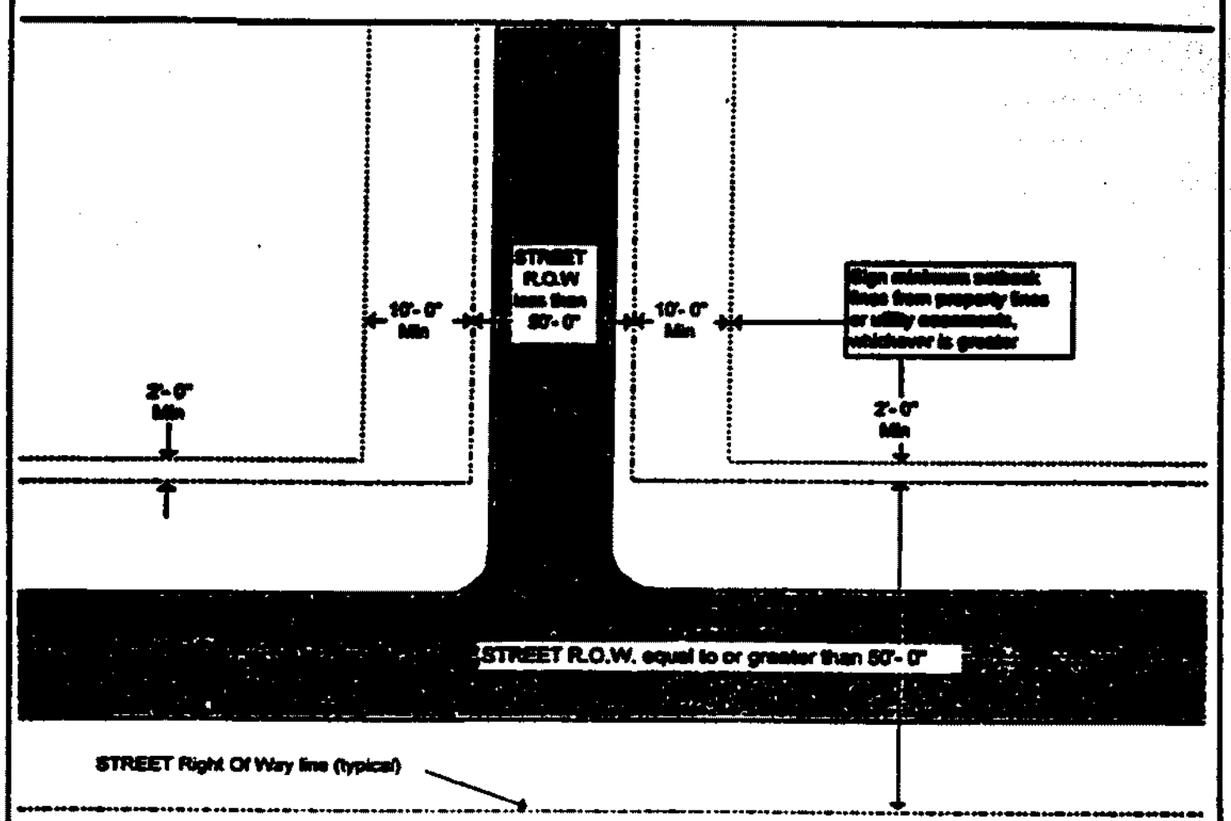
(a) Where the property borders a right-of-way which is greater than or equal to 50 feet in width, the sign and structure shall be a minimum of two feet inside the property line or utility easement, whichever is greater.

(b) Where the property borders a right of way which is less than 50 feet in width, the sign and structure shall be a minimum of 10 feet inside the property line or utility easement or half of the distance between the property line and the front edge of the building, whichever is greater;

(5) Comply with the following intersection visibility requirements:

(a) At all street intersections, no sign exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle illustrated herein, except that a freestanding sign shall be permitted in a median located within the intersecting street right-of-way, provided that the sign is setback a minimum of five feet from the street right-of-way in compliance with § 156.07(B).

PLACEMENT OF SIGNS



All signs, except government signs, including exempt and permittable signs, shall:

(1) not be located in any public right-of-way;

(2) not be located as to obstruct entrances or exits from buildings or impede the visibility of on coming traffic;

(3) not be located in a location which would prove dangerous to individuals or the public;

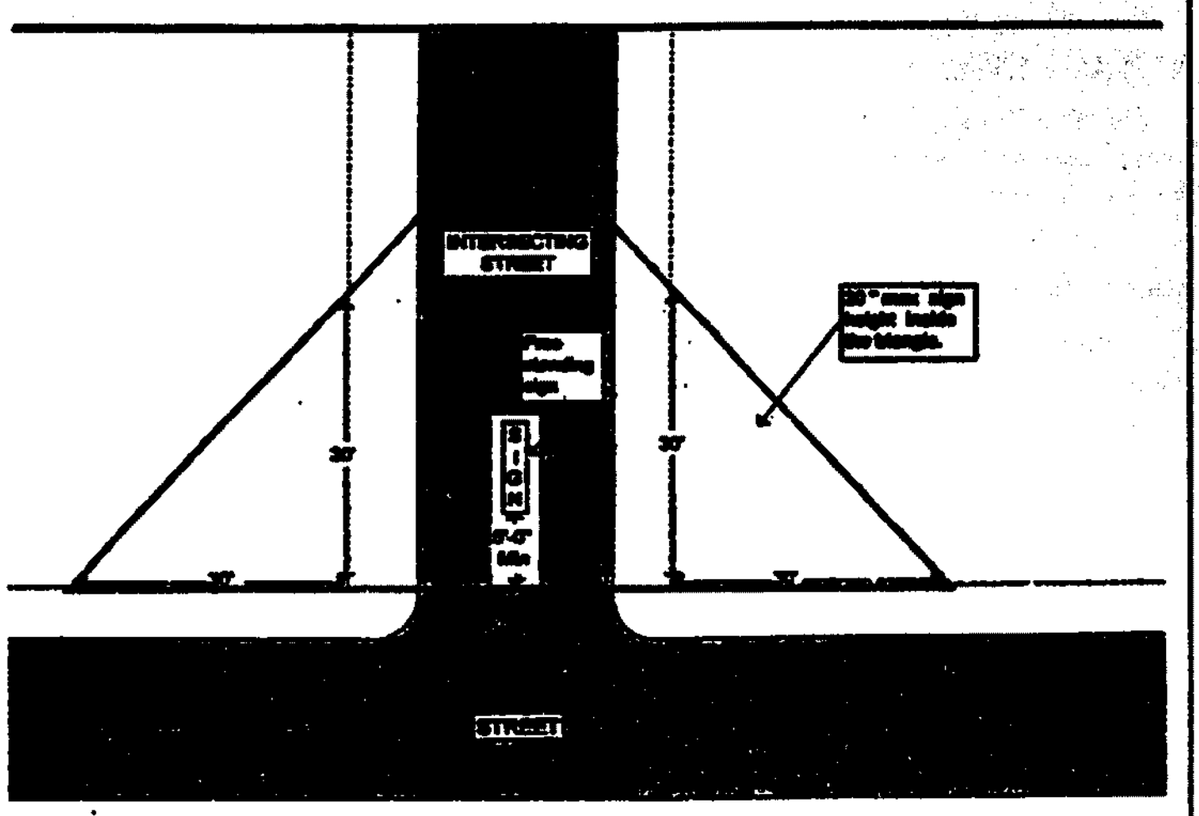
(4) be located in the yard facing the street, driveway, or other vehicular access point and shall be no closer to a street right-of-way than as follows:

(a) where the property borders a right-of-way which is greater than or equal to fifty (50) feet in width, the sign and structure shall be a minimum of two (2) feet inside the property line or utility easement, whichever is greater;

(b) where the property borders a right-of-way which is less than fifty (50) feet in width, the sign and structure shall be a minimum of five (10) feet inside the property line or utility easement or half of the distance between the property line and the front edge of the building, whichever is greater;

(5) comply with the intersection visibility requirement in Section 156.10(A)(5).

INTERSECTION VISIBILITY



At all street intersections, no sign exceeding thirty (30) inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle illustrated above, except that a freestanding sign shall be permitted in a median located within the intersecting street right-of-way, provided that the sign is setback a minimum of five (5) feet from the street right-of-way and is in compliance with the criteria in Section 156.07(B).

(B) Construction Design Standards. Signs or other advertising structures shall be permitted, constructed, and maintained in strict conformity with the Town Fire Protection Code (§ 94), the Town Tree Code (§ 98), the Town Building Code (§ 150), the Town Electrical Code (§ 153), the Town Zoning Code (§ 158), Florida Statutes, and all other applicable regulations. In the event of any of the provisions of this section are in conflict with other sections of this Code or other applicable requirements, the more restrictive requirements shall apply.
(Ord. 95-04, passed 5-1-95)

§ 156.11 VARIANCES.

(A) The Zoning Board of Adjustment is authorized to grant variances to this chapter in accordance with the standards set forth in Zoning Code. Additionally, in reviewing a request for a sign variance, the Zoning Board of Adjustment may consider:

(1) Variances from the height and location provisions of this section in unusual circumstances involving demonstrated hardship;

(2) Variances for the protection of trees and shrubs, but in no case shall visibility of an existing sign serve as the basis for tree removal.

(B) The Zoning Board of Adjustment is authorized to hear and decide appeals where it has been alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter. The appeal shall be heard and decided in the same manner as set forth in Chapter 158.
(Ord. 95-04, passed 5-1-95; Amd. Ord. 97-08, passed 7-7-97)

§ 156.12 NONCONFORMING SIGNS.

A lawfully constructed sign or sign structure existing within the town on the effective date of the ordinance codified in this chapter, which does not conform to the requirements of this chapter, shall hereafter be a legal nonconforming sign. Legal nonconforming signs and sign structures shall be removed or made conforming by the Owner or Lessee of the sign or by the Owner of the property where the sign is located as follows:

(A) All existing temporary signs must be brought into conformity within six months from the adoption of this chapter. All new temporary signs shall comply with this chapter prior to the erection of the temporary sign.

(B) All existing permanent signs must be brought into conformity within three years from the notice of nonconformity after the adoption of this chapter. All sign permit fees for existing permanent signs will be waived for those existing signs that are brought into conformity within 18 months of the adoption of this chapter. All new permanent signs shall comply with this chapter prior to the erection of the permanent sign.

(C) Internally Illuminated Signs erected after January 1, 1994 must be brought into compliance within six months from the adoption of this chapter.
(Ord. 95-04, passed 5-1-95)

§ 156.13 MAINTENANCE AND ABANDONMENT.

(A) Maintenance.

(1) Painting, repainting, cleaning or other ordinary repairs and maintenance of any legal sign or sign structure shall not require a permit. Replacement of any structural elements or items that extend or prolong the life of a sign shall require a permit.

(2) A sign permit issued by the Town Manager shall, upon issuance, authorize the removal of the sign, at the expense of said owner, or agent of the sign, if the sign is not properly maintained.

(3) All signs, including their supports, braces, guys, and anchors, shall be maintained so as to present a neat, clean appearance. Painted areas and sign surfaces shall be kept in good condition and illumination shall be maintained in safe and good working order.

(B) Abandonment. An abandoned sign is prohibited and shall be taken down and removed by the owner, agency, or persons having beneficial use of the building, structure or land. (Ord. 95-04, passed 5-1-95)

§ 156.14 VIOLATIONS AND SIGN REMOVAL.

Signs in violation of this chapter are subject to the notice, immediate removal, penalties and fines as follows:

DESCRIPTION OF VIOLATION	NOTICE/PENALTIES/FEES
(A) Erection of prohibited signs; nonexempt signs without a valid permit; temporary signs which fail to display permanent identification tags:	Immediate removal and disposition by the town without notice, administrative fine as provided herein.
(B) Temporary signs erected pursuant to valid permit or exempt signs improperly erected or located:	Subject to immediate removal after notice (actual or or constructive); impounded by the town for a minimum of 30 days during which time the sign owner may recover the sign upon payment of removal and storage costs. After 30 days the sign may be disposed of by the town without recourse and the town may seek an administrative fine.
(C) Permanent signs erected without a valid permit or permanent signs which fail to display permanent identification tags:	Subject to removal by the town upon three days notice (actual or constructive) to the owner, agent, or person having beneficial use of the sign and applicable administrative fines.

(D) Permanent signs erected pursuant to valid permit, properly displaying permanent identification tag, but improperly located or constructed:	Notified by town, allowed 10 days to correct violation. Failure to correct the violation subjects sign to removal and applicable administrative fines.

(E) Unsafe Signs. Should, upon inspection by the Town Manager, any sign be found to be unsafe, insecure, or improperly constructed, the owner or lessee shall be required to make it safe and secure and of proper construction or remove it, within 48 hours from the time of notification in writing from the town. If the notice is not complied with within the time specified, the Town Manager shall cause the sign to be removed at the expense of the owner or lessee. If the delay in repairing or removing the sign is occasioned by circumstances beyond the control of the owner or lessee, the Town Manager may grant additional time for the repair or removal of the sign.

(F) Sign Causing Imminent Danger of Hazard. The Town Manager may cause any sign or other advertising structure which is an immediate hazard to be removed immediately at the expense of the owner, agent, lessee, or other person having beneficial use of the sign, the sign contractor, or the owner or lessee of the land upon which the sign is located.
(Ord. 95-04, passed 5-1-95)

§ 156.15 REVOCATION OF PERMITS.

The Town Manager is hereby authorized and empowered to revoke any permit issued upon failure of the holder to comply with the provisions of the permit or if the permit was issued on the basis of a misstatement of fact or law by the applicant or error by the town, facts or fraud by the applicant.
(Ord. 95-04, passed 5-1-95)

§156.16 ENFORCEMENT AND PENALTIES.

(A) Enforcement. No sign or advertising display shall be permitted to be maintained or used in the town contrary to the provisions of this chapter. The Town Manager, by and through the duly authorized employees of the town, shall enforce the provisions of this chapter; and he is hereby authorized and directed to cause the removal of all signs or advertising displays from areas in which they are prohibited by this chapter or which are maintained or used contrary to the provisions of this chapter.

(B) Penalties.

(1) Any person found to have violated any of the provisions of this chapter may be fined an amount not to exceed $500 per day. Each and every day the violation continues is a separate and specific violation of this chapter.

(2) All permits may be withheld from any applicant concerning property upon which a violation of this chapter has occurred and has not been corrected.

(3) In addition to and not to the exclusion of the remedies contained herein, the town may proceed to the Code Enforcement Board for any violation of this chapter.
(Ord. 95-04, passed 5-1-95)

§ 156.100 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED SIGN. Any sign or sign structure which bears no sign or copy for a period of six consecutive months, or for on site signs that display for a period of six consecutive months, information which incorrectly identifies the business, owner, lessor, or principal activity conducted on the site. Abandoned sign shall also mean any sign on which proper maintenance is not being done; any sign on a parcel that has been vacant or unoccupied for six or more consecutive months except for real estate signs where the property is actively for sale; or any sign which pertains to a time, event or purpose which no longer applies, regardless of the message or lack of message.

ANIMATED SIGN. Any sign which includes action, motion, or the optical illusion of action or motion, or color changes of all or part of the sign area, requiring electrical energy or set into motion by atmospheric movement. Animated signs shall include without limitation flashing signs, moving or rotating signs, electronic changeable copy signs, and electronically controlled message center signs.

AWNING (CANOPY) SIGN. Any shelter, supported partially or entirely from the exterior wall of a building, which is used for advertising. Such sign may be constructed of canvas, plastic, metal, or other material.

BANNER. Any sign intended to be hung either with or without a frame, possessing characters, letters, illustrations or ornamentation applied to paper, flexible plastic, fabric or material of any kind. National flags and flags of political subdivisions whether current or historical, and flags for not-for-profit organizations shall not be considered banners for the purposes of this chapter.

CHANGEABLE COPY SIGN. An integral part of a sign not covering more than 25 percent of the sign area and designed as to readily allow the changing of its message either manually or electronically.

CONSTRUCTION SIGN. Any sign erected only on the site of new construction while active construction is underway, and which denotes only the identification of the firms or the individuals involved in construction of financing, and the character of the building or other purpose for which the construction is intended.

DIRECTIONAL OFF-PREMISES SIGN. A sign which indicates no more than the distance, direction, location, and name of the facility or activity in Longboat Key, Florida.

DIRECTIONAL ON-SITE SIGN. A permanent on site sign which directs traffic within a parcel, or which identifies the location of entrances, exits, restrooms, telephones, freight, etc. Such sign shall not contain advertising.

DIRECTORY SIGN. Sign structure containing individual plates or panels bearing the names of individuals, organizations or businesses.

DOUBLE-FACED SIGN. A device consisting of a single panel with two surfaces, both sides of which are used for advertising or other communication.

ELECTRICAL SIGN. A sign or sign structure in which electrical wiring, connections, or fixtures are used as part of the sign or which themselves constitute a sign.

EXEMPT SIGN. All signs for which permits are not required but which must conform to all other terms and conditions of this chapter.

FESTOON. Any string of ribbons, tinsel, small flags, or pinwheels.

FLASHING SIGN. Any sign on which any electrical lighting by any device is either alternated on and off or raised and lowered in brightness or intensity, or reflects lighting or gives the appearance of flashing.

FREESTANDING SIGN. A sign on or in the ground and not supported by any building. This term shall include ground sign, monument sign, and pole sign.

FRONT OF BUILDING. Those parts of the building which are parallel to the nearest public road, canal, waterway, or other body of water, and where there is no intervening property between the building and the public road, canal, waterway, or other body of water.

FUTURE PROJECT SIGN. A temporary, freestanding sign which advertises a development project which has received site plan approval.

GOVERNMENT SIGN. Any sign erected by or on the order of a public official in the performance of his office or duty such as, but not limited to, traffic control signs, privately erected town approved traffic control signs, street name signs, warning and information signs, public notices or signs of similar nature.

GROUND SIGN. A freestanding sign whose structural system is that other than a pole(s) column(s) or post(s) or other similar type structural system. Ground signs may also be referred to as monument signs; see freestanding sign.

HEIGHT, SIGN. The vertical distance measured from finished grade to the highest point of any of the sign structure. When a sign is located upon a earth berm, the height of the sign shall include the height of the earth berm.

HISTORICAL SIGN. Any sign designated by the Town Commission of Longboat Key, Florida.

IDENTIFICATION SIGN. A sign which indicates no more than the name, address, company logo and location or function of an establishment or premises. Identification signs may also include other messages of a not-for-profit institutional nature such as meeting dates times of service, etc.

ILLEGAL SIGN. Any sign erected unlawfully.

ILLUMINATED SIGN. Any sign which either:

(1) Provides artificial light through exposed bulbs, lamps, or luminous tubes on the sign surface; or

(2) Emits light through transparent or translucent material from a source within the sign; or

(3) Reflects light from a source intentionally directed on it.

MANSARD SIGN. Any sign which attached to a mansard style roof with the face parallel to the structure to which it is attached and which does not project more than eight inches from such structure. Since such sign is to be mounted parallel to and within the limitations of the building wall or mansard roof on which it is to be mounted, a mansard sign shall be considered a wall sign and not a roof sign.

For the purposes of this Chapter, the term "mansard roof" shall mean a single slope roof, usually found along the front of a building, with a maximum angle of 45 degrees measured from the roofing surface upward to the vertical.

MONUMENT SIGN. See freestanding sign.

MOVING SIGN. Any sign or part of a sign which changes physical position by any movement or rotation from a fixed location, or which gives the visual impression of such movement or rotation.

NONCONFORMING SIGN. Any sign which does not conform to this chapter.

OFF-PREMISES SIGN. Any sign not located on the same lot as the business, commodity, service or entertainment to which it relates. This shall include any structure designed primarily for the display of off-site signs. (See, "Signs, Outdoor Advertising")

ON SITE SIGN. Any sign located on the same lot or parcel as, and is accessory to, the business, commodity, service or entertainment to which it relates.

OPEN HOUSE SIGN. A temporary, freestanding sign containing only the words "Open House" and supplementary directional information.

OUTDOOR ADVERTISING SIGN. Any sign structure advertising an establishment, merchandise, service or entertainment which is not sold, produced, manufactured, or furnished at the property on which the sign is located. This shall include, but shall not be limited to, billboards, off-premises signs or off site signs.

PAINTED WALL SIGN. Any sign painted on any outside wall or roof, or on the glass of any building.

PENDANT SIGN. An auxiliary or supplementary sign, affixed or hung below another and supplementing the main sign. These signs are used to indicate "vacancy," "air conditioned," "credit cards accepted," and similar messages.

PENNANT. Any flag-like or streamer-like piece of cloth, plastic, or paper attached to any staff, cord, building, or other structure at only one or two edges with the remainder hanging loose.

PERMANENT SIGN. Any sign which affixed to a building or the ground in accordance with the Town Building Code and any other applicable federal, state or local laws and such manner as to be immobile without the use of extraordinary means such as disassembly.

POLITICAL SIGN. Any temporary sign erected to advocate the candidacy of a party, issues, or an individual for elective office.

PORTABLE SIGN. Any sign which is manifestly designed to be transportable, including transportation by trailer or on its own wheels, even though the wheels or such sign may be removed and the remaining chassis or support, constructed without wheels, is converted to an "A" or "T" frame, or attached temporarily or permanently to the ground, since this characteristic is based on the design of such a sign. It is a characteristic of such a portable sign that the space provided for advertising matter may consist of a changeable copy sign. Signs which are affixed to vehicles which are parked so as to be observed by passerby within 1,000 feet of the business so advertised and parked longer than one hour in a 24-hour period shall be a portable sign. These signs are prohibited in Longboat Key, Florida.

PROJECTING SIGN. Any sign which is attached to and which projects more than eight inches from the outside wall of any building or structure.

REAL ESTATE SIGN. A temporary, non-illuminated sign which exclusively advertises the sale, lease or rental of the parcel upon which it is located.

RESIDENTIAL DEVELOPMENT NAME SIGN. A freestanding sign which identifies the name of a planned unit development, a property with three or more residential dwelling units, or a subdivision containing 10 or more lots located at the principal entrance(s) to the development.

REVOLVING OR ROTATING SIGN. Any sign so erected or constructed as to periodically or continuously change the direction toward which any plane containing the display surface is oriented.

ROOF SIGN. Any sign erected upon or above the roof surface of any building. This term shall not include a mansard sign.

SIGN. Any combination of writing, pictorial presentation, illustration, decoration, symbol, material, color, lighting or other devices which:

(1) Is used to announce, direct attention to, identify, advertise, or otherwise make anything known; and

(2) Is visible from any public way or adjoining property.

SIGN AREA. The entire area within the outer periphery of the smallest single or combination of regular simple geometric shapes. This shall enclose the extreme limits of writing, representation, emblems, and all material, color, or lighting forming an integral part of the

display or used to differentiate it from the background against which it is placed. The sign area is calculated in units of square feet based on one side. However, the maximum total area allowed for all sides shall not exceed twice the allowable sign square footage specified in this chapter.

Sign area shall not include pole covers so long as there is no message, writing, decoration or other display on it. The supports, uprights, or any structure on which any sign is supported shall not be included in determining sign area so long as there is no message, writing, decoration or other display on it.

All permanent structural members (except vertical supports) shall be either concealed or designed to be an integral part of the sign area.

SIGN FACE. The area, display surface, or part of a sign on which the copy of message is placed.

SIGN STRUCTURE. Any structure which is designed specifically for the purpose of supporting a sign, has supported, or is capable of supporting a sign, including any decorative covers, braces, wires, supports, or components attached to or placed around the sign structure.

SINGLE-FACED SIGN. Any sign consisting of a single panel, only one side of which is used for advertising or other communication.

SNIPE SIGN. A sign made of any material which is tacked, nailed, posted, glued, or otherwise attached to any utility pole, tree, fence, fence post, stakes, or other signs or similar objects where the advertising matter appearing thereon is not applicable to the present use of the property upon which such sign is located.

TEMPORARY SIGN. Any sign or advertising display intended to be displayed for a specified and limited period of time. Included in this category are retailer's signs which are temporarily displayed for the purpose of informing the public of a sale or special event.

TOWN MANAGER. The town official approved and appointed as Town Manager pursuant to Article III, Town Charter, or his/her designee.

VEHICLE IDENTIFICATION SIGN. A sign affixed to the vehicle advertising the business of the owner of the vehicle.

VEHICLE OR TRAILER SIGN. A sign which is affixed to a vehicle for the purpose of advertising, except a vehicle identification sign.

WALL SIGN. A sign erected parallel to and extending not more than eight inches from the facade of any building to which it is attached and supported throughout its entire length by the facade of the building.

WINDOW SIGN. Any sign which is painted on the inside of, or attached to the inside of, or is visible through a window, glass wall or other transparent surface, excluding the display of merchandise.

For other definitions see Chapters 150-158.
(Ord. 95-04, passed 5-1-95; Amd. Ord. 96-08, passed 6-3-96; Amd. Ord. 97-08, passed 7-7-97)



LONGBOAT KEY, SUGN CODE 8063

CHAPTER 157: SUBDIVISION REGULATIONS

Section

General Provisions

157.01 Title
157.02 Purpose; jurisdiction
157.03 Definitions
157.04 Approval required before utility services permitted
157.05 Approval required before issuance of licenses; permits
157.06 Compliance required for building permit
157.07 Variances
157.08 Amendments
157.09 Conflict with other regulations

Plat Specifications

157.15 Preapplication plans and data
157.16 Preliminary plat specifications
157.17 Final plat specifications
157.18 Plat certificates

Plat Approval

157.25 Submission of plat required; right to appeal
157.26 Approval required before starting construction
157.27 Certification by land surveyor
157.28 Dedication of streets and easements
157.29 Preapplication procedure
157.30 Preliminary plat approval
157.31 Final plat approval

Design Standards

157.40 Suitability of land
157.41 Street access required
157.42 Conformance to other regulations
157.43 Dedication of land to public use
157.44 Blocks
157.45 Lots
157.46 Streets

Required Improvements

157.55 Minimum improvements
157.56 Construction plans and specifications
157.57 Elevation and land filling
157.58 Streets
157.59 Drainage
157.60 Utilities
157.61 Monuments

157.99 Penalty

Cross-reference:
Subdivision fees; temporary use permits, see Ch. 159

GENERAL PROVISIONS

§ 157.01 TITLE.

This chapter shall be known and may be cited as the Town of Longboat Key Subdivision Regulations. ('71 Code, Appendix A, § 1.10)

§ 157.02 PURPOSE; JURISDICTION.

(A) The procedures and standards for the development and subdivision of real estate and for the surveying and platting thereof, adopted and prescribed by this chapter, are hereby found by the town to be necessary and appropriate to do the following.

(1) Protect the public health, safety, comfort, convenience, and general welfare of the residents.

(2) Encourage economically sound and stable land development.

(3) Assure the provision of adequate streets, utilities, and other facilities and services to new land developments in comformance with public improvement needs and plans for the town.

(4) Assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments.

(5) Assure equitable handling of all subdivision plats by providing uniform procedures and standards for observation both by the developers of land and the town. ('71 Code, Appendix A, § 1.20)

(B) This chapter shall be considered to be minimum requirements, for the purpose of promoting the general public health, safety, comfort, convenience, and welfare of the people of the town. ('71 Code, Appendix A, § 9.30)

(C) This chapter shall govern the subdivision of any and all lands located within the incorporated limits of the town. ('71 Code, Appendix A, § 2.10)

§ 157.03 DEFINITIONS.

(A) Except as specifically defined in division (B) below, all words used in this chapter have their customary dictionary definitions. Words in the present tense include the future; words in the singular include the plural number, and words in the plural include the singular; "BUILDING" includes "STRUCTURE"; "SHALL" is mandatory and not directory; "MAY" is permissive. ('71 Code, Appendix A, § 3.10)

(B) For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ALLEY." A facility which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

"BLOCK." A group of lots, including a tier of lots, existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter, or other name through which it may be identified.

"BUILDABLE LOT AREA." Land located within the required front, rear, and side building setback lines as established by the applicable zoning regulations on which a structure may be positioned.

"BUILDING SETBACK LINE." A line across a lot establishing the minimum open space to be provided between the building and the street property lines, shorelines, or other boundaries of a building site.

"COMPREHENSIVE PLAN." A comprehensive plan, which may consist of several maps, data, and other descriptive matter, for the physical development of the town or any portion thereof, including any amendments, extensions, or additions thereto, indicating the general location for major streets, parks or other public utilities, zoning districts, or other similar information. The comprehensive plan shall be based on and include appropriate studies of the location and extent of present and anticipated population, social and economic resources and problems, and other useful data regarding the future development of the town.

"CROSSWALK." A right-of-way within a block dedicated to public use, intended primarily for pedestrians and from which motor-propelled vehicles are excluded, and which is designed to provide pedestrian access to adjacent roads, lots, or public use areas.

"CUL-DE-SAC." A street having one end open to traffic and being permanently terminated within the plat by a vehicular turnaround.

"EASEMENT." A grant by the subdivider for the use by the public, a corporation, or persons, of a strip of land for public utilities, drainage, and other public purposes.

"HEALTH AGENCIES." The Manatee or Sarasota County Health Department, as applicable, and the Department of Environmental Regulations, as applicable, and in accordance with state law and the town ordinances and regulations.

"LOT." A portion of a subdivision or other parcel of land, however designated, intended as a single building site or unit for the transfer of ownership, or for separate use of another, or for

development conforming to this code and the zoning code and requiring no varinace in order to construct an improvement.

(a) "CORNER LOT." A lot abutting on two or more streets at their intersection.

(b) "DOUBLE FRONTAGE LOT" or "THROUGH LOT." An interior lot having frontage on two streets, other than a corner lot.

(c) "INTERIOR LOT." A lot other than a corner lot having frontage on one street.

"MEAN HIGH WATER LINE." The land contour line derived from the intersection of the land surface with a level plane at the elevation of mean high water as established by the laws of Florida.

"PLANNING AND ZONING BOARD." The town Planning and Zoning Board, the legally constituted membership of the "PLANNING AND ZONING BOARD" of the town, as referenced in this chapter.

"PLAT." A map indicating the subdivision or resubdivision of land intended to be filed for record, or developed as regulated elsewhere herein.

(a) "FINAL PLAT." A finished drawing of a subdivision showing completely and accurately all legal and surveying information and certifications necessary for recording.

(b) "PRELIMINARY PLAT." A drawing which shows the proposed layout of a subdivision in sufficient detail to indicate clearly its workability, but not in final form for recording.

"REGISTERED ENGINEERS." A professional engineer registered under F.S.A. Ch. 471, and in good standing with the Florida Board of Engineering Examiners.

"REGISTERED LAND SURVEYOR." A professional land surveyor registered under F.S. Ch. 472, and in good standing with the Florida Board of Engineering Examiners.

"RIGHT-OF-WAY." A strip of ground dedicated or deeded by the owner for public use.

"ROADSIDE DRAINAGEWAY." A channel alongside a street or road for the purpose of drainage.

(a) "ROADSIDE SWALE." A roadside drainageway which does not require a culvert for ordinary vehicular crossing.

(b) "ROADSIDE DITCH." A roadside drainageway which requires a culvert for ordinary vehicular crossing.

"STREET." A public or private right-of-way for vehicular traffic whether designated as a street, highway, thoroughfare,

parkway, avenue, road, boulevard, land, place, or otherwise designated.

(a) "ARTERIAL STREETS." Thoroughfare routes intended to carry moderate to large volumes of traffic through or around major sections of the town and a part of or connecting to the highway thoroughfare network.

(b) "COLLECTOR STREETS." Those streets which carry intermediate volumes of traffic from minor or local streets to arterial streets, including the principal entrance streets of a residential development.

(c) "HIGHWAYS." Those traffic routes officially designated as federal or state highway routes, also referred to as state primary and secondary roads.

(d) "MARGINAL ACCESS STREET" or "SERVICE STREET." Streets which are parallel to and adjacent to highways and arterial streets, and which provide access to abutting properties. These streets are designed to protect the highways and arterial streets from the danger created by numerous points of conflict by driveways and individual access to abutting properties. A marginal access street provides access to property on one side only.

(e) "MINOR STREETS" or "LOCAL STREETS." Those streets, the primary function of which is to provide access and service to abutting properties, including access and services to residential, commercial, and public uses.

(f) "WIDTH OF STREET." The shortest distance between the parallel lines delineating the right-of-way of a street.

"SUBDIVIDER." Any person, individual, firm, partnership, association, corporation, estate, or trust, or any group or combination of the foregoing acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined below.

"SUBDIVISION." Includes all divisions of a tract or parcel of land into two or more lots for the purposes of building development or recording a plat thereof in the public records of Manatee or Sarasota Counties, or any subdivisions of land involving the dedication of a new street or other public way or a change in existing streets or alleys or any division of land. However, public acquisition of land for streets or highway purposes shall not be deemed a subdivision. "SUBDIVISION" includes resubdivision of an existing plat and when appropriate to the context shall relate to the process of subdividing.

"TITLE CERTIFICATION." The certification which accompanies every plat of a subdivision submitted to the Planning and Zoning Board consisting of a title opinion by an attorney-at-law, licensed in the state, or a title insurance company policy conforming that the lands as described and shown on the plat are in the name of the person, persons, or organization executing the dedication as it is shown on the plat and that the developer has apparent title to the lands. The title opinion or policy shall also show all mortgages on the land to be platted. ('71 Code, Appendix A, § 3.20) (Ord. 81-37, passed 11-4-81)

§ 157.04 APPROVAL REQUIRED BEFORE UTILITY SERVICES PERMITTED.

(A) No public utility services shall be provided for any lot or building in a new subdivision until the subdivision is approved by the town. ('71 Code, Appendix A, § 11.10)

(B) No private utility service, including electricity, gas, telephone, or water, shall be provided for any lot or building in a new subdivision until the subdivision is approved by the town. ('71 Code, Appendix A, § 11.20) Penalty, see § 157.99

§ 157.05 APPROVAL REQUIRED BEFORE ISSUANCE OF LICENSES; PERMITS.

No building, electrical, plumbing, or any other permits or licenses as may be required by the town for any construction shall be issued for any building on any lot in a subdivision, until the subdivision is approved by the town. The limitations under this section and § 157.04 are not intended to restrict installation of temporary buildings or utility services to serve as construction offices.
('71 Code, Appendix A, § 11.30)

§ 157.06 COMPLIANCE REQUIRED FOR BUILDING PERMIT.

(A) No building permit shall be issued for, and no building or other structure shall be erected on, any lot, tract, or parcel of real estate unless the lot, tract, or parcel has been subdivided according to the provisions of this chapter. However, any lot, tract, or parcel conveyed and with the deed recorded in the public records prior to the effective date of this chapter (November 6, 1974) is exempted from this provision.

(B) No building permit shall be issued, nor construction allowed, for the construction of more than one structure housing a permitted or permissible principal use on a lot, tract or parcel of real estate, unless the lot, tract or parcel:

(1) Has been subdivided according to the provisions of this chapter; or

(2) Is a condominium created in accordance with Florida Statutes, § 718.104, meeting all lot, yard, bulk, density/intensity, and other requirements of Chapters 150 through 159, the Code for the Town of Longboat Key, for each structure as though it were on an individual and separate lot; or

(3) Is part of a Planned Unit Development ("PUD") approved for deviations from Chapter 158, Zoning Code, lot, yard and bulk regulations.
('71 Code, Appendix A, § 4.60) (Ord. 81-37, passed 11-4-81; Amd. Ord. 94-11, passed 4-21-94)

§ 157.07 VARIANCES.

(A) The Town Commission may authorize a variance from these subdivision regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Town Commission shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, as required below, the Town Commis-

sion shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision on traffic conditions in the vicinity.

(B) No variance shall be granted unless the Town Commission finds that all of the following conditions exist.

(1) There are special circumstances or conditions affecting the property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

(3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.
('71 Code, Appendix A, § 10.10)

§ 157.08 AMENDMENTS.

This chapter may be amended from time to time as deemed necessary. All amendments shall first be reviewed and acted on by the Planning and Zoning Board. The Planning and Zoning Board recommendation shall then be forwarded to the Town Commission for action. However, no amendment to this chapter shall become effective until after a public hearing on each amendment shall be held by the Town Commission.
('71 Code, Appendix A, § 9.10)

§ 157.09 CONFLICT WITH OTHER REGULATIONS.

Where other laws, ordinances, or private restrictive covenants in recorded deeds or any other legally binding agreements impose greater restrictions and limitations than those provided in this chapter, the laws, ordinances, covenants, or agreements shall control.
('71 Code, Appendix A, § 9.40)

PLAT SPECIFICATIONS

§ 157.15 PREAPPLICATION PLANS AND DATA.

(A) General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required in division (B) and (C) below. This information shall include data on land characteristics, available community facilities, and utilities information describing the subdivision proposal such as numbers of lots, typical lot widths and depths, business areas and other public areas, and proposed utilities and street improvements.

(B) The location map shall show the relationship of areas immediately surrounding the proposed subdivision, and shall include the development name and location, title, north arrow, and date.

(C) The sketch plan shall show in simple but relatively accurate sketch form the proposed land usage and arterial and collector street configurations.
('71 Code, Appendix A, § 6.10)

§ 157.16 PRELIMINARY PLAT SPECIFICATIONS.

(A) The submittal for preliminary plat approval shall consist of 15 copies of black- or blue-line prints on white background, and any other documents in sufficient number to meet the requirements of this chapter.

(B) The preliminary plat shall be clearly and legibly drawn to the specifications herein required.

(C) Every subdivision shall be given a name by which it shall be legally known. The name shall not be the same or in any way so similar to any name appearing on any recorded plat in Manatee or Sarasota Counties as applicable so as to confuse the records or to mislead the public to the identity of the subdivision, except where the subdivision is subdivided as an additional unit or section by the same developer or his successors in title. Every subdivision name shall have legible lettering of the same size and type, including the words "section," "unit," "replat," "amended," and the like. The name of the subdivision shall be shown in the dedication and shall coincide exactly with the subdivision name.

(D) The preliminary plat shall be drawn to a scale and on a sheet size as required for final plat submission and shall contain the following information.

(1) Proposed name of subdivision.

(2) Date of survey, north point and graphic scale, source of data, date of plat drawing, and space for revision dates.

(3) Location, size of subdivision in acres, and number of lots.

(4) Location sketch locating the subdivision in relation to the immediately surrounding area with regard to well-known landmarks such as major highways, waterways, or other landmarks.

(5) Name and delineation of former subdivision, if any or all of the area encompassed by the preliminary plat had been previously subdivided.

(6) Preliminary boundary lines of the entire tract to be subdivided eventually.

(7) Contour lines at six-inch intervals or as necessary based on 1929 sea level datum and referenced to established benchmarks.

(8) Natural features within the proposed subdivision and in an area within at least 300 feet beyond the boundary of the proposed subdivision, including drainage channels, bodies of water, existing vegetation, and other significant features. Poorly drained areas or areas subject to storm flooding shall be shown where appropriate.

(9) Cultural features within the proposed subdivision and in an area within at least 300 feet beyond the boundary of the proposed subdivision including right-of-way widths and names of existing and platted streets, bridges, easements, town and county lines, and other significant information.

(10) Preliminary layout, including lot lines with approximate dimensions, basic lot sizes, lot numbers, block letters, street and alley lines with proposed street names, right-of-way widths for public or private streets, sites reserved through covenants, easements, dedication, or otherwise for public or common uses, and all tracts designed for multifamily or commercial use.

(11) Preliminary layout for all utilities including but not limited to sites, easements, or other provisions for water supply and waste water collection.

(12) Drainage plan, with preliminary computations.

(13) Proposed unit division of stage development, if any, as proposed by the subdivider.

(14) All section lines and quarter section lines occurring in the map or plat shall be indicated by lines drawn on the map or plat, with appropriate words and figures. If the description is by metes and bounds, the point of beginning shall be indicated together with all bearings and distances of the boundary lines. If the platted lands are in a land grant or are not included in the

subdivision or government surveys, then the boundaries are to be defined by metes and bounds and courses. The initial point in the description shall be tied to the nearest government corner, or other recorded and well-established corner.

(15) All contiguous properties shall be identified by the subdivision title, plat book, and page or, if unplatted, land shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made; the fact of its being a resubdivision shall be stated as a sub-title following the name of the subdivision wherever it appears on the plat.

(16) Street names as submitted to the post office in a proposed subdivision shall be submitted by the developer to the Town Manager at the preapplication conference for review prior to final street naming.

(17) Streetlighting plan.

(18) The town bulkhead line whenever applicable.
('71 Code, Appendix A, § 6.20)

§ 157.17 FINAL PLAT SPECIFICATIONS.

(A) Every final plat of a subdivision within the town shall be submitted in a manner and form in conformance with F.S.A. Ch. 177, and the requirements of Manatee or Sarasota County, as applicable.

(B) After approval of the final plat, with proper certifications and signatures attached, the subdivider shall furnish the following prints when recording.

(1) Original on tracing cloth or stable base film.

(2) One black-line print.

(C) The final plat shall conform to the approved preliminary plat in all significant respects. It may constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at any one time, provided that the portion represents a reasonable staging procedure acceptable to the town. The final plat shall contain the information as required by F.S.A. Ch. 177. In addition the following information shall be considered necessary for all plats within the town.

(1) Name of subdivision and all street names.

(2) Name of owner or owners of record.

(3) Name of subdivider.

(4) Date of plat drawing, graphic scale, north point, and a boundary description that a surveyor can readily follow for purposes of resurvey with ties to government corners and permanent

reference markers at all angles in boundary and accurate dimensions and bearings.

(5) Location of tract, acres, number of lots, and area of each lot (in square feet).

(6) Name and delineation of former subdivision if any or all of the final plat had been previously subdivided.

(7) Location sketch.

(8) The boundary lines of the subdivision with their accurate lengths and bearings and the exact location of the subdivision within the section or sections by means of accurate angle and distance ties to one boundary of the section.

(9) Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street easement, and all other areas shown on the plat. Lot, block, street, and all other dimensions except to irregular boundaries, shall be shown to a minimum of hundredths of feet. All measurements shall refer to horizontal plane and in accordance with the definition of a foot adopted by the United States Bureau of Standards.

(10) Municipal, county, or government lot lines are to be shown from information available from the appropriate public agency.

(11) Exact locations, widths, and names of all streets and alleys within and immediately adjoining the plat and the exact location and widths of all crosswalks.

(12) Street centerlines showing bearings, radii, length of arcs, chords and chord bearings, and central angles of curves.

(13) Lot lines with distances to the nearest .01 foot, line bearing, necessary internal angles, arcs, central angles, chords and chord bearings, and radii of rounded corners.

(14) All contiguous properties shall be identified by subdivision title, plat book and page or, if unplatted, land shall be so designated.

(15) All section lines and quarter section lines occurring in the map or plat shall be indicated by lines drawn on the map or plat, with appropriate words and figures. If the description is by metes and bounds, the point of beginning shall be indicated together with all bearings and distances of the boundary lines. If the platted lands are in a land grant or are not included in the subdivision of government surveys, then the boundaries are to be defined by metes and bounds and courses. The initial point in the description shall be tied to the nearest government corner, or other recorded and well-established corner.

(16) Lots or sites numbered in numerical order and blocks, if any, lettered alphabetically.

(17) Natural and cultural features to be retained in the proposed subdivision, as itemized in § 157.16 (D)(8) and (9).

(18) Locations, dimensions, and purposes of all rights-of-way and easements for drainage, utilities, and other purposes, including slope easements, if required, and any areas to be reserved, donated, or dedicated to public use or sites for other than residential use with notes stating their purpose or limitations; and areas to be reserved by deed covenant for common uses of all property owners.

(19) Permanent reference monuments shall be placed at each corner or change in direction on the boundary of the lands being platted.

(20) Place for certificates, easements, and other legal statements.

(D) The final plat shall be accompanied by a title opinion by an attorney-at-law, licensed in the state, or a title insurance company policy confirming that the lands as described and shown on the plat are in the name of the person, persons, or organization executing the dedication of streets or other lands as it is shown on the plat and that the developer has apparent title to the lands. The title opinion or policy shall also show all mortgages on the land to be platted. The plat shall be consented to by all mortgagees.
('71 Code, Appendix A, § 6.30)

§ 157.18 PLAT CERTIFICATES.

Each final plat submitted to the town for approval shall carry the certificates as required by Sarasota or Manatee County as applicable. In addition, the following town-required certificates shall be printed thereon substantially as follows, but adjusted as appropriate, subject to town approval.

(A) Surveyor's certificate.

I, the undersigned Registered Land Surveyor, hereby certify that this plat was made under my responsible direction and supervision and is a true representation of the lands described and shown, to the best of my knowledge and belief, and that permanent reference monuments have been placed as required by the Town Code of the Town of Longboat Key, the Sarasota County Subdivision Regulations and the Statutes of the State of Florida thereunto appertaining.

Signature: _____
(Name)
Registered Land Surveyor
Florida Certificate No. _____

Date of Survey: _____

(B) Certificate of ownership and dedication for corporations.

STATE OF FLORIDA)
)SS
COUNTY OF SARASOTA)

_____ a Florida Corporation, by its duly elected President, _____ and by its duly elected Secretary, _____, acting by and with authority of its Board of Directors, certifies ownership by said Corporation of the property described hereon, and does hereby dedicate and set apart all of the streets, walks, alleys, thoroughfares, front, rear parks and side lot line utility and drainage easements, parks and other open spaces, canals and drainage or other easements shown on this plat of _____ for said uses and purposes to the Town of Longboat Key forever.

IN WITNESS WHEREOF, the undersigned corporation has caused these presents to be executed by its President and attested by its Secretary, this _____ day of _____, A.D. 19 ____.

(CORPORATE SEAL) By: _____
President

ATTEST:

_____
Secretary

STATE OF FLORIDA)
)SS
COUNTY OF SARASOTA)

Before me, the undersigned Notary Public, personally appeared _____, President, and _____, Secretary, of _____, a Florida Corporation, to me known to be the individuals described in and who executed the foregoing Certificate of Dedication, and they each duly acknowledged before me that they executed the same, as such officers, for and in behalf of said Corporation.

Witness my hand and official seal at Sarasota County, Florida, this _____ day of _____, A.D. 19 _____.

_____
Notary Public, State of Florida at Large

My Commission Expires: _____

(C) Certificate of ownership and dedication for individual owners.

STATE OF FLORIDA)
)SS
COUNTY OF SARASOTA)

_____ and _____, husband and wife, certify that we are the owners of the property described hereon, do hereby dedicate and set apart all of the streets, alleys, walks, thoroughfares, front, rear and side lot line utility and drainage easements, parks and other open spaces, canals and drainage or other easements shown on this plat of _____ for said uses and purposes to the Town of Longboat Key forever.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ____ day of _____, A.D. 19 ___.

WITNESSES:

_____ _____ (SEAL)
_____ _____ (SEAL)

STATE OF FLORIDA)
)SS
COUNTY OF SARASOTA)

BEFORE ME, the undersigned Notary Public, personally appeared _____ and _____, husband and wife, to me known to be the individuals described in and who executed the foregoing Certificate of Dedication, and they each duly acknowledged before me that they executed the same.

WITNESS my hand and official seal at Sarasota County, Florida, this day of _____, A.D. 19 _____.

_____
NOTARY PUBLIC, State of Florida at Large

My Commission Expires: _____

(D) Approvals.

This plat conforms to the preliminary plat approval provisions made by the Town of Longboat Key Town Commission this ____ day of _____, A.D. 19 _____.

_____
Town Manager, Town of Longboat Key

Approved by the Longboat Key Town Commission this ____ day of _____, A.D. 19 _____.

_____
Mayor

_____
Town Clerk

_____
Town Attorney

Accepted for files and recorded this _____ day of _____, A.D. 19 ____, in Plat Book _____, Page _____.

_____ Clerk of the Circuit Court
_____ County, Florida.

(E) Consent to dedication (corporate).

STATE OF FLORIDA)SS
COUNTY OF SARASOTA)

_____, a _____ corporation, holder of Mortgage dated _____ and recorded in Official Record Book _____ at Page _____, Public Records of Sarasota County, Florida, does hereby consent to, ratify, approve and confirm this Plat and the dedication certificate thereon.

IN WITNESS WHEREOF, the undersigned Corporation has caused these presents to be executed by its _____ President and attested by its Secretary, this _____day of _____.

_____

By:_____
President

Attest: _____
(Corporate Seal)
Secretary

STATE OF FLORIDA)SS
COUNTY OF SARASOTA)

Before me, the undersigned Notary Public, personally appeared _____, President, and _____, Secretary of _____, a corporation, to me known to be the individuals described in and who executed the foregoing Certificate of Dedication, and they each duly acknowledged before me that they executed the same, as such officers, for and in behalf of said Corporation.

WITNESS my hand and official seal at Sarasota County, Florida, this _____ day of _____, 19__.

_____
Notary Public, State of Florida at Large

My Commission Expires: _____
('71 Code, Appendix A, 6.40) (Ord. 76-2, passed 2-4-76)

PLAT APPROVAL

§ 157.25 SUBMISSION OF PLAT REQUIRED; RIGHT TO APPEAL.

(A) Any person proposing to subdivide land within the town shall submit to the Town Manager, or designee plats of the proposed subdivision which shall conform to all the requirements set forth in this chapter and the required fee as set by resolution of the Town Commission.

(B) Any person aggrieved by the enforcement of this subchapter by any administrative official, may file within 30 days after the aggrievement a petition to have his survey or plat reviewed by the Town Commission.
('71 Code, Appendix A, § 4.10) (Ord. 76-28, passed 9-15-76; Amd. Ord. 81-37, passed 11-4-81; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 98-25, passed 7-16-98) Penalty see 157.99

§ 157.26 APPROVAL REQUIRED BEFORE STARTING CONSTRUCTION.

(A) No subdivider shall proceed with any construction work or clearing of land whatsoever on a proposed subdivision or development before obtaining preliminary plat and construction plans approvals from the Town Commission as certified thereon. ('71 Code, Appendix A, § 4.20) (Ord. 81-37, passed 11-4-81)

(B) No subdivision of lands as defined in § 157.03 within the town shall be made without prior approval of a plat thereof by the town, and no plat shall be considered finally approved until it has been submitted and approved by Manatee or Sarasota County, for recording purposes, and dedication of public streets, parks, easements, and places have been accepted by the town.
('71 Code, Appendix A, § 4.50) Penalty, see § 157.99

§ 157.27 CERTIFICATION BY LAND SURVEYOR.

Every subdivision of lands made within the provisions of this chapter shall be made under the responsible direction and supervision of a land surveyor who will certify on the plat that the plat is a true and correct representation of the lands surveyed, that the survey was made under his responsible direction and supervision, and that the survey data complies with all of the requirements of these regulations. The certification shall bear the signature, registration number, and the official seal of the land surveyor.
('71 Code, Appendix A, § 5.11)

§ 157.28 DEDICATION OF STREETS AND EASEMENTS.

The following shall apply to all subdivisions.

(A) Every plat of a subdivision filed for record must contain a dedication of streets or easements by the developer. The dedication shall be executed by all developers and mortgagees having a record interest in the lands subdivided, in the same manner in which deeds are required to be executed.

(B) When a tract or parcel of land has been subdivided and a plat thereof bearing the dedication executed by the developers and mortgagees having a record interest in the lands subdivided, and the approval of the Planning and zoning Board has been secured and recorded in compliance with this chapter, all streets, alleys, easements, rights-of-way, and public areas shown on the plat, unless otherwise stated, shall be deemed to have been dedicated to the public for the uses and purposes thereon stated. However, nothing herein shall be construed as creating an obligation upon the Town Commission to perform any act of construction or maintenance within the dedicated areas except where the obligation is voluntarily and specifically assumed by the Town Commission.
('71 Code, Appendix A, § 5.12) (Ord. 81-37, passed 11-4-81) Penalty, see § 157.99

§ 157.29 PREAPPLICATION PROCEDURE.

The subdivider or his engineer, planner, or land surveyor, prior to the preparation of the preliminary plat, shall informally seek the advice of the Town Manager, or designee and other responsible public agencies, in order that he may become familiar with the subdivision requirements and with the provisions of the comprehensive plan affecting the territory in which the proposed subdivision is located.
('71 Code, Appendix A, § 5.21) (Ord. 98-24, passed 7-16-98)

§ 157.30 PRELIMINARY PLAT APPROVAL.

(A) Following the preapplication conference on the proposed subdivision the applicant shall submit preliminary plat materials which have been prepared in accordance with §157.16, with a processing fee as set by resolution of the Town Commission. The subdivider or his agent shall transmit copies of the preliminary plat and supporting data to the town and all appropriate county, regional, and state agencies including, but not limited to, the Florida Department of Environmental Regulations and the Florida Department of Transportation.

(B) The Planning and Zoning Board shall hold a public hearing on the preliminary plat after satisfaction of required public notice and shall make a recommendation to the Town Commission within 60 days after receipt of the preliminary plat by the town, provided, that the review period may be extended if additional information is requested from the applicant by the Board or by other public agencies.

(C) The Town Commission shall hold a public hearing on the preliminary plat and consider the supporting data along with agency comments and the Planning and Zoning Board recommendations and within 60 days of the receipt of the Planning and Zoning Board's recommendations, and satisfaction of required public notice shall either approve the preliminary plat; conditionally approve the preliminary plat subject to any necessary modifications, the nature of which shall be indicated on the preliminary plat or attached to it in writing; or disapprove the preliminary plat or any portion thereof, stating the reasons for disapproval in written form. The Town Manager, or designee shall notify the applicant of the Town Commission's action in writing within five days.

(D) Approval of the preliminary plat shall be deemed an expression of approval of the layout submitted and of preliminary engineering plans and design concepts, as a guide to the preparation of the final plat and the final construction plans, and shall not constitute advance approval of the final plat or plans. The approval of the preliminary plat shall be for one year within which time subdivider shall submit a final plat for all or a part thereof in accordance with the procedures and requirements of § 157.31 and other applicable provisions, provided, that the town may extend the time of approval of the preliminary plat upon written request of the subdivider. If the approval of the preliminary plat expires, the preliminary plat is null and void and the subdivider shall reapply according to the provisions and requirements of this chapter if he desires to reobtain preliminary plat approval.

(E) Upon approval of a preliminary plat and prior to submission of a final plat or commencement of any work whatsoever to the land, complete construction plans for all required improvements shall be submitted and approved by the town. The construction plans and specifications shall be in a form as specified by the town.
('71 Code, Appendix A, § 5.30) (Ord. 81-37, passed 11-4-81; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98) Penalty, see § 157.99

§ 157.31 FINAL PLAT APPROVAL.

(A) Whenever the provisions of this chapter have been complied with and while the approval of the preliminary plat is in effect and after construction plans and other supporting data and documents that may be required by these regulations or other regulations related thereto have been approved, the applicant shall submit the final plat for approval. The final plat and plans shall conform essentially to the preliminary plat as approved, and, at the option of the subdivider, may constitute only that portion of the approved preliminary plat which he proposes to record or develop at the time, provided, that the portion conforms to all requirements of these regulations. The applicant shall simultaneously pay to the town a fee as set by resolution of the Town Commission to cover the town's expenses for processing, administration, legal, and engineering reviews, and other expenses related thereto.

(B) Prior to or at the time the final plat of a subdivision is executed on behalf of the town, the subdivider shall do or have done one of the following.

(1) Deliver to the town a satisfactory performance bond issued by a recognized surety company licensed to do business in the state, or other security satisfactory to the Town Commission. The surety shall have provisions and meet requirements as set forth below.

(a) The bond or surety shall be for the use of the town and all persons supplying the obligator 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 or surety shall be in the penal sum of 125% of the estimated cost of construction. The cost estimate shall be prepared by a registered engineer retained by the applicant and confirmed by the town, and shall be submitted in detailed written form for town approval.

(c) The bond or surety shall guarantee the performance required in the applicable provisions of this chapter within one year of the date thereof, provided that, the Town Commission, on request, may extend the period of performance to two years from the date thereof.

(d) The bond or surety shall cover all improvements for a period of one year after completion and acceptance of the improvements by the town, provided that if the surety is cash or other liquid security, the town may release a sum equal to 75% of the cost of those improvements completed and accepted by the town after receipt of "as-built" plans for the improvements.

(2) Have constructed the required improvements and performed all required actions as set forth in this chapter and delivered to the town a satisfactory maintenance bond issued by a recognized surety company licensed to do business in the state, or other security satisfactory to the Town Commission. The surety shall have provisions and meet requirements as set forth below.

(a) The bond or surety shall be for a period of one year after acceptance of the improvements by the town and guarantee the repair or replacement of any improvements to the condition required by these regulations and other applicable requirements of the town because of defective materials, engineering, or workmanship.

(b) The bond or surety shall be in the penal sum of 25% of the cost of the improvements as determined by a registered Commission, upon request, may reduce the amount.

(C) Whenever a final plat has been submitted to the Town Commission and is in conformance with the approved preliminary plat and the provisions of these regulations, the Town Commission shall hold a public hearing on the final plat after required public notice and take action on the plat. Final approval by the Town Commission shall not be shown on the final plat until all requirements of these rules and regulations have been met, and the Town Manager, or designee has determined the following:

(1) All improvements and installations to the subdivision required for its approval under the terms of these rules and regulations have been completed in accordance with the appropri-

ate specifications and the provisions of division (B)(2) above and "as-built" construction plans for all required improvements have been filed with the town.

(2) A surety has been provided by the subdivider or developer to satisfy the requirements herein as set forth in division (B) above.

(D) Approval by the Town Commission shall appear on the original tracing. Upon final approval by the Town Commission, the applicant shall submit the original and one copy of the approved final plat to the town, and neither the applicant nor his attorney or other agent shall have custody thereafter. The applicant shall provide the town with the costs of processing and recording, and within 30 days the town shall submit the final plat to the applicable county for approval and recording in the official records.

(E) Approval of the final plat by the Town Commission shall, upon completion of work by the subdivider or developer and submission of an acceptable maintenance bond, be deemed an acceptance of the dedication of the public streets and other public land as shown upon the plat on behalf of the public, unless otherwise provided.
('71 Code, Appendix A, § 5.40) (Ord. 81-37, passed 11-4-81; Amd. Ord. 94-16, passed 11-17-94; Amd. Ord. 98-24, passed 7-16-98; Amd. Ord. 98-25, passed 7-16-98) Penalty, see § 157.99

DESIGN STANDARDS

§ 157.40 SUITABILITY OF LAND.

Land unduly subject to rainstorm or tidal flooding, improper drainage, and erosion, as determined by the town, and any land deemed by the town to be unsuitable for development shall not be platted for any uses as may continue the conditions or increase danger to health, safety, life, or property, unless steps satisfactory to the town are taken to eliminate the above-mentioned hazards, especially as they relate to the construction of buildings thereon.
('71 Code, Appendix A, § 7.11) Penalty see § 157.99

§ 157.41 STREET ACCESS REQUIRED.

(A) No building permit shall be issued for, and no building or other structure shall be erected on, any lot within the town, unless the lot has frontage to a street which shall have been accepted, or opened as, or otherwise shall have received the legal status of a public or private street, or which corresponds in its location and lines with a street shown on a plat approved by the town or a plat made and adopted by the town. ('71 Code, Appendix A, § 4.40)

(B) Every subdivision and every lot within it shall have legal access to a public street or private street constructed in accordance with these regulations. A subdivision shall be designed so as to provide for street access to adjoining parcels of land when appropriate. No subdivision shall be approved unless its improved street system is connected to a public street or highway.
('71 Code, Appendix A, § 7.20) Penalty, see § 157.99

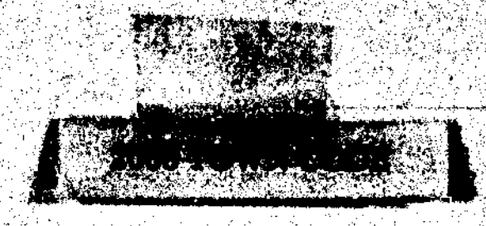
§ 157.42 CONFORMANCE TO OTHER REGULATIONS.

(A) All proposed subdivisions shall conform to the comprehensive plan and development policies in effect at the time of submission. ('71 Code, Appendix A, § 7.31)

(B) Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the zoning code, building code, or other official regulations or resolutions, the most restrictive shall apply unless an application for change is initiated by the subdivider. If uses are proposed that do not conform to the zoning code, the zoning of the platted area proposed for platting must be changed to conform before the plat is filed. ('71 Code, Appendix A, § 7.41)
Penalty, see § 157.99

§ 157.43 DEDICATION OF LAND TO PUBLIC USE.

Whenever the plat proposes the dedication of land to public use and the appropriate agency finds that the land is not required or suitable for public use, the town may either refuse to approve the plat or it may require the rearrangement of lots to include the land. ('71 Code, Appendix A, § 7.32)



§ 157.44 BLOCKS.

(A) The lengths, widths, and shapes of blocks shall be determined with due regard to the following.

(1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.

(2) Zoning requirements as to lot sizes and dimensions unless a planned unit development is contemplated.

(3) Needs for convenient access, circulation, control, and safety of vehicular and pedestrian traffic.

(4) Limitations and opportunities of topography and other natural features.

(B) In general, residential blocks should not be greater than 1,400 feet in length, depending on land configuration. Residential blocks shall be wide enough to provide two tiers of lots, except where fronting on major thoroughfares or prevented by physiographical conditions, size, or configuration of property, in which case the town may require or approve a single tier of lots of minimum depth.
('71 Code, Appendix A, § 7.50) Penalty, see § 157.99

§ 157.45 LOTS.

(A) Insofar as practicable, side lot lines shall be perpendicular or radial to street lines. Each lot shall abut on a dedicated public or private street and conform to this code and the zoning code. Every residential lot shall conform to at least the minimum dimension and area requirement of the zoning code.

(B) Double frontage, unless required by the town, shall be prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography, orientation, and property size. A planting screen reservation of at least 10 feet in width and across which there shall be no right of access, may be required along the line of lots abutting a traffic artery or other disadvantageous use. This reservation shall be in addition to other setback requirements.

(C) Corner lots shall have an extra width at least 15% greater than the required minimum to permit appropriate building setback from and orientation to both streets.

(D) Lot remnants (lots below minimum area or width left over after subdividing tracts of land) shall be prohibited. The remnant areas shall be added to adjacent lots, rather than remain as unusable parcels.

(E) The subdividing of the land shall be such as to provide each lot with direct abutting access to an existing public street or to a street contained within the proposed subdivision, provided that individual lots, except in unusual circumstances, shall not front on an arterial street as defined in § 157.03.
('71 Code, Appendix A, § 7.60) (Ord. 81-37, passed 11-4-81) Penalty, see § 157.99

§ 157.46 STREETS.

(A) The arrangements, character, extent, width, and location of all streets shall conform to the comprehensive plan for the town and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by the streets. Where streets are not shown in the comprehensive plan for the town, the arrangement of streets in a subdivision shall do one of the following.

(1) Provide for the continuation or appropriate projection of existing streets in surrounding areas at the same or greater width, but in no case less than the required minimum width.

(2) Conform to a plan for an area approved by the town to meet a particular situation where natural or other conditions made continuance or conformance to existing streets impracticable.

(B) Minor or local streets shall be so laid out that their use by through traffic will be discouraged.

(C) Cul-de-sacs shall be required for dead-end streets.

(D) Where a subdivision abuts or contains an existing or proposed major street, the town may require marginal access streets, double frontage lots with screen planting contained in a nonaccess reservation along the rear property lines, deep lots with rear service drives, or any other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(E) Street intersections shall be as nearly at right angles as possible, and no intersection shall be at an angle less than 60 degrees. Detailed designs of intersections may be required. Street jogs with centerline off-sets of less than 125 feet shall not be permitted unless the town determines their necessity.

(F) Curb line radius at street intersections shall be at least 30 feet and where the angle of street intersection is less than 90 degrees, the town may require a greater radius.

(G) Cul-de-sac streets shall be designed with a circular turnaround to have a minimum right-of-way radius of 50 feet and a minimum pavement radius of 35 feet.

(H) All streets, public or private, shall have a right-of-way width of at least 50 feet and a pavement width of 22 feet. The following minimum right-of-way and pavement widths shall apply to the following classification of streets as defined. Pavement shall generally be centered within the right-of-way.

Type	Right-of-way	Pavement (Excluding Curb or Gutter)
Highways	100 feet	48 feet total, divided or undivided
Arterial streets	100 feet with divided lanes 80 feet with	48 feet total, divided or undivided undivided lanes
Collector streets	80 feet	36 feet
Minor or local	60 feet, unless 50 feet permitted	22 feet
Marginal access streets	50 feet	22 feet

(I) Alleys orservice drives shall not be provided in residential blocks except where the subdivider produces evidence satisfactory to the town of the need of alleys or service drives. Where alleys or service drives are permitted, minimum right-of-way width shall be 30 feet and improvements shall meet the construction specifications of the town. ('71 Code, Appendix A, § 7.70)

(J) Half streets shall be prohibited. Streets on the boundary of a subdivision shall be of full width.

(K) Reserve strips controlling access to streets, alleys, or public grounds shall not be permitted, except where approved by the town as dedicated public land or a controlled-access strip. ('71 Code, Appendix A, § 7.80)

(L) Street names shall be designated by the subdivider for all streets. No two streets shall have the same name, nor shall any new street have the same name as an existing street in the town. Street names in a proposed subdivision shall be submitted by the developer to the post office for review and approval prior to the submission of the preliminary plat. ('71 Code, Appendix A, § 7.90)
Penalty, see § 157.99

REQUIRED IMPROVEMENTS

§ 157.55 MINIMUM IMPROVEMENTS.

Every subdivider, at his own expense, shall install or have made provisions for installations acceptable to the town, and in accordance with the provisions of this chapter, certain improvements as specified in this subchapter.
('71 Code, Appendix A, § 8.10) Penalty, see § 157.99

§ 157.56 CONSTRUCTION PLANS AND SPECIFICATIONS.

The plans and specifications for the required improvements described in this subchapter shall be prepared by a registered engineer and shall be clear and complete in all respects, at an appropriate scale, and shall conform to good engineering practices where not specifically detailed in these regulations or in other town ordinances or regulations or by county or state regulations, the practices being oriented to the special condition of the town. Allowance shall be made for the Gulf setback requirements established by the town. The required engineer or engineers responsible for the approved plans shall supervise the construction of the improvements and shall provide certified as-built drawings on mylar to the town upon completion.
('71 Code, Appendix A, § 8.20) Penalty, see § 157.99

§ 157.57 ELEVATION AND LAND FILLING.

Filling, dredging, clearing of land, or otherwise changing the character of the site, shall not be permitted until after construction plans have been approved and all local, county, regional, state, and federal provisions, requirements, or permits have been obtained. Elevations of filled land shall be determined in conformance with all town regulations and other applicable provisions, with due allowance for the required elevation of buildings to be erected thereupon.
('71 Code, Appendix A, § 8.30) Penalty, see § 157.99

§ 157.58 STREETS.

(A) No street shall be accepted as part of the town street system or approved for private use and maintenance, nor shall a public street be maintained by the town unless all improvements are constructed and inspected in accordance with the specifications contained herein, and no streets shall be maintained by the town unless accepted by the Town Commission for maintenance. ('71 Code, Appendix A, § 4.30)

(B) All streets shall be laid out and designed in accordance with § 157.46 and other applicable ordinances and regulations of the town. All streets, public or private, shall be constructed to the standards of the town and shall consist of a properly prepared subgrade, an approved road base, and an approved wearing surface. All construction shall be in accordance with the approved plans and specifications but in all cases conform to the town's street construction specifications as adopted and amended from time to time by the town and on file

in the office of the Town Clerk. Any and all tests required by the town shall be at the cost of the subdivider and conducted by an engineering laboratory acceptable to the town.

(C) When curbs are provided at the option of the town, they shall conform to the street construction specifications of the town.

(D) At the discretion of the town and dependent upon potential pedestrian or bicycle traffic, the town may require either sidewalks, bicycle paths, or both. Consideration will be given to a pedestrian and bike circulation system with an alignment that may reduce or eliminate roadside sidewalks and bike paths. If sidewalks or bicycle paths are provided, they shall conform to the street construction specifications of the town.

(E) All streets shall be provided with street name signs and the necessary traffic-control and regulation signs as determined by the town. All signs shall conform to the street construction specifications of the town. ('71 Code, Appendix A, § 8.40) Penalty, see § 157.99

§ 157.59 DRAINAGE.

(A) A complete storm drainage system shall be constructed which provides for proper drainage of all areas including lots, tracts, streets, and other areas. Drainage runoff from areas outside the subdivision which passes over or through areas of the subdivision shall be allowed for in the drainage system design. The storm drainage system shall, in addition to meeting all town requirements, conform with all applicable county and state agency standards and requirements, including those relating to pollution control. Concentrated point discharge directly to the Gulf shall be prohibited.

(B) All drainage systems shall be designed for floods resulting from rainstorms of 10-year intervals, applying the "rational formula" or other acceptable methods commonly employed for drainage work in hydraulic calculations. Rainfall intensity data shall be taken from established references. Ultimate land uses shall be assumed for selection of the proper runoff coefficient whether within the subdivision or not. Weighted runoff coefficients may be applied where different coefficients apply within the area comprising drainage basins. The design shall incorporate infiltration features where a positive, permanent outlet is not available or where percolation may be necessary for pollution control. Percolation testing under the control of a registered engineer may be required by the town to support the computations submitted for approval.

(C) The drainage system including all drainage structures and appurtenances such as pipes, inlets, culverts, headwalls, or weirs shall be constructed in accordance with the storm drainage construction specifications as adopted and amended from time to time by the town and on file in the office of the Town Clerk.
('71 Code, Appendix A, § 8.50) Penalty, see § 157.99

§ 157.60 UTILITIES.

(A) All subdivisions shall include within their design and construction the provision of adequate public and private utilities including, but not limited to, water supply, waste water collection and pumping, electricity, telephone, and cable television, and shall be constructed in accordance with applicable town, county, state, and federal standards and requirements. Utilities shall be located underground unless specifically approved otherwise by the town.

(B) All water supply systems shall be designed and constructed in accordance with relevant town ordinances and the procedures therein, and the water supply system construction specifications as adopted and amended from time to time by the town and on file in the office of the Town Clerk.

(C) All waste water collection and pumping systems shall be designed and constructed in accordance with relevant town ordinances and the procedures therein, and the waste water system construction specifications as adopted and amended from time to time by the town and on file in the office of the Town Clerk.

(D) All other utilities shall be designed and constructed in accordance with relevant town ordinances and all requirements and standards of the appropriate private utility, including the procedures prescribed therein.
('71 Code, Appendix A, § 8.60) Penalty, see § 157.99

§ 157.61 MONUMENTS.

Permanent reference monuments as required by F.S.A. Ch. 177, shall be located and constructed. All points of curvature or tangency shall be clearly marked.
('71 Code, Appendix A, § 8.70)

§ 157.99 PENALTY.

Any person, persons, firms, or corporations convicted of violating the provisions of this chapter or any part hereof shall be punished by a fine of not more than $500 or imprisoned for a period not to exceed 60 days, and each day that the violation continues shall constitute a separate offense.
('71 Code, Appendix A, § 11.40)

TABLE OF SPECIAL ORDINANCES

Table

I. FRANCHISES

II. ZONING MAP CHANGES

LONGBOAT KEY - TABLE OF SPECIAL ORDINANCES 2

TABLE I. FRANCHISES

Ord. No.	Date	Description
80-11	12-10-80	Granting a franchise to Cedar Hammock Refuse Disposal Corporation for collection and disposal of solid waste.
41	6- 9-59	Granting a franchise to General Telephone Co. of Florida for construction, operation and maintenance of a telephone system. Amended by Ord. 222.
154	8- 3-69	Granting cable TV franchise to Sarasota Central Antenna Network, Inc.
222	5-17-72	Amending Ord. 41.
74-17	7-24-74	Granting electric franchise to Florida Power and Light Company.
Res. 74-17	12-18-74	Transferring Cable TV franchise to Storer Cable TV of Florida, Inc.
84-8	4- 7-84	Granting electric franchise to Florida Power and Light Company.
85-17	12- 2-85	Granting gas franchise to Southern Gas Company.
86-32	10- 6-86	Granting a franchise to Cedar Hammock Refuse Disposal Corporation for collection and disposal of solid waste.
88-23	3- 6-89	Cable TV franchise.
91-04	3-12-91	Granting a franchise to Cedar Hammock Refuse Disposal Corporation for collection and disposal of solid waste. Amended by Ord. 91-22.
91-22	12-19-91	Amends Ord. 91-04.
91-27	12-19-91	Granting a franchise to Cedar Hammock Refuse Disposal Corporation for collection and disposal of solid waste.

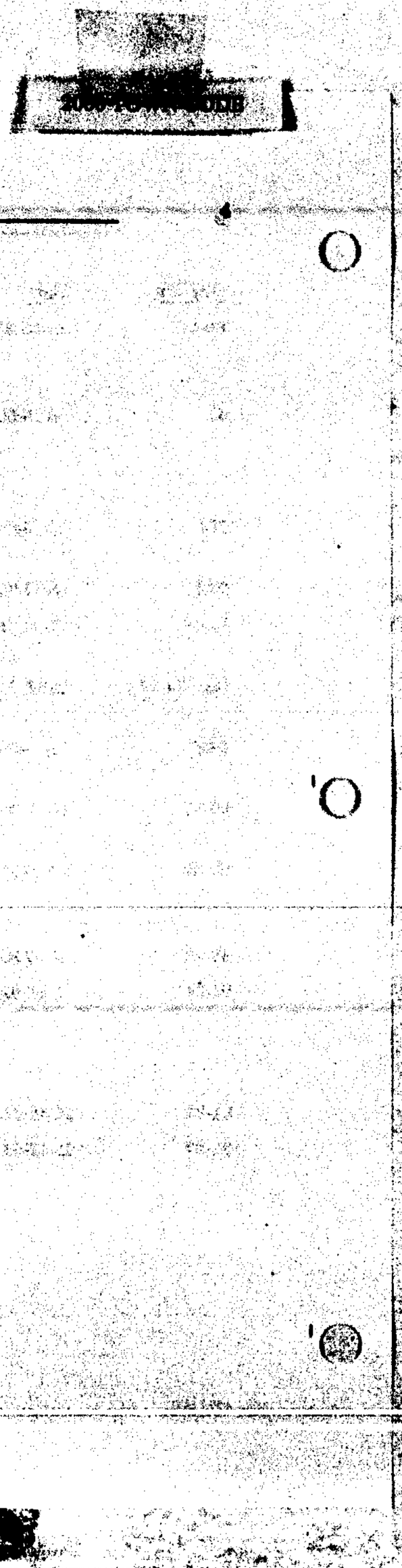


TABLE II. ZONING MAP CHANGES

Ord. No.	Date	Description
81-1	3-6-81	Classifying a portion of U.S. Government lot #2 and #3 of fractional section #16, and a portion of U.S. Government lot #4 of fractional section #17, Township 36 south, Range 17 east, and a portion of Island Beach Subdivision as NPD.
81-39	1-6-82	Rezoning lots 1, 2, 3, 4, 34, 35, 36, 37, 38, and 39 of Dream Island, together with the adjacent vacated streets, also known as "The Buccaneer", 595 Dream Island Road, from R-3 to T-1.
81-39	1-6-82	Rezoning 5251 Gulf of Mexico Drive from T-1 to R-3.
85-5	5-20-85	Rezoning the easterly 125 feet of the following: Begin at the intersection of the northeasterly right-of-way line of Gulf of Mexico Drive (100' wide) and the southeasterly line of lot 4 of a subdivison of fractional sections 25, 26 and part of section 24, Township 35 south, Range 16 east, as recorded in Plat Book 7, Page 16 of Public Reords of Manatee County, Florida; thence northeasterly along the southeasterly line of said lot 4, 525'; thence northwesterly parallel with Gulf of Mexico Drive, 100'; thence southwesterly along the northwesterly line of said lot 4, 525' to said right-of-way line 100' to the point of beginning, being a part of lot 4 of said subdivision, from RM-4SF to CL.
86-9	6-19-86	Rezoning parcel 6 of that part of lot 9 of Ringling Subdivision, Longboat Key, described as follows: Commence at northwesterly corner of section 25, thence south 89 degrees 33 minutes west along the northerly line of section 26 a distance of 1269.5 feet to the intersection of northerly line and the easterly right-of-way of John Ringling

Ord. No.	Date	Description
		Parkway, thence south 39 degrees 51 minutes east along easterly right-of-way line a distance of 2398.3 feet, north 50 degrees 56 minutes east a distance of 260 feet for a point of beginning, thence north 50 degrees 56 minutes east a distance of 60 feet, south 39 degrees 57 minutes east a distance of 100 feet, south 50 degrees 56 minutes, west a distance of 60 feet, north 39 degrees 57 minutes, west a distance of 100 feet to the point of beginning, also known as 547 St. Judes Drive, from C-1 to R-4SF.
86-9	6-19-86	Rezoning that part of lot 9 of Ringling Subdivision, Longboat Key, described as follows: Commence at northwesterly corner of section 25, then south 89 degrees 33 minutes west along northerly line of section 26, a distance of 1269.5 feet to intersection of northerly line and easterly right-of-way of John Ringling Parkway, south 39 degrees 57 minutes east along easterly right-of-way line 2398.3 feet, north 50 degrees 56 minutes east 320 feet for a point of beginning, north 50 degrees 56 minutes east 75 feet, south 39 degrees 57 minutes east 100 feet, south 50 degrees 56 minutes west 75 feet, north 39 degrees 57 minutes west 100 feet to a point of beginning, described in Official Records Book 195, Page 293 of the Public Records of Manatee County, Florida, also known as 549 St. Judes Drive, from CL to R-4SF.
86-9	6-19-86	Rezoning that part of lot 10 of Ringling Subdivision, Longboat Key, described as follows: Commence at northwest corner of section 25, thence south 89 degrees 33 minutes west along northerly line of section 26 a distance of 1269.5 feet to intersection of northerly line and easterly right-of-way of

Ord. No.	Date	Description
		John Ringling Parkway, south 39 degrees 57 minutes east along easterly right-of-way line 2598.3 feet, north 50 degrees 56 minutes east 320 feet for a point of beginning, north 50 degrees 56 minutes east 75 feet, north 39 degrees 57 minutes west 100 feet, south 50 degrees 56 minutes west 75 feet, south 39 degrees 57 minutes east 100 feet to a point of beginning, also known as 560 St. Judes Drive, from C-1 to R-4SF.
86-9	6-19-86	Rezoning lots 39 and 40, Sleepy Lagoon and a strip 10 feet wide running from Ringling Boulevard to the waters of the Gulf and lying along the northwesterly side of lot 40 of Sleepy Lagoon together with any land, if any, lying between the above-described properties and the waters of the Gulf of Mexico, all located in Manatee County, Florida, from R-3MX to R-3SF.
86-9	6-19-86	Rezoning a parcel of land located in section 16, township 22 east, range 35 south, described as from the original government meander corner marking the line between section 15 and 22, run south 45 degrees 00 minutes east, 1838.95 feet to the southeasterly boundary line of the tract known as the Ferguson Tract; south 45 degrees 0 minutes east, 210 feet; south 27 degrees 15 minutes west, 208.5 feet to the southerly line of John Ringling Parkway for a point of beginning; south 45 degrees 0 minutes east along the Parkway, 100 feet; south 27 degrees 15 minutes west, 623 feet, more or less, to the Gulf of Mexico; northwesterly along the Gulf of Mexico, 100 feet, more or less; north 27 degrees 15 minutes east, 650 feet, more or less, to the point of beginning, from R-3MX to R-3SF.

2006 TOWN CODE

LONGBOAT KEY - ZONING MAP CHANGES

Ord. No.	Date	Description
86-9	6-19-86	Rezoning a parcel of land located in section 16, township 22 south, range 35 east, described as from the original government meander corner marking the line between section 15 and 22, run south 45 degrees east 1839.95 feet to the southeasterly boundary line of the tract known as the Ferguson Tract; south 27 degrees 15 minutes west along Ferguson boundary line 103.50 feet to the northerly right-of-way line of Ringling Boulevard; south 27 degrees 15 minutes west 105 feet to the southerly right-of-way line of the Boulevard for a point of beginning; south 45 degrees east along the southerly right-of-way line of Ringling Boulevard, 210 feet; south 27 degrees 15 minutes west 688 feet, more or less to the Gulf of Mexico, north 65 degrees 02 minutes west along the Gulf 200.16 feet, more or less to the southeasterly boundary line of the Ferguson Tract; north 27 degrees 15 minutes east 760 feet to the point of beginning, less the southerly 105 feet as described in OR Book 1011, Page 1622 of the Public Records of Manatee County, Florida, from R-3MX to R-3SF.
86-9	6-19-86	Rezoning a parcel of land located in section 16, township 22 south, range 35 east described as the southeasterly 200 feet of the following described tract of land from Ringling Boulevard (now Gulf of Mexico Drive) to the Gulf of Mexico; from the original government meander corner marking the line between sections 15 and 22, run south 45 degrees east a distance of 1313.95 feet to a point which is on the southeasterly boundary line of a tract being acquired by Gordon Whitney and

Ord. No.	Date	Description
		Laura C. Whitney, the latter said point being the point of beginning; from the point of beginning run north 27 degrees 15 minutes east along said Whitney boundary line a distance of 394 feet, more or less, to the waters of Bishop's Bayou; thence run along the waters of Bishop's Bayou south 62 degrees 45 minutes east, a distance of 95 feet; thence run along the waters of Bishop's Bayou north 69 degrees 15 minutes east a distance of 200 feet; thence run along the waters of Bishop's Bayou south 74 degrees 15 minutes east a distance of 115 feet; thence run along the waters of Bishop's Bayou south 43 degrees 28 minutes east a distance of 164.73 feet; thence south 27 degrees 15 minutes west a distance of 671.2 feet to an intersection with a U.S. meander line (latter said intersection point being south 45 degrees east a distance of 525 feet from the point of beginning); thence continue south 27 degrees 15 minutes west a distance of 103.5 feet to the northerly right-of-way line of Ringling Boulevard; thence continue south 27 degrees 15 minutes west across the Boulevard a distance of 105 feet to the southerly right-of-way line of the Boulevard; thence continue south 27 degrees 15 minutes west a distance of 760 feet, more or less, to the waters of the Gulf of Mexico; thence north 57 degrees 2 minutes west along the shore of the Gulf a distance of 502.5 feet to the southerly line of property being acquired by Gordon Whitney; thence north 27 degrees 15 minutes east along the Whitney line a distance of 870 feet, more or less, to the southerly right-of-way line of Ringling Boulevard; thence continue north 27 degrees 15 minutes east across the Boulevard a distance of 105 feet

Ord. No.	Date	Description
		to the northerly right-of-way line of the Boulevard; thence continue north 27 degrees 15 minutes east a distance of 103.5 feet to the point of beginning, excepting the right-of-way for Ringling Boulevard (100 feet), and less the southeasterly 100 feet described in Official Records Book 647, Page 743 of the Public Records of Manatee County, Florida, from R-3MX to R-3SF.
86-9	6-19-86	Rezoning lot 2, T. J. Oxford Subdivision as per plat recorded in Plat Book 17, Page 82 of the Public Records of Manatee County, Florida, from R-3MX to R-3SF.
86-9	6-19-86	Rezoning lot 1, T. J. Oxford Subdivision as per plat recorded in Plat Book 17, Page 82 of the Public Records of Manatee County, Florida, from R-3MX to R-3SF.
92-14	4-16-92	Adopts new Official Zoning Map referred to in § 158.007.
92-15	4-16-92	Adopts new Open Space Master Plan map referred to in § 158.017(C).



PARALLEL REFERENCES

REFERENCES TO FLORIDA STATUTES ANNOTATED

REFERENCES TO 1971 CODE

REFERENCES TO ORDINANCES



2000 TOWNCODE

REFERENCES TO FLORIDA STATUTES

F.S. Section	Code Section
Special acts, Ch. 57 1540	Charter Art. IX, § 1
Special acts Ch. 71	913 96.45(B)
Special Acts, Ch. 73-129	Charter Art. I, § 7
1.01	10.02
1.02	10.11
50	33.12
97.041	36.02
101.62 - 101.694	36.01
104.31	39.06(E)
Ch. 112	39.10
112.311	30.07(B)
112.312(2)	39.07(A)
112.313	30.07(B)
112.3143	30.07(B)
	34.22(E)
112.3143(3)	39.06(K)(3)
Ch. 120	53.09
161.011 et seq.	Ch. 151
Ch. 162	33.14(A)
161.58	71.01
162.21	95.54(B)
163.295	150.01, 150.02
163.3161 et seq.	32.01(A), 32.05
163.3161	32.02
163.3167(C)	158.016
163.3174	32.01(B)
163.3177(5)	160.02
Ch. 166	33.14(A)
Ch. 166, Pts. I, II	92.30
	92.50
166.021	130.05(A)
166.031	Charter Art. I, § 7
166.041	30.01(E)(2)
166.041(3)	33.25(B)(2)
166.041(3)(a)	30.01(E)(3), 33.25(C)
Ch. 170	92.30
	92.50
Ch. 175	34.33(A)
175.091	37.11
Ch. 177	157.17
	157.61
	158.006

LONGBOAT KEY - REFERENCES TO FLORIDA STATUTES

F.S. Section	Code Section
Ch. 177, Pt. II	158.006
Ch. 185	34.33(A)
185.07	37.11
189.402(1)	92.30
	92.50
189.4041	92.30
	92.50
Ch. 253	152.01
	152.04
253.025(7)(b)	38.37(B)(2)
Ch. 280	34.23(A)(3)
280.02	34.23(A)(3)
286.011	39.12(G)
286.012	30.07(B)
287.055	38.11(O)
Ch. 316	70.01
	91.03(A)
316.006(2)	71.03
316.008	Ch. 72, Ch. 73
316.189	71.02
Ch. 318	70.01
	71.01
Ch. 327	98.17
327.73	98.99
Ch. 371	98.14
380.04	158.006
Chs. 381 - 406	Ch. 96
381.311	Ch. 96
Ch. 388	96.04
Ch. 403	96.55
	96.45(A)
403.182	96.45(A)
403.703(4)	95.41
403.703(9)	95.41
403.703(13)	95.41
403.703(17)	95.41
403.703(39)	95.41
403.703(41)	95.41
Ch. 471	157.03(B)
Ch. 472	157.03(B)
Ch. 496	150.20

F.S. Section	Code Section
553.70 et seq.	150.01
562.14	110.01
562.45	110.01
633.35	34.20
Ch. 650	34.05(A)
650.02	34.05
Ch. 705	99.02
	99.03
705.101	99.01
713.01 et seq.	95.22
Ch. 718	150.20
718.104	157.06(B)(2)
Ch. 719	150.20
Ch. 721	158.132
767.01 - 767.04	91.10
775.082	33.18(F)
	34.32(C)(15)
	95.54(B)(4)
775.083	33.18(F)
	34.32(C)(15)
	95.54(B)(4)
775.084	95.54(B)(4)
Ch. 828	91.19
Ch. 856	34.42(A)(4)
943.14	34.20
948.25	33.18(Schedule)

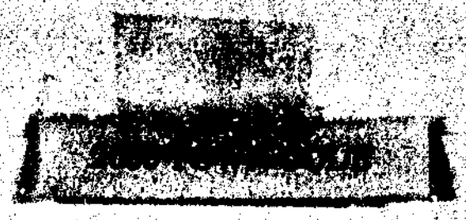


LONGBOAT KEY - REFERENCES TO 1971 CODE

1971 Code Section	1982 Code Section
1-1	10.01
1-2	10.02, 10.03, 10.11
1-3	10.04
1-4	10.05, 10.06
1-6	10.07
1-7	10.08
1-8	10.99
1-9	35.01
1-10	35.04
1-11	10.09
1-12	10.10
2-2	35.02
2-3	35.03
2-6	34.05(A)
2-7	34.06
2-8	34.07
2-9	34.08
2-10	34.09
2-11	34.10
2-12	34.05(B)
2-13	34.11
2-14	30.01 (B) - (D)
2-15	30.01(A)
2-16	30.02
2-17	30.03
2-18	30.04
2-19	30.05
2-20	30.06
2-21	30.07
2-21.5	30.08
2-22	37.01
2-23	37.02
2-24	37.03
2-26	37.04 (A)
2-27	37.04 (B)
2A-1	90.01
2A-2	90.02
2A-3	90.03
2A-4	90.04
2A-5	90.99
3-3	110.01
4-1	91.01

1971 Code Section	1982 Code Section
4-1.5	91.02
4-2	91.10 (A)
4-3	91.10 (B)
4-4	91.10 (C)
4-5	91.10 (D)
4-6	91.10 (E)
4-7	91.11
4-8	91.12
4-9	91.13
4-10	91.14
4-11	91.15
4-12	91.16
4-13	91.17 (A)
4-14	91.17 (B)
4-15	91.17 (C)
4-16	91.18
4-17	91.19
4-18	91.20
4-19	91.21
4-30	91.03 (B)
4-31	91.03 (A)
4-32	91.03 (C)
4-33	91.03 (D), (E), (F)
4-34	91.03 (G)
4-35	91.99(B)
4A-1	92.10
4A-2	92.11
4A-3	92.12
4A-12	92.20
4A-13	92.22
4A-14	92.21
4A-15	92.23 (A)
4A-16	92.23 (B), (C)
4A-17	92.99
5-3	93.01
5-4	Repealed by 95-22
5-5	Repealed by 95-22
5-6	Repealed by 95-22
5-7	Repealed by 95-22
5-8	Repealed by 95-22
5-9	Repealed by 95-22

1971 Code Section	1962 Code Section
5-10	Repealed by 95-22
6-1	150.01
6-2.1	150.03
6-3	150.15
6-4	150.16
6-5	150.17
6-6	150.18(A)
6-7	150.18(B)
6-8	150.35(A)
6-9(a)	150.35(B)
6-9(b)	150.36
6-9.5	150.19
6-9.7	150.20
6-10	150.05
6-11	150.21



1971 Code Section	1982 Code Section
5-10	Repealed by 95-22
6-1	150.01
6-2.1	150.03
6-3	Repealed by 98-24
6-4	150.16
6-5	150.17
6-6	150.18(A)
6-7	150.18(B)
6-8	150.35(A)
6-9(a)	150.35(B)
6-9(b)	150.36
6-9.5	150.19
6-9.7	150.20
6-10	150.05
6-11	150.21
6-12	150.22
6-13	150.26
6-14	150.28
6-15(a)–(c)	150.39
6-15(d)	150.37
6-16	Repealed by 98-25
6-18	150.04
6-19	150.24(B)
6-23	150.23(A)
6-24	150.23(B)
6-25	150.23(C)
6-26	150.23(D)
6-27	150.23(E)
6-28	150.23(F)
6-29	150.23(G)
6-30	150.23(H)
6-31	150.50(A)
6-32	150.51
6-33	150.52
6-34	150.53
6-35	150.55
6-36	150.54
6-37	150.50(B)
7-1	151.01
7-2	151.02

1971 Code Section	1982 Code Section
7-3	151.03(A)
7-4	151.03(B)
7-4(h)	151.04(B)
7-5	151.04(A)
7-6	151.05
7-7	151.06
7-8	151.07
8-1	152.01
8-2	152.02(A)
8-3	152.02(B)
8-4	152.04
8-5	152.06
8-6	152.03
8-7	152.05
8-8	152.15(A)
8-9	152.20
8-10	152.15(B)
8-11	152.17
8-12	152.16
8-13	152.18
8-14	152.19(A)
8-15	152.19(B), (C)
8-16	152.21
8-17	152.22
8-18	152.23(A)
8-19	152.24
8-20	152.25
8-21	152.26
8-22	152.23(B)
8-23	152.23(C)
8-24	152.23(D)
9-1	36.01
9-2	36.02
9-3	36.03
9-4	36.04
9-5	30.15
9-6	30.16
9-7	30.17
9-8	30.18
9-9	30.19
9C-1	154.01(A)

1971 Code Section	1982 Code Section
9C-2	154.03
9C-3	154.01(B)
9C-4	154.04
9C-5	154.02
9C-6	154.05
9C-7	154.06
9C-8	154.09
9C-9	154.10
9C-10	154.07
9C-11	154.08
9C-12	154.11
9C-13	154.12
9C-14	154.13
9C-15	154.14
9C-16	154.15
9C-17	Repealed by 84-7
9C-18	154.99
10-1	95.01, 96.11(A)
10-2	95.15
10-3	95.16
10-4	95.17(A)
10-5	95.18
10-6	96.11(B)
10-7	95.17(B)
10-8	96.01
10-9	96.02(A)
10-10	Repealed by 97-10
10-11	96.03
10-12	96.10
10-13	96.12, 96.99(B)
10-14	96.13(A)
10-15	96.13(B)
10-16	96.14
11-8	96.04(A)
11-9	96.04(B)
11-10	96.04(C)

1971 Code Section	1982 Code Section
11-11	96.04(D)
11-12	Repealed by 86-31
11-13	Repealed by 86-31
11-14	Repealed by 86-31
11-15	Repealed by 86-31
11-16	Repealed by 86-31
11-27	96.30
11-28	96.31
11-29	96.32
11-30	96.33
11-31	96.34
11-32	96.35
11-33	96.38
11-34	96.36
11-35	96.37
12-1	Ch. 111
12-2	Ch. 111
12-3	Ch. 111
12-4	Ch. 111
12-5	Ch. 111
12-6	Ch. 111
12-7	Ch. 111
12-8	Ch. 111
12-9	Ch. 111
12-10	Ch. 111
13-1	70.01
13-2	71.01
13-3	71.02
13-4	71.03
13-19	72.01
13-20	72.02
13-21	72.03
13-22	72.04
13-23	72.05
13-24	72.07
13-26	72.08
13-27	72.99(A), (B)
13-38	70.02(A), (B)
13-39	70.02(C)
13-40	70.02(D)
13-50	Ch. 73
13-51	Ch. 73
13-52	Ch. 73
13-53	Ch. 73
13-54	Ch. 73
13-55	Ch. 73
13-56	Ch. 73
13-57	Ch. 73
14-1	130.01
14-2	130.02

1971 Code Section	1982 Code Section
14-3	72.06, 72.99(C)
14-4	130.03
14-5	130.04
14-16	95.25(A)
14-17	95.25(B)
14-18	95.26
14-19	95.27
14-20	95.28
14-21	95.29(A)
14-22	95.29(B)
14-23	95.30
14-24	95.31
14-25	95.32(A)
14-26	95.32(B)
14-27	95.33
14-28	95.34
15-1	Ch. 112
15-2	Ch. 112
15-3	Ch. 112
15-4	Ch. 112
15-5	Ch. 112
15-6	Ch. 112
15-7	Ch. 112
15-8	Ch. 112
15A-1	34.20
15A-3	34.21
15A-9	34.22
15A-5	34.23
15A-6	34.24(A)
15A-7	34.24(B)
15A-8	34.25
15A-9	34.26(A), (B)
15A-11	34.28(A)
15A-12	34.26
15A-13	34.27
15A-14	34.28(B)
15A-15	34.29
15A-16	34.30
15A-17	34.31
15A-18	34.32
15A-19	34.33
15A-20	34.34
15A-21	34.35(A)
15A-22	34.35(B)
15A-23	34.35(C)
15A-24	34.35(D)
15A-25	34.35(E)
15A-31	34.45
15A-32	34.46
15A-33	34.47
15A-34	34.48

1971 Code Section	1982 Code Section
15A-35	34.49
15A-36	34.50
15A-37	34.51
15A-38	34.52
15A-39	34.53
15B-1	Repealed by 86-36
15B-2	Repealed by 98-25
15B-16	33.20 (A)
15B-17	33.20 (B)
15B-18	33.21
15B-19	33.22
15B-20	33.23
15B-21	33.24
15B-22	33.25
15B-27	32.01 (A)
15B-28	32.01 (B)
15B-29	32.02
15B-30	32.03
15B-31	32.04
15B-32	32.05
15B-33	32.06
16-1	155.01
16-2	155.02
17-1	32.15
17-2	32.16
17-3	32.16
17-6	130.06
17-16	32.17 (A)
17-17	32.17(B)
17-18	32.17(C)
17A-1	96.45
17A-2	96.46
17C-16	Ch. 98
17C-17	Ch. 98
17C-18	Ch. 98
17C-19	Ch. 98
17C-20	Ch. 98
17C-21	Ch. 98
18-1	Repealed by 95-04
18-2	Repealed by 95-04
18-3	Repealed by 95-04

1971 Code Section	1982 Code Section
18-4	Repealed by 95-04
18-5	Repealed by 95-04
18-6	Repealed by 95-04
18-7	Repealed by 95-04
18-8	Repealed by 95-04
18-9	Repealed by 95-04
18-10	Repealed by 95-04
18-11	Repealed by 95-04
18-12	Repealed by 95-04
18-13	Repealed by 95-04
18-14	Repealed by 95-04
19-1	97.01(A)
19-2	97.01(B)
19-3	97.01(C)
19-4	97.02
19-4.1	97.03
19-5	92.01(A), 97.10(A)
19-6	92.01(B), 97.10(B)
21-6	37.10(A)
21-8	37.10(B)
21-9	37.10(C)
21-10	37.10(D)
21-24	37.11(A)
21-25	37.11(B)
22-1	50.01(A)
22-2	50.02(A)
22-3	50.02(B)
22-4	50.02(C)
22-5	50.01(B)
22-6	50.03
22-7	50.04
22-8	50.05
22-9	50.06
22-10	50.99
22-21	52.01
22-22	52.02
22-23	52.03
22-24	52.04
22-25	52.05
22-26	52.06
22-27	52.07

1971 Code Section	1982 Code Section
22-28	52.08
22-34	52.15
22-35	52.16
22-36	52.17 (A)
22-37	52.17(B)
22-38	52.18
22-39	52.19
22-40	52.20
22-41	52.21
22-42	52.22
22-43	52.23
22-44	52.24
22-50	52.30 (A)
22-51	52.31
22-52	52.30(B)
22-53	52.32 (A)
22-54	52.32(B)
22-55	52.33
22-56	52.34
22-57	52.35

[redacted]

LONGBOAT KEY - REFERENCES TO 1971 CODE 12B

1971 Code Section	1982 Code Section
22-58	52.36
22-59	52.37
22-60	52.38
22-66	53.01
22-67	53.02
22-68	53.03
22-69	53.04
22-70	53.05
22-71	53.06
22-72	53.07
22-73	53.08
22-76	53.11
22-77	53.12
22-78	53.13
22-89	51.01
22-90	51.02
22-91	51.03
22-92	51.10
22-93	51.20
22-94	51.11
22-95	51.12
22-96	51.21
22-97	51.22
22-98	51.30
22-99	51.31
22-100	51.32
22-101	51.04
App. A, § 1.10	157.01
App. A, § 1.20	157.02(A)
App. A, § 2.10	157.02(C)
App. A, § 3.10	157.03(A)
App. A, § 3.20	157.03(B)
App. A, § 4.10	157.25
App. A, § 4.20	157.26(A)
App. A, § 4.30	157.58(A)
App. A, § 4.40	157.41(A)
App. A, § 4.50	157.26(B)
App. A, § 4.60	157.06
App. A, § 5.11	157.27
App. A, § 5.12	157.28
App. A, § 5.21	157.29

1971 Code Section	1982 Code Section
App. A, § 5.30	157.30
App. A, § 5.40	157.31
App. A, § 6.10	157.15
App. A, § 6.20	157.16
App. A, § 6.30	157.17
App. A, § 6.40	157.18
App. A, § 7.11	157.40
App. A, § 7.20	157.41(B)
App. A, § 7.41	157.42(B)
App. A, § 7.50	157.44
App. A, § 7.60	157.45
App. A, § 7.70	157.46(A) - (I)
App. A, § 7.80	157.46(J), (K)
App. A, § 7.90	157.46(L)
App. A, § 8.10	157.55
App. A, § 8.20	157.56
App. A, § 8.30	157.57
App. A, § 8.40	157.58(B) - (E)
App. A, § 8.50	157.59
App. A, § 8.60	157.60
App. A, § 8.70	157.61
App. A, § 9.10	157.08
App. A, § 9.30	157.02(B)
App. A, § 9.40	157.09
App. A, § 10.10	157.07
App. A, § 11.10	157.04(A)
App. A, § 11.20	157.04(B)
App. A, § 11.30	157.05
App. A, § 11.40	157.99
App. B, Art. 1, § 1.10	Ch. 158
App. B, Art. 1, § 1.20	Ch. 158
App. B, Art. 2, § 2.10	Ch. 158
App. B, Art. 3, § 3.10	Ch. 158
App. B, Art. 3, § 3.20	Ch. 158
App. B, Art. 3, §§ 3.31, 3.32	Ch. 158
App. B, Art. 4, § 4.10	Ch. 158
App. B, Art. 4, § 4.10 Sch. 2	Ch. 158
App. B, Art. 4, § 4.20	Ch. 158
App. B, Art. 4, § 4.30	Ch. 158
App. B, Art. 4, § 4.40(a)	Repealed by 98-05
App. B, Art. 4, § 4.40(b)	Repealed by 98-05

1971 Code Section	1982 Code Section
App. B, Art. 5, § 5.11	Ch. 158
App. B, Art. 5, § 5.12	Ch. 158
App. B, Art. 5, § 5.13	Ch. 158
App. B, Art. 5, § 5.14	Ch. 158
App. B, Art. 5, § 5.15	Ch. 158
App. B, Art. 5, § 5.20	Ch. 158
App. B, Art. 5, § 5.30	Ch. 158
App. B, Art. 5, § 5.31	Ch. 158
App. B, Art. 5, § 5.32	Ch. 158
App. B, Art. 5, § 5.33	Ch. 158
App. B, Art. 5, § 5.40	Ch. 158
App. B, Art. 5, § 5.41	Ch. 158
App. B, Art. 5, § 5.42	Ch. 158
App. B, Art. 5, § 5.43	Ch. 158
App. B, Art. 5, § 5.44	Ch. 158
App. B, Art. 5, § 5.45	Ch. 158
App. B, Art. 5, § 5.50	Ch. 158
App. B, Art. 5, § 5.51	Ch. 158
App. B, Art. 5, § 5.52	Ch. 158
App. B, Art. 5, § 5.53	Ch. 158

App. B, Art. 5, § 5.54	Ch. 158
App. B, Art. 5, § 5.61	Ch. 158
App. B, Art. 5, § 5.62	Ch. 158
App. B, Art. 5, § 5.71	Ch. 158
App. B, Art. 5, § 5.73	Ch. 158
App. B, Art. 5, § 5.81	Ch. 158
App. B, Art. 5, § 5.82	Ch. 158
App. B, Art. 5, § 5.83	Ch. 158
App. B, Art. 5, § 5.84	Ch. 158
App. B, Art. 6, § 6.10	Ch. 158
App. B, Art. 6, § 6.21	Ch. 158
App. B, Art. 6, § 6.22	Ch. 158
App. B, Art. 6, § 6.23	Ch. 158
App. B, Art. 6, § 6.24	Ch. 158
App. B, Art. 6, § 6.25	Ch. 158
App. B, Art. 6, § 6.31	Ch. 158
App. B, Art. 6, § 6.32	Ch. 158
App. B, Art. 6, § 6.33	Ch. 158
App. B, Art. 6, § 6.34	Ch. 158
App. B, Art. 6, § 6.41	Ch. 158
App. B, Art. 6, § 6.42	Ch. 158
App. B, Art. 6, § 6.51	Ch. 158
App. B, Art. 6, § 6.52	Ch. 158
App. B, Art. 6, § 6.53	Ch. 158
App. B, Art. 6, § 6.54	Ch. 158
App. B, Art. 6, § 6.55	Ch. 158
App. B, Art. 6, § 6.60	Ch. 158
App. B, Art. 6, § 6.62	Ch. 158
App. B, Art. 6, § 6.63	Ch. 158
App. B, Art. 6, § 6.71	Ch. 158
App. B, Art. 6, § 6.72	Ch. 158
App. B, Art. 6, § 6.73	Ch. 158
App. B, Art. 6, § 6.74	Ch. 158
App. B, Art. 6, § 6.75	Ch. 158
App. B, Art. 6, § 6.76	Ch. 158
App. B, Art. 6, § 6.77	Ch. 158
App. B, Art. 6, § 6.80	Ch. 158
App. B, Art. 6, § 6.81	Ch. 158
App. B, Art. 6, § 6.91	Ch. 158
App. B, Art. 6, § 6.92	Ch. 158
App. B, Art. 6, § 6.93	Ch. 158
App. B, Art. 6, § 6.94	Ch. 158
App. B, Art. 6, § 6.95	Ch. 158
App. B, Art. 6, § 6.96	Ch. 158
App. B, Art. 6, § 6.97	Ch. 158
App. B, Art. 6, § 6.98	Ch. 158
App. B, Art. 7, § 7.10	Ch. 158
App. B, Art. 7, § 7.20	Ch. 158
App. B, Art. 7, § 7.30	Ch. 158
App. B, Art. 7, § 7.40	Ch. 158
App. B, Art. 7, § 7.51	Ch. 158
App. B, Art. 7, § 7.52	Ch. 158
App. B, Art. 7, § 7.53	Ch. 158

App. B, Art. 7, § 7.54	Ch. 158
App. B, Art. 7, § 7.60	Ch. 158
App. B, Art. 8, § 8.10	Ch. 158
App. B, Art. 8, § 8.21	Ch. 158
App. B, Art. 8, § 8.22	Ch. 158
App. B, Art. 8, § 8.23	Ch. 158
App. B, Art. 8, § 8.24	Ch. 158
App. B, Art. 8, § 8.30	Ch. 158
App. B, Art. 8, § 8.31	Ch. 158
App. B, Art. 8, § 8.32	Ch. 158
App. B, Art. 8, § 8.33	Ch. 158
App. B, Art. 8, § 8.34	Ch. 158
App. B, Art. 9, § 9.11	Ch. 158
App. B, Art. 9, § 9.12	Ch. 158
App. B, Art. 9, § 9.20	Ch. 158
App. B, Art. 9, § 9.30	Ch. 158
App. B, Art. 9, § 9.31	Ch. 158
App. B, Art. 9, § 9.32	Ch. 158
App. B, Art. 9, § 9.33	Ch. 158
App. B, Art. 9, § 9.34	Ch. 158
App. B, Art. 9, § 9.35	Ch. 158
App. B, Art. 9, § 9.35(1)	Ch. 158
App. B, Art. 9, § 9.36	Ch. 158
App. B, Art. 9, § 9.37	Ch. 158
App. B, Art. 9, § 9.38	Ch. 158
App. B, Art. 9, § 9.39	Ch. 158
App. B, Art. 9, § 9.41	Ch. 158
App. B, Art. 9, § 9.42	Ch. 158
App. B, Art. 9, § 9.43	Ch. 158
App. B, Art. 9, § 9.44	Ch. 158
App. B, Art. 9, § 9.45	Ch. 158
App. B, Art. 10, § 10.10	Ch. 158
App. B, Art. 10, § 10.20	Ch. 158
App. B, Art. 10, § 10.30	Ch. 158
App. B, Art. 11, § 11.10	Ch. 158
App. B, Art. 12, § 12.10	Ch. 158
App. B, Attachment 1	Ch. 158
App. B, Attachment 2	Ch. 158
App. B, Attachment 3	Ch. 158
App. B, Attachment 4	Ch. 158
App. B, Attachment 5	Ch. 158

LONGBOAT KEY - REFERENCES TO ORDINANCES

Ord. No.	Date	Code Section
41	6-9-59	T.S.O. I
105	7-13-65	Ch. 151
106	11-23-65	36.03
119	2-28-67	36.03
127	7-11-67	71.01
129	8-8-67	95.01, 95.15, 95.16, 95.17 (A) 95.18, 96.11
138	5-28-68	112.01, 112.02, 112.04 - 112.06
139	7-9-68	95.01, 96.11(A)
147	4-10-69	91.01, 91.10(A), (C), (D),(E), 91.11-91.21
148	4-16-69	150.01
154	8-3-69	T.S.O. I
156	9-16-69	30.15 - 30.19
157	10-1-69	150.16, 150.17, 150.18(B), 150.21, 150.22, 150.26, 150.35 - 150-39
158	10-1-69	35.04
169	4-1-70	33.20 - 33.25
170	4-1-70	130.01
176	6-17-70	150.01 (B)
178	9-16-70	95.17 (B)
181	10-7-70	150.05
182	10-21-70	152.04, 152.06
183	11-4-70	37.10
188	- -	37.10(A)
190	2-3-71	155.02
193	- -	96.01 - 96.03
194	4-21-71	130.02
195	4-21-71	51.11, 53.05
200	10-6-71	53.02, 53.03, 53.09, 53.13
206	10-20-71	50.02(B), 51.12, 51.30 - 51.32, 53.01, 53.04, 53.06 - 53.08, 53.11

2000 TOWN CODE

Ord. No.	Date	Code Section
211	1-19-72	37.01 - 37.04
213	2-16-72	96.10, 96.12-96.14, 96.99(B)
222	5-17-72	T.S.O. I
224	6-15-72	10.09
226	8-9-72	34.20
227	8-23-72	95.25, 95.26 - 95.34
228	9-27-72	111.01(A), 111.06(A), 111.07
229	9-27-72	91.10(B), 91.11
73-1	1-10-73	95.18, 96.45, 96.46
73-4	3-7-73	50.02(C) , 50.05, 52.01, 52.02, 52.04, 52.05, 52.07, 52.08, 52.15 - 52.38
73-5	4-18-73	72.06, 72.99 (C)
73-8	5-2-73	53.12
73-9	5-16-73	150.35(B), 150.36, 150.37, 150.39
73-12	5-24-73	Repealed by 95-04
73-19	8-1-73	36.02, 36.04
73-20	8-22-73	Ch. 90
73-22	9-12-73	155.01
73-24	9-26-73	10.02
73-25	7-26-73	150.05
73-27	9-26-73	150.01(B), 150.38
73-28	11-7-73	36.02
74-5	3-6-74	90.03
74-8	4-17-74	96.30 - 96.38
74-15	8-7-74	Ch. 158
74-17	7-24-74	T.S.O. I
Res. 74-17	12-18-74	T.S.O. I
74-19	7-24-74	51.02, 51.10, 53.07
74-21	7-24-74	Ch. 98
74-23	8-7-74	150.01(B), 150.50 - 150.55
74-25	8-7-74	150.37, 150.39
74-28	9-18-74	152.06
74-32	11-6-74	155.01, 155.02
74-34	12-4-74	150.01
74-35	12-4-74	10.10
75-1	2-5-75	51.12, 51.30
75-2	2-19-75	Charter

Ord. No.	Date	Code Section
75-4	3-19-75	Charter Art. I, § 6, Art. III, § 4, Art. IV, § 2, Art. VII, § 1, Art. X, § 1
75-5	5-7-75	34.32
75-6	6-4-75	110.01
75-10	7-9-75	Repealed by 86-31
75-11	6-18-75	71.02
75-12	7-9-75	50.06, 51.02, 51.20, 52.02, 52.05
75-14	9-10-75	50.02, 51.20, 52.24
75-15	9-10-75	37.11(A)
75-16	9-10-75	37.11(B)
75-18	9-10-75	34.20, 34.35
75-19	9-10-75	34.46, 34.53
75-20	10-15-75	70.01
75-21	10-21-75	50.01, 50.02(A), 50.03, 50.99, 51.01, 51.03, 51.04, 51.21, 51.22, 51.30, 52.02, 52.03, 52.06, 53.02
76-2	2-4-76	157.18
76-4	2-4-76	Repealed by 95-22
76-6	3-17-76	Repealed by 98-25
76-7	4-7-76	155.01, 155.02
76-8	4-7-76	Repealed by 86-36
76-9	4-21-76	72.01, 72.02 - 72.05, 72.07, 72.08, 72.99(A), (B), Ch. 74, Scheds. I, II
76-10	5-19-76	92.10, 92.99
76-11	5-19-76	92.11, 92.99
76-12	5-19-76	111.15 - 111.17, 111.99
76-13	6-2-76	130.04
76-14	5-19-76	92.20 - 92.23, 92.99
76-15	5-19-76	150.01, 150.03
76-16	5-19-76	92.12, 92.99
76-17	6-16-76	32.01 - 32.06
76-19	6-2-76	72.02, 72.03, 72.05, 72.07, 72.08, 72.99(A), (B), Ch. 74, Scheds. I, II
76-21	12-1-76	Ch. 98
76-24	7-21-76	130.03
76-25	7-21-76	97.03
76-26	7-21-76	Ch. 158
76-28	9-15-76	157.25

Ord. No.	Date	Code Section
76-31	10-27-76	70.01
76-32	11-17-76	30.15 - 30.19
77-6	4-6-77	112.03, 112.04(B)
77-9	6-1-77	Ch.
77-10	5-18-77	Ch. 158
77-11	5-18-77	130.02
77-12	5-18-77	91.03, 91.99(3)
77-14	6-1-77	35.02
77-15	6-15-77	96.11(B)
77-18	7-6-77	154.15
77-19	9-26-77	34.47
77-20	9-26-77	34.23
77-24	11-16-77	Ch. 73
77-25	1-4-78	150.19
77-26	11-2-77	51.10, 51.20
77-28	12-7-77	91.02
78-1	2-1-78	Ch. 158
78-2	4-5-78	150.20
78-3	4-5-78	150.04, 150.24(B)
78-4	4-5-78	73.01
78-12	10-25-78	Repealed by 95-04
78-13	10-25-78	33.20, 33.23
78-17	11-15-78	130.02
78-19	1-22-79	Ch. 158
78-20	12-4-78	30.15 - 30.19
78-21	12-20-78	71.03, Ch. 75, Sched. I
78-22	12-20-78	130.02
78-25	1-17-79	35.03
79-1	1-17-79	30.01 - 30.08
79-3	3-27-79	72.08, 72.99 (B), Ch. 74, Sch. II
79-4	5-2-79	72.08, 72.99(A), (B), Ch. 74, Sched. II
79-5	5-2-79	Repealed by 98-25
79-8	6-6-79	150.01
79-10	6-27-79	Repealed by 98-05
79-11	6-20-79	90.03
79-14	8-1-79	Repealed by 95-04
79-18	11-7-79	152.15(B), 152.16 - 152.26
80-3	4-2-80	158.018
80-7	9-15-80	95.01 - 95.08

2000 TOWN CODE

Ord. No.	Date	Code Section
80-8	11-19-80	Ch. 158
80-9	1-21-81	158.017
80-10	12-10-80	130.05
80-11	12-10-80	T.S.O. I
80-12	1-21-81	150.20
80-13	12-10-80	150.26
80-14	12-10-80	72 01, Ch. 74, Sched. I
81-1	3-6-81	Ch. 158, TSO II
81-5	2-4-81	Ch. 73
81-6	2-13-81	150.20
81-8	3-4-81	51.01, 51.10, 51.20
81-9	3-4-81	Repealed by 98-25
81-10	3-4-81	150.24, 150.25
81-11	3-4-81	72.01, Ch. 74, Sched. II
81-13	4-1-81	154.03, 154.07, 154.08
81-14	4-15-81	33.01 - 33.11
81-15	4-15-81	34.01
81-16	4-15-81	Repealed by 98-25
81-17	7-1-81	91.04
81-18	6-15-81	Ch. 158, 160.003
81-22	7-1-81	150.02
81-23	7-1-81	150.01, 150.03
81-25	7-1-81	153.01, 153.02
81-27	9-2-81	158.017
81-29	9-2-81	Ch. 94
Res. 81-29	10-7-81	95.06
81-30	9-2-81	35.04
81-31	10-7-81	92.12
81-35	10-7-81	Ch. 155
81-36	10-7-81	72.01, Ch. 74, Scheds. I, II
81-37	11-4-81	157.03, 157.06, 157.25, 157.26(A), 157.28, 157.30, 157.31, 157.45
81-39	1-6-82	Ch. 158, 160.003, T.S.O. II
82-4	3-31-82	51.02, 51.11, 51.21
82-5	6-2-82	33.20(A)
82-8	7-7-82	33.25
82-10	10-6-82	Ch. 158, 160.003
82-11	10-6-82	150.24, 150.25
82-12	7-7-82	154.10
82-13	7-21-82	51.02, 51.11
82-14	9-15-82	Adopting Ordinance

2000 TOWN GUIDE

Ord. No.	Date	Code Section
82-15	9-15-82	33.06
82-16	9-15-82	51.11
82-17	9-15-82	94.45
82-21	11-17-82	30.15 - 30.19
82-22	11-17-82	30.15 - 30.19
82-23	2-2-83	158.068, 158.071
83-1	2-2-83	94.30, 94.99
83-4	4-6-83	33.02, 33.03, 33.07, 33.08 - 33.10, 33.12
83-5	5-4-83	Repealed by 98-25
83-6	7-6-83	Ch. 158
83-9	6-1-83	150.01
Res. 83-10	3-2-83	95.08
83-10	6-1-83	150.02
83-11	8-3-83	30.01, 30.02
83-12	7-6-83	155.02
83-14	7-6-83	153.02
83-17	9-12-83	33.02
83-18	8-3-83	156.04
83-19	9-12-83	Ch. 158
83-24	1-5-84	Repealed by 98-25
84-1	3-12-84	Repealed by 98-05
84-3	3-5-84	155.02
84-4	3-5-84	Ch. 75, Sched. I
84-5	3-5-84	154.10
84-7	3-5-84	154.03, 154.15
84-12	7-23-84	Ch. 98
84-13	12-3-84	Repealed by 95-04
84-14	10-1-84	153.01, 153.02
84-15	10-1-84	30.01.1
84-16	9-10-84	Repealed by 98-25
84-17	10-1-84	Ch. 38
84-21	11-5-84	Repealed by 98-25
84-22	12-3-84	150.60
84-26	2-4-85	30.01, 30.02
85-1	4-22-85	34.36
85-2	4-22-85	Charter Art. VIII § 24
85-3	9-23-95	158.025
85-4	6-3-85	150.19, 150.20, 150.39
85-6	9-9-85	Ch. 73
85-8	6-17-85	54.01, 54.02, 54.03, 54.04

Ord. No.	Date	Code Section
85-10	9-23-85	158.005, 158.025, 158.0261
85-11	9-9-85	150.19
85-14	10-7-85	Ch. 74 Sched. I
85-15	11-4-85	155.02
85-18	1-20-86	Ch. 158
85-21	1-6-86	Ch. 112
85-22	1-6-86	Ch. 112
85-23	1-6-86	155.02
85-24	1-6-86	Repealed by 98-25
85-26	2-3-86	10.99, 33.08, 33.09
86-1	1-20-86	Charter Art. II §§ 7, 14(a), Art. III §§ 3, 4(e), (k)
86-3	6-19-86	T.S.O. II
86-4	3-3-86	Repealed by 98-25
86-5	4-7-86	Ch. 99
86-6	4-7-86	150.60 - 150.64
86-7	4-7-86	Ch. 94
86-8	5-5-86	35.02
86-9	6-19-86	158.102(I), (J)
86-11	5-5-86	30.01(D)
86-12	6-5-86	150.19
86-13	6-5-86	38.13, 38.14, 38.22, 38.23, 38.24, 38.26, 38.30
86-16	6-19-86	158.138, 158.139, 158.157
86-18	10-6-86	Ch. 39
86-20	9-22-86	150.61 - 150.65
86-21	10-6-86	Repealed by 95-22
86-22	10-6-86	97.14, 97.15, 97.16
86-23	10-6-86	Ch. 74 Sched. I
86-26	10-6-86	150.171, 150.172
86-28	1-5-87	150.01
86-29	11-20-86	158.006, 158.150(D)
86-30	10-6-86	33.01 - 33.12
86-32	11-6-86	T.S.O. I
86-33	10-6-86	35.02
86-34	12-1-86	35.02
86-35	1-5-87	97.10
86-36	1-22-87	158.141, 159.01
87-3	4-6-87	158.01, 158.02
87-04	4-6-87	150.02
87-05	4-6-87	111.10

Ord. No.	Date	Code Section
87-07	6-18-87	158.148
87-8	5-4-87	Ch. 75, Sched. I
87-09	5-21-87	158.127(B), 158.150(D)
87-10	7-16-87	155.01,155.02
87-12	5-4-87	Ch. 74, Sched. I
87-13	5-4-87	39.05(B)
87-14	6-18-87	158.029
87-16	6-1-87	Ch. 100
87-17	6-18-87	34.29, 34.35, 34.45, 34.47, 34.49
87-22	9-24-87	91.14
87-23	9-24-87	94.171
87-24	9-24-87	158.102(F), 158.150(D) (3, 4)
87-25	9-24-87	73.01, 73.04(H), (P), (R), 73.05
87-26	9-24-87	158.006, 158.125, 158.150(D)
87-27	9-24-87	94.55, 94.56
87-32	1-21-88	158.154
87-33	11-2-87	154.03, 154.06, 154.08, 154.14
87-35	12-7-87	94.30
87-36	12-7-87	51.10, 51.20
87-38	2-1-88	159.01(10)
87-39	1-4-88	51.11, 51.21
88-01	2-1-88	Repealed by 99-27
88-03	5-2-88	91.30—91.34, 91.99
88-04	3-17-88	158.138 (B) (8)
88-05	3-17-88	158.006, 158.009, 158.125
88-06	5-19-88	150.30—150-39
88-07	3-17-88	158.127
88-09	4-4-88	51.10, 51.20
88-10	5-2-88	34.35(C), 34.48(C), 34.49(C), 34.54, 34.55
88-11	5-2-88	34.36
88-13	5-2-88	94.45(B)(11), 94.47(J), (K)
88-14	5-2-88	155.02
88-15	5-2-88	94.171
88-16	5-2-88	33.03, 33.06, 33.07, 33.10, 33.12
88-17	4-19-88	95.25
88-18	5-2-88	Ch. 74 Sched. I, Sched. II (D)
88-25	1-28-89	158.067(B), (D), 158.097, 158.102(L), (M), 158.145
88-28	11-7-88	101
88-29	11-7-88	156.04(A)(9)

2006 TOWN CODE

Ord. No.	Date	Code Section
88-30	11-7-88	Ch. 74 Sched. II(b)
88-31	1-9-89	Repealed by 98-25
88-33	2-6-89	37.11
Res. 89-35	10-2-89	95.06
89-01	1-9-89	91.22
89-02	1-9-89	72.99
89-04	3-6-89	94.45, 94.46, 94.47, 94.48
89-05	3-7-89	160.03
89-09	6-5-89	150.23
89-10	7-3-89	Ch. 111
89-12	7-5-89	Charter Art. I § 6(a), Art. IV § 2(b), Art. V § 7(c)
89-13	9-21-89	Charter Art. II §§ 1, 2, 5, 14(a), 16, 17(d), Art. III §1, Art. V §§ 1(a), (d), 3, 6(a), 7, 9(d), Art. VIII § 2
89-14	9-12-89	10.10.1
89-15	9-12-89	Charter Art. I § 8
89-18	10-2-89	98.06
89-21	11-6-89	33.01—33.13
89-24	12-4-89	51.11
89-29	2-5-90	30.01, 30.02(A)
89-30	1-2-90	94.30(E), (F)
89-32	2-5-90	98.06(A)
90-06	3-19-90	Repealed by 95-04 Rpld 158.001-158.151, Appendix Added 158.001-158.156, Appendix
90-07	4-2-90	113.01—113.15
90-08	4-2-90	51.02(J)(27), 51.20(A)
90-10	6-4-90	154.03, 154.07(c)
90-11	7-19-90	33.14—33.18
90-13	7-19-90	39.01—39.12
90-14	7-19-90	158.135
90-16	6-4-90	Ch. 74, Sched. I
90-17	7- 2-90	30.15—30.19
90-18	7- 2-90	35.02(A)
90-19	7-19-90	Repealed by 95-22
90-20	7-19-90	Rpld 111.03(D) 111.13(F)
90-21	7-31-90	92.30—92.36

Ord. No.	Date	Code Section
90-22	7-19-90	39.12(B)
90-24	9-10-90	Repealed by 95-22
90-27	10-8-90	72.99(A)(2), 94.30(B), 94.56, 150.50(B), 155.02(A), 150.02
90-28	12-3-90	153.01, 153.02
90-29	12-3-90	155.01, 155.02
90-30	12-3-90	Repealed 98-25
90-31	1-7-91	96.12, 98.03, 98.07(A), 98.09
90-32	2-4-91	Ch. 151 Title, 151.01, 151.02
91-05	2-4-91	Amd 151.03(A) Added151.03(B)-(D) Rnbd 151.03(B) as (E) Amd 151.03(E)(8), (9), 151.05, 151.06
91-06	4-1-91	92.33
91-09	6-3-91	111.13
91-10	6-20-91	158.127(B)
91-11	7-1-91	73.02, 73.03, 73.04(K), 73.05(13)
91-12	7-3-91	38.37
91-14	7-18-91	Repealed by 95-22
91-15	9-5-91	Ch. 95 Title, 95.41-95.55
91-19	10-7-91	34.20
91-20	11-4-91	96.02(A), 96.03(A), (C)
91-23	11-4-91	Rpld 34.20—34.35, 34.37—34.55 Added 34.20-34.42 Rnbd 34.36 as 34.43
91-24	11-4-91	33.20(C), (D)
91-25	11-4-91	33.03(B), (4), (C), (D)
91-26	11-4-91	158.026(A)
91-28	1-6-92	39.01(H), 39.02(F), 39.05(A), 39.06(H)(1), (2), (K)(3), 39.07(D), 39.08(B), 39.12(B), (H)(1), (I)(2)(a), (J), 39.13
92-03	6-18-92	36.05
92-04	2-2-92	10.02, 10.11, 10.15
92-05	2-2-92	30.07
92-06	2-2-92	71.01
92-07	2-2-92	91.02
92-08	2-2-92	94.02, 94.03(B), 94.26, 94.29, 94.49, 94.56

Ord. No.	Date	Code Section
92-09	3-2-92	150.01(A), (B)(3), 150.02(A), 150.23(D)
92-10	3-2-92	155.01
92-11	3-2-92	Amd 38.10—38.13, 38.21—38.26 Rpld 38.30 Rnbd 38.31—38.36 AS 38.30—38.35 Amd 38.31—38.34
92-12	4-6-92	111.01, 111.12
92-16	6-18-92	160.03
92-17	6-18-92	Repealed by 95-04
92-18	6-1-92	34.43
92-19	6-8-92	Rpld 99.01—99.08 Added 99.01—99.04
92-23	8-6-92	Repealed by 98-25
92-24	8-6-92	92.30—92.36
92-25	8-6-92	100.05(A), (B)
92-26	8-6-92	92.50—92.56
92-27	10-22-92	Amd Ch. 101 Title Rpld 101.01—101.04 Added 101.01—101.11
92-30	2-1-93	154.03, 154.100
92-31	1-4-93	Repealed by 95-11
92-32	1-4-93	100.01(D), 100.03(A), 100.05(A)—(C)
92-34	2-1-93	160.04
92-35	1-4-93	160.03
93-01	4-6-93	153.01
93-09	7-6-93	Rpld 33.03(B)(4) 33.03(C) Rpld 3304(C), (D)
93-10	7-6-93	33.20(B) Rpld 33.20(C), (D)
93-11	7-6-93	158.026(A)(1) Rpld 158.026(A)(2)—(4)
93-12	6-24-93	33.07(A), 52.31
93-13	6-24-93	158.125
93-16	7-22-93	111.04, 111.06—111.08, 111.10(A)
93-17	10-21-93	158.102(H)
93-18	7-22-93	158.006
93-19	7-22-93	73.01

Ord. No.	Date	Code Section
93-23	9-27-93	150.19(A), 150.20(A)(1), (2), (B), 150.32(A)—(C), (F), 150.33, 150.34(A), (C), 150.35(A), (B), 150.36, 150.39, 150.50(A), 150.51(A)—(C), (G), 150.53(A), (B), 154.07(B)(2), 154.11(B), 154.12(B)
93-33	10-21-93	158.099(F), 158.138(B)(2), 158.141(C)
93-34	12-6-93	30.09
93-35	2-7-94	51.21(B), 51.32(B), 97.01(C), 97.03(B), 98.04(A)(7), 150.50(B), 150.54(C), 152.02(B), 143.02(7-2), 155.02(A), (D)
93-36	2-7-94	Ch. 74, Sched. 1
93-37	2-7-94	92.02
94-01	2-24-94	Added 156.09(D)
94-02	3-7-94	30.09
94-06	3-24-94	158.138(B)(1) Rpld 158.146
94-08	4-4-94	34.21(A) 34.23(A) 34.24(C) 34.31(A), (D), (1) Added 34.43
94-09	4-4-94	Added 32.16 32.26
94-10	4-4-94	Added 150.07(A)—(E)
94-11	4-21-94	157.06
94-14	6-6-94	130.02(A)(5)
94-15	11-17-94	158.067(D), (E)
94-16	11-17-94	Added 30.01(E) 33.25(B) Added 33.25(C)—(E) 157.25(A) 157.30(B), (C) 157.31(C) Rnbd 158.027(D) as 158.027 (D), (F) Added 158.027(E)

Ord. No.	Date	Code Section
		158.029(D)
		158.032
		158.099(C)—(E)
		Rpld 158.101
		158.126
94-17	6-27-94	154.03
		154.04
94-19	7-11-94	111.13
94-20	7-21-94	39.12(C)
94-21	10-3-94	33.03(A)
		33.07(C)
		33.10(A), (B)(1), 33.12(C)(1)
		33.18(A)
94-23	10-3-94	160.04(A)
94-25	10-20-94	158.127(C)(5)
94-27	10-3-94	34.20—34.24
		34.26—34.44
		Rnbd 34.43 as 34.50
94-28	12-15-94	158.017(D)
		158.017(F)
94-30	1-9-95	33.03(A), (C)
		33.06
		33.20(A), (B)
		34.22(A), (D)
		39.12(B), (D), (E)
		158.026(A)(1)
94-32	1-19-95	Added 158.026(A)(2)
		158.155(A)(3), (4)
		Added 158.155(C)
95-01	1-9-95	74 Sch. I
95-02	2-6-95	34.50
95-04	6-5-95	Rpld Ch. 156
		Added Ch. 156
95-07	5-15-95	158.006
		158.132
		158.137
		Rnbd 158.132 as 158.137(D)
95-08	4-3-95	30.01(E)(2)
95-09	5-1-95	92.08

Ord. No.	Date	Code Section
95-11	5-6-95	Rpld 92.70
		Rpld 92.71
		Rpld 92.72
95-12	7-10-95	Repealed by 98-25
95-14	10-2-95	158.028(A)
		158.125
95-17	10-2-95	30.01(E)(2)
		30.01(3)
		33.25(C)
95-18	10-2-95	Adopting Ordinance
95-19	1-8-96	158.006
		158.125
		158.136
		158.150(D)(2), (3), (4)
95-20	1-8-96	158.068
		Added 158.071(C)
95-21	12-4-95	51.11
		51.21
		51.33
95-22	1-8-96	Rpld 93.01—93.99
		Added 93.01—93.100
95-24	1-5-96	35.02(A), (A)(1)
95-25	1-8-96	150.19(A)
		150.36(A)
96-02	3-4-96	34.20
		34.22(G)(8)
		34.29
		34.31(A)(2)
		34.32
		34.36(I)(2)
		34.37(B)(3)
		Added 34.38(C), (D)
		34.39(C)(2), (C)(4)
		34.41
96-03	5-6-96	156.04
96-05	5-6-96	150.01(A)
		150.02(A)
96-06	5-6-96	153.01
96-07	5-6-96	155.01

2000 TOWN CODE

Ord. No.	Date	Code Section
96-08	6-3-96	156.05(T) 156.06(B)(3)(a), (B)(3)(b) Added 156.06(B)(6) 156.100
96-09	10-8-96	158.006
96-10	6-3-96	111.04(B) 111.13
96-11	7-1-96	38.12(G) 38.13(A), (B) 38.21 38.22 38.25(A) 38.26(A), (B)
96-12	7-18-96	154.03 154.04(B), (C)
96-14	7-18-96	30.15 30.16 30.17 30.18 30.19
96-16	12-2-96	50.04 Added 51.21(C) 52.01 52.17(B) 52.24(B)
96-22	12-2-96	93.01(B)
96-23	12-2-96	34.21(A) 34.23(A)(6)(b)(v) Added 39.06(F)(3)
96-24	12-2-96	39.06(K) 39.07(A), (C), (D) 39.12(H)(2)(a)
96-25	1-6-97	96.01 96.02(A)(1), (B) 96.03(A), (B) 93.100
96-26	12-2-96	95.25 (title of ch. subheading)
96-27	1-6-97	Added 95.25(E) 96.11(B)

Ord. No.	Date	Code Section
97-01	2-3-97	Rpld 98.09(A)
		Added 98.09(A)
97-02	2-3-97	39.05(B)
97-05	5-5-97	Added 92.04
97-06	7-17-97	154.03
		154.04(B), (C)
		Rpld 154.101
97-07	6-2-97	Added 93.20
		93.99
97-08	7-7-97	156.04
		Added 156.05(A)(11)
		Added 156.11(B)
		156.100
97-09	6-2-97	158.002(B), (C)(1)
		158.006
		Added 158.026(F)(3)
		158.097
		Added 158.153(C)--(E)
		Added 158.154(D)
97-10	6-2-97	Rpld 96.02(B)
		96.03
97-11	6-2-97	10.99(C)
97-12	7-7-97	Repealed by 97-23
97-14	7-7-97	Added 159.01(11)
97-16	7-7-97	30.05
97-17	10-6-97	Adopting ordinance
97-22	10-6-97	150.34(B)
97-23	11-3-97	158.006
		Added 158.097(W)
		158.100(A)(7)
		158.125
		Added 158.1361
97-24	11-3-97	33.25(C)
		158.027(E)
97-25	11-3-97	154.03
		154.06
		154.07(B)(2)
		154.08(B)(2)(b)
		154.09(A)
		154.10

Ord. No.	Date	Code Section
		154.11(B)
		154.12(B)
		154.13
		154.14(A)
		154.15(B)
		154.15(A)(5)
		154.100
97-26	11-3-97	130.02(A)(3)
98-01	2-2-98	Added 24.39(G)
98-02	2-2-98	158.150(D)(4), 158.127(B)(1)(b), Appendix
98-03	2-2-98	Added 95.42(A)((5)--(8), 95.42(B)(5)
98-04	2-2-98	Rpld 160.01, 160.02, 160.03
98-09	2-2-98	158.125, 158.135(B)(10)
98-14	5-4-98	111.13(A)(3), (D)
98-15	5-4-98	97.10(A), (B), 97.11
98-16	6-1-98	34.24(A)(1)(a), 34.26(B)(1)
98-18	7-6-98	150.01(A)
98-19	7-6-98	153.02
98-20	7-6-98	155.02
		Rpld 155.02(B)--(Q)
		Added 155.02(B)--(G)
98-21	7-6-98	Ch. 74 Sched. II(D)
		Added 92.04
98-24	7-16-98	130.02(A)(6), 150.03, 150.16, 150.17, 150.18(A), 150.19(A)(1), 150.20(A)(1), (2), (B), 150.21, 150.22(A), (B), (C)(1)--(3), (D)--(F), 150.23 (C)--(E), (G), (H)(1),(3), 150.31(A)(1), (2), 150.32(A), (B), (C)(1)--(4), (F), 150.33, 150.43(A), (C), 150.35, (A), (B), 150.36, 150.39, 150.50(A), 150.51(A), (B), 150.53(A), (B), 150.172(A), (B), 151.03(A)(1), 151.03(E), 151.04(A), 151.05(H), 151.06, 151.07, 152.01, 152.02(A), 152.03(G), 152.04(A), (C), 152.05, 152.06(A), (B), 157.29,

Ord. No.	Date	Code Section
		157.30(C), 157.31(C), 158.17(I), 158.027(B), (C), (E), 158.067(B)(2), 158.099(B), (E)(1), (F), 158.138(B)(5), 158.141(B)(5), (C) Rpld 150.15, 160.01--160.03 Added 150.15, 160.01--160.03
98-25	7-16-98	150.50(B), 150.54(C), 151.04, 152.02, 152.06(B), 153.02, 154.15(B), 157.25(A), 157.30 (A), 157.31(A), (B), 158.029 (A), 158.030(C), 158.032, 158.067(B)(1), 158.067(C), 158.096, 158.097, 158.100(A), 158.126, 158.141(A) Rpld 150.06, 155.02(A), Ch. 159 Added 150.06, 155.02(A)
98-26	10-5-98	51.11, 51.21
98-29	8-1-99	Adopting Ordinance
98-33	2-1-99	Added 34.26(C)
99-01	4-5-99	158.141(B)(2)
99-02	4-5-99	158.006, 158.125, Added 158.152(J)
99-03	7-6-99	Added 158.150(D)(5) Land Use Charts and Illustrations § 7
99-04	2-2-99	34.23(A)(6)
99-05	2-1-99	Added 130.07
99-06	2-1-99	Added Ch. 74 Sched. II (D) [E]
99-07	3-1-99	34.29
99-12	4-5-99	150.50 Rpld 150.50--150.55
99-13	4-5-99	Added 10.16
99-15	9-13-99	158.067(B)(1)(e), (2), 158.067(C), (D), (G)(1), (5), (I), 158.096, 158.097(F), (O), (P), (V), 158.099(A), (A)(2)(c), (d), 158.099(B), (C)--(G), 158.100 (A), (B), 158.102(E). (L)

Ord. No.	Date	Code Section
99-17	6-7-99	158.006, 158.125, 158.150(D) (2)--(4), 158.151(C) (5), (F), 158.155 Added Land Use Charts and Illustrations § 7 [8]
99-19	6-7-99	39.02(F), 39.09, 39.12, 39.13, 39.14
99-24	7-6-99	Added 34.13--34.37
99-25	7-6-99	Added 34.43--34.67
99-26	7-6-99	Added 34.73--34-99
99-27	7-6-99	Rpld 37.20--37.26
99-30	10-2-99	Adopting Ordinance
99-31	11-16-99	Added 37.15
99-38	11-1-99	30.15--30.19
99-34	1-10-00	153.01
99-43	1-10-00	51.11, 51.21

[redacted]

LONGBOAT KEY - [redacted]

INDEX

Throughout this index the user will note parenthetical references reading "No Ordinance" and "Not Included." For purposes of the Index these phrases have the following meanings:

"No ordinance" means that no ordinance dealing with the specific subject matter is currently in effect.

"Not included" means that there are existing ordinances on the subject but they have been left out of the codification at the city's request.

2000 TOWN CODE

A

ABANDONED BOATS (See VESSELS, WATERWAYS AND WATER ACTIVITIES)

ABANDONED VEHICLES (See also GARBAGE, RUBBISH, AND JUNK)
- Impounding, 70.02, 72.08

ACTING TOWN MANAGER (See TOWN MANAGER)

AIRCRAFT AND AIRPORTS
- Federal regulations, compliance with, 90.02
- Flying height, 90.04
- Landing within town limits, 90.03
- Penalty, 90.99
- Pilot's certificate, 90.01

AIRPLANES (See AIRCRAFT AND AIRPORTS)

AIRPORTS (See AIRCRAFT AND AIRPORTS)

ALARMS (See BURGLAR ALARM SYSTEMS)

ALCOHOLIC BEVERAGES
- Beaches, possession on, 92.11
- Hours of sale, 110.01
- Nudity in establishment selling, 130.05
- Parks, possession in, 92.02

ANIMALS
- Beaches, on, 92.12(D)
- Certain animal not to be kept within town limits, 91.02
- Dog and cat warden, 91.17
- Dogs and cats
  - Barking, howling, or biting, 91.18
  - Beaches, prohibited on, 91.20, 92.12(D)
  - Cruel and inhumane treatment, 91.19
  - Excreta removal, 91.22
  - Impoundment of, 91.15
  - Leash or lead, 91.14
  - License, 91.10
  - Pound, 91.16
  - Rabies, confinement when suspected, 91.13
  - Running at large, 91.15
  - Tags, 91.10
  - Unlicensed, 91.11
  - Vaccination, 91.12
  - Vicious dog
    - Confinement required, 91.31
    - Constraint, muzzle requirements, 91.32
    - Definitions, 91.30
    - Fighting, attacking prohibited, 91.34
    - Sign posting, 91.33
- Fees and fines, disposition of, 91.21
- Parks, in, taking or disturbing, prohibitions, 92.04

ANIMALS (Cont'd)
Peafowl, injuring, 91.04
Penalty, 91.99
Pound, 91.16
Quarantine, 91.01
Rabies, 91.01, 91.13
Vehicles, confinement in, 91.03

APPEALS
Building permit denial, 150.38
Code enforcement board, 33.11
Occupational tax, 111.12
Peddler license and permit, 112.11
Public works, 50.06
Sign code decisions, 156.11(B)

ATTORNEY (See TOWN ATTORNEY)

AUCTIONS (No Ordinance)*

B

BEACHES (See also PUBLIC PARKS; VESSELS, WATERWAYS AND WATER ACTIVITIES)
Beach erosion control district A
Authority for this subchapter, 92.30
Creation, 92.32
Findings, 92.31
Governing body, 92.34
Powers, 92.36
Purposes, 92.35
Territory of district, 92.33
Beach erosion control district B
Authority for the subchapter, 92.50
Creation, 92.52
Findings, 92.51
Governing body, 92.54
Powers, 92.56
Purposes, 92.55
Territory of district, 92.53
Beer Can Island
Alcoholic beverages on, 92.11
Dead fish on
Abatement of nuisance, 92.23
Beach owner to remove, 92.22
Nuisance declared, 92.21
Purpose of regulations, 92.20

See Note, Page 1 of Index

BEACHES (Cont'd)
Dogs and cats on, 91.20
Penalty, 92.99
Prohibited activities, 92.12
Public
Alcoholic beverages on, 92.11
Prohibited activities, 92.12
Time restrictions, 92.10

BEER CAN ISLAND (See BEACHES)

BICYCLES
Definitions, 73.01
Enforcement of regulations, 73.03
Paths, 73.05
Penalty, 73.06
Rental businesses, 73.02
Safety requirements, 73.04

BOATS AND WATER SPORTS (See BEACHES; VESSELS, WATERWAYS AND WATER ACTIVITIES)

BODY CORPORATE AND POLITIC, Charter Art. I, sec. 2

BOND REQUIREMENTS
Building site restoration, 150.19
Dredging and filling, issuance of for, 152.23
Moving buildings, 150.51(G)
Purchasing contract, 38.34
Temporary certificate of occupancy, 150.36

BOUNDARIES, Charter Art. I, sec. 3, 10.16

BUDGET (See FINANCE)

BUILDING OFFICIAL, 150.15 (See also BUILDINGS)
Building permit application duties, 150.31
Notice to repair dangerous or unsanitary buildings, 150.22
Notice to stop dangerous work, 150.21
Sewer connection inspections, 50.01(B), 52.23
Unspecified requirement determination, 150.171

BUILDING PERMITS
Application, 150.31
Issuance, 150.32
Required, 150.30
Denial, appeal, 150.33
Revocation, 150.34
Special exception uses, 150.38
Valuations, 150.07

BUILDINGS (See also ZONING)
Administration
Building official, 150.15
Civil remedies available, 150.26
Compliance with plans and specifications, 150.18
Conversion of existing structures, procedure for, 150.24
Dangerous buildings, procedure for, 150.22
Nonconforming uses, 150.25
Notice to stop dangerous or illegal work, 150.21
Nuisance conditions, 150.23
Right of entry, 150.16
Tests or test reports, 150.17
Utility service to condominiums, 150.20
Bulkheads, construction of, 150.05
Certificates and statements
Certificate of occupancy, 150.35
Temporary, 150.36
Records, 150.39
Zoning compliance statement, 150.37
Condominiums, utility service to, 150.20
Dangerous or illegal work, notice to stop, 150.21
Dangerous or unsanitary, procedure for, 150.22
Fee schedule, 150.06
Refund, 150.06(B)
Waiver for nonprofit corporations, 150.06(C)
Food and drink establishments, construction or alteration of premises, 96.33
Government buildings and grounds, exemption for, 150.03
Minimum housing standards, 150.04
Moving of
Requirements, 150.50
Sewer to be capped, 52.07
Nonconforming, 154.16
Nuisances, 150.16
Requirements, unspecified, 150.171
Seawalls, construction of, 150.05
Site restoration, 150.19
Standard building code, adoption of, 150.01
Standard mechanical code, adoption of, 150.02

BURGLAR ALARM SYSTEMS
Alarm system operations, 101.11
Appeal, 101.06
Automatic telephone dialing alarm device or digital alarm communicator system, 101.09
Definitions, 101.01
Disconnection of alarm system, 101.05
Failure to disconnect or unauthorized reconnection, 101.07
Fee charges, 101.04
Malfunction or false burglar alarms, 101.04
Newly installed alarm systems, 101.10

2000 TOWN CODE

BUILDINGS (Cont'd)
Notice of existence of burglar alarm system, 101.02
Reconnection, 101.08
Responsibility for burglar activation, owner response, malfunction, etc., 101.03

BURNING
Garbage, 94.29
Rubbish, 95.18

C

CANALS (See WATERWAYS)

CASUARINA (See TREES)

CATS (See ANIMALS)

CESSPOOLS, 52.05(C)

CHARTER
Amended, Charter sec. 7(a)
Amendments
Adoption of, Charter Art. VIII, sec. 4
Proposal of, Charter Art. VIII, sec. 1
Referendum, Charter Art. VIII, secs. 2, 3
Supplemental method, Charter Art. VIII, sec. 5
Body corporate and politic, Charter Art. I, sec. 2
Effective date, Charter Art. C, sec. 1
Existing date, Charter Art. X, sec. 1
Existing not inconsistent with amended, Charter Art. IX, sec. 1
Existing ordinances not inconsistent with amended Charter, Charter Art. VIII, sec. 2
Obligations preserved by, Charter Art. VIII, sec. 4
Officers
Held over until successors qualify, Charter Art. VIII, sec. 5
Purpose of, Charter Art. I, sec. 1
References to, Charter Art. I, sec. 7(b)
Referendum requirements, Charter Art. VIII, sec. 6
Title rights reserved, Charter Art. VIII, sec. 3

CHIEF OF POLICE (See POLICE CHIEF)

CLERK (See TOWN CLERK)

COASTAL CONSTRUCTION, HIGH WATER SEAWARD
Definitions, 151.01
Emergency permit, 151.07

COASTAL CONSTRUCTION, HIGH WATER SEAWARD (Cont'd)
Permit, 151.03(A)
Application, 151.03(B)
Application processing procedure, 151.04
Emergency, 151.07
Issuance, 151.05
State approval of, 151.06
Purpose of regulations, 151.02
U.S. army corps of engineers, compliance with, 151.05(I)

COASTAL CONSTRUCTION, HIGH WATER LANDWARD
Conflicting provisions, 150.62
Scope of provisions, 150.63
Standards generally, 150.65
Title of provisions, 150.61

CODE ENFORCEMENT BOARD (See also PENALTIES; SUPPLEMENTAL CODE ENFORCEMENT)
Appeal from, 33.11
Counsel, 33.04(B)
Definitions, 33.02
Duties, 33.07
Established, 33.03(A)
Fine, lien and order imposition, 33.10

CODE ENFORCEMENT BOARD (Cont'd)
Hearings, 33.08
Intent of provisions, 33.01
Membership
Appointment and terms, 33.03
Notice service, 33.12
Officers, 33.04(A)
Powers, 33.09
Supplemental nature, 33.13

CODE ENFORCEMENT OFFICER (See SUPPLEMENTAL CODE ENFORCEMENT)

CODE OF ORDINANCES (See also ORDINANCES; SUPPLEMENTAL CODE ENFORCEMENT)
Adoption (Not Included)*
Altering of, unlawful, 10.05
Amendments to, 10.07
Captions, 10.04
County ordinances, 10.10, 10.10.1
Definitions, 10.02
Errors and omissions, 10.12
Gender, 10.03(B)
Joint authority, 10.03(C)
Land use and control ordinances, 10.09
Number, 10.03(D)
Ordinances
Repealed, 10.13
Saved, 10.15
Unaffected, 10.14
Penalty, 10.99
Repeal or amendment, effect of, 10.06
Rules of construction, 10.03
Severability, 10.08
Short title, 10.01
Tense, 10.03(F)
Time, computation of, 10.11
Violation of (See also CODE ENFORCEMENT BOARD, PENALTIES)
Assessment for, 35.04

COMMISSION
Abandoned, seized property hearing, 99.05
Administration, relationship with, Charter Art. II, sec. 13
Advisory boards, Charter Art. II, sec. 22
Agenda, 30.02
Beach erosion control district, governing body of, 92.33
Bonds, Charter Art. II, sec. 21
Budget, action on, Charter Art. V, sec. 7
Code enforcement board appointment confirmation, 33.03
Compensation, Charter Art. II, sec. 3

See Note, Page 1 of Index

COMMISSION (Cont'd)
Comprehensive plan, Charter Art. II, sec. 24
Conflict of interest (See ETHICS CODE)
Creation of, Charter Art. II, sec. 2
Dead fish on beaches, removal ordered by, 92.23
District boundaries
District five, 30.19
District four, 30.18
District one, 30.15
District three, 30.17
District two, 30.16
Districts, Charter Art. II, sec. 1
Election of, Charter Art. II, secs. 2, 5, 6
Poll hours, Charter Art. II, sec. 7
Equalizing board for dredging and filling, service as, 152.19(B)
Ethics commission creation, Charter Art. I, sec. 8
Holdover commissioners, Charter Art. II, sec. 4
Investigations, Charter Art. II, sec. 25
Investment advisory committee, appointment of, Charter Art. V, sec. 16
Judge of qualifications, Charter Art. II, sec. 8
Litigation, authority for, 30.09
Local planning agency, appropriation of funds to, 32.05
Mayor, election of, Charter Art. II, sec. 11
Meetings, Charter Art. II, sec. 14, 30.01
Addressing the commission, 30.06
Agenda, 30.02
Decorum, 30.04
Order of business, 30.05
Penalty for absence, Charter Art. II, sec. 16
Public hearings, 30.01(E)
Regular, 30.01(B)
Rules of procedure, 30.01.1
Special Charter Art. II, sec. 15, 30.01(C)
Town manager to attend, Charter Art. III, sec. 4(e)
Voting, 30.07
Workshop, 30.01(D)
Nominations, Charter Art. II, sec. 3
Occupation tax appeal hearing, 111.12
Ordinances
Codification of, Charter Art. II, sec. 19
Preparation of, 30.08
Peddler license and permit appeal, 112.11
Powers, Charter Art. I, sec. 6
Presiding officer, 30.03
Public parks, closing of, 92.01
Public works appeals, 50.06
Recall of commissioners, Charter Art. II, sec. 10
Residency, Charter Art. II, sec. 2
Signs, variances from regulations, 156.10
Subdivision final plat, approval by, 157.31

COMMISSION (Cont'd)
Subdivision preliminary plat, review by, 157.30
Subdivision regulations, variances, 157.07
Taxes, duty to impose and levy, Charter Art. II, sec. 23
Terms of office, Charter Art. II, sec. 2
Town manager
Appointment of, Charter Art. III, sec. 1
Removal of, Charter Art. III, sec. 2
Vacancies
Change of residence, grounds, Charter Art. II, sec. 2(b)
Filling, Charter Art. II, sec. 9
Vice-mayor, election of, Charter Art. II, sec. 11
Water shortage declaration, 54.03

COMMISSION DISTRICTS (See COMMISSION)

COMMISSION-MANAGER FORM (See FORM OF GOVERNMENT)

COMMUNICABLE DISEASES (No Ordinance)*

CORPORATE LIMITS (See BOUNDARIES)

COUNTY ORDINANCES (See CODE OF ORDINANCES; ORDINANCES)

CURFEW (No Ordinance)*

D

DEFINITIONS
Abandoned, seized property, 99.01
Bicycles, 73.01
Coastal construction, 151.01
Code enforcement board, 33.02
Dog, vicious, 91.30
Emergency medical aid fees, 94.55
Ethics code, 39.02
Firefighters and police officers
Employment policies, 34.45
Retirement system, 34.43, 34.13
Fire prevention code, 94.02, 94.171
Flood control, 154.03
Food and drink establishments, 96.80
Garbage, 95.01
General, 10.02
Junk, 95.25
Peddler, 112.02
Public works, 51.02
Retirement system, 34.73
Sea turtles, 100.01
Sewers, 52.01
Signs, 156.100

See Note, Page 1 of Index

DEFINITIONS (Cont'd)
Subdivision regulations 157.03
Tree, 98.01
Vessels and watercraft, 93.02
Water shortage, 54.01
Zoning, 158.006

DIRECTOR PUBLIC WORKS
Garbage disposal, special permit, 95.05
Technical advisory committee member, 32.06

DISORDERLY CONDUCT ON BEACHES, 92.12 (G)

DOG AND CAT WARDEN, 91.17 (See also ANIMALS)

DOGS (See ANIMALS)

DREDGING AND FILLING
Assessment in proportion to benefit, 152.20
Assessment plat, 152.17
Assessment roll, 152.18
Bonds, issuance of, 152.23
Equalizing board, town commission as, 152.19 (B)
Foreclosure, 152.22
Improvements and special assessments, 152.15—152.26
Irregularities, not affecting validity, 152.26
Payments by town, 152.25
Permit, 152.01
Application, 152.02 (A)
Fee, 152.02 (B)
Issuance, 152.04
Plans and drawings, 152.03
Revocation, 152.04
Plans and drawings, 152.03
Resolution required, 152.15
Publication of, 152.16
Second assessment, 152.24
Stacking of area to be filled, 152.05
Subdivisions, 157.57
Validity, irregularities not affecting, 152.26
Waiver of requirements, 152.06

DRUGS (No Ordinance)*

E

ELECTIONS
Absentee voting, 36.01
Candidate qualifications, 36.03
Polling places, 36.04
Supervisor, returns certification, Charter Art. II, sec. 7
Town commission, Charter Art. II, secs. 2, 5, 6, 7

ELECTIONS (Cont'd)
Vacancy in candidacy, 36.05
Voter qualifications, 36.02

ELECTRICAL CODE
Adoption of, 153.01
Amendments to, 153.02

ELECTRICITY
Emergency, 94.50
Permit required, 150.38
Subdivisions, 157.04

EMERGENCIES
Electrical power, 94.50
Water shortage, 54.03
Water use restrictions, 53.10

EMPLOYMENT POLICIES
Appointments of employees by Town Manager, Charter Art. III, sec. 4(c)
Liability (See LIABILITY OF TOWN)
Retirement system
Beneficiaries, 34.82
Benefits
Amounts, eligibility, 34.78
Distribution, 34.86
Forfeiture, 34.91
Maximum, 34.85
Optional forms, 34.81
Rollover distributions, direct transfers, 34.93
Transferability, 34.89
Validity, 34.90
Board of Trustees, 34.75
Claims procedures, 34.83
Contributions, 34.77
Death, pre-retirement, 34.79
Definitions, 34.73
Family and Medical Leave Act, 34.94
Finances, fund management, 34.76
Fire department (See FIRE DEPARTMENT)
Generally, 34.87
Indemnification, 34.92
Membership, 34.74
Military service, effect, 34.95
Police department (See POLICE DEPARTMENT)
Roster of retirees, 34.84
Tax exemption, 34.89
Termination, repeal of system, 34.88
Vesting, 34.80
Sick pay, 34.01

EMPLOYMENT POLICIES (Cont'd)
Social Security
Adoption of act, 34.05
Agreements with state agency, 34.07
Appropriation for contributions, 34.09
Exclusions, 34.06
Federal regulations, 34.10
Finance director, 34.11
Records, 34.10
State regulations, 34.10
Withholding, 34.08
Standards of conduct; conflicts of interest (See ETHICS CODE)

EROSION (See also FLOOD CONTROL)
Beach erosion control district (See BEACHES)

ERRORS AND OMISSIONS, 10.12

ETHICS CODE
Appointment solicitation, 39.05(A)
Applicability, 39.09
Commission, board, committee influence, 39.08
Complaints, 39.12
Conflicts of interest, 39.06
Copies furnished, 39.11
Creation authorized, Charter Art. I, sec. 8
Declaration of purpose and policy, 39.01
Definitions, 39.02
Established, 39.03
Misuse of public property, 39.05(B)
Public office, responsibilities of, 39.04
Purpose, 39.01
Special Masters
Appeals, 39.14
Complaint procedures, 39.12
Subpoena power, 39.13
Special treatment, 39.05(C)
Standards of conduct; conflicts of interest
Certain information
Disclosure of, 39.06(G)
Use of, 39.06(G)
Conflicting employment or contractual relationship, 39.06(F)
Disclosure of certain information, 39.06(G)
Disclosure of specified interests, 39.06(H)
Doing business with town, 39.06(B)
Employees holding office, 39.06(I)
Exemption, 39.06(J)
Additional exemption, 39.06(K)
Expenses, 39.06(D)

ETHICS CODE (Cont'd)
Gifts, solicitation or acceptance of, 39.06(A)
Misuse of public position, 39.06(E)
Salary, 39.06(D)
Specified interests, disclosure of, 39.06(H)
Unauthorized compensation, 39.06(C)
Use of certain information, 39.06(G)
Voting conflicts, 39.07
State statute, relationship to, 39.10
Voting, interest disclosure, 39.07

EXCAVATIONS (See BUILDINGS; STREETS AND SIDEWALKS)

F

FALSE ALARMS, 94.30

FEDERAL SOCIAL SECURITY ACT, 34.05

FEES
Buildings, 150.06
Coastal construction permit processing, 151.04(B)
Dog and cat tags, 91.10
Drainage culvert construction permit, 97.01(C)
Dredging and filling permits, 152.02(B)
Electrical inspections, 153.02(H)
Film production permit fees, 113.14
Flood control regulations, variance application, 154.15(C)
General service, 37.20
Impounded animals, redeeming of, 91.15(B)
Occupational license transfer, 111.07
Peddler's license and permit, 112.03
Sewer connection, 51.20
Sewer inspection, 51.21(B)
Sign permit, 156.03(D)
Street improvement inspections, 97.03
Subdivision application, 157.10
Tree
Removal permits, 98.04
Replacement, 98.06(A)
Water system connection, 51.10
Zoning (See ZONING FEES)

FILM INDUSTRY
Certain town code requirements, suspension of, 113.15
Definitions, 113.02
Fees, 113.14
Cost for services, 113.13
Hearings
Suspension and revocation of permits
Conduct of hearing on, 113.10

FILM INDUSTRY (Cont'd)
Decision after hearing, 113.11
Right to appeal, 113.11
Grounds for, 113.08
Notice of, 113.08
Motion picture filming requirements, 113.12
Permits
Application, 113.05
Authority to grant, 113.03
Denial, 113.07(A)
Motion picture production permit
Application approval criteria, 113.06
Required, 113.04
Revocation/suspension 113.07(C)
Conduct of hearing on, 113.10
Decision after hearing on suspension or revocation
Right to appeal, 113.11
Emergency temporary suspension, 113.09
Notice of hearing and grounds for, 113.08
Suspension or revocation (See also Revocation/Suspension hereunder)
Violation and penalty, in, 113.04
Term of permits, 113.07(B)
Permitting authority, 113.03
Purpose, 113.01

FINANCE (See also TAXATION)
Appropriations
Emergency, Charter Art. V, sec. 9(b)
Lapse of, Charter Art. V, sec. 10
Limitations, Charter Art. V, sec. 9(e)
Reduction of, Charter Art. V, sec. 9(c)
Supplemental, Charter Art. V, see. 9(a)
Transfer of, Charter Art. V, sec. 9(d)
Audit of accounts, Charter Art. V, sec. 14
Bank accounts, 37.04
Bonds, Charter Art. V, see. 17
Sale procedure, Charter Art. V, sec. 19
Supplemental authority, Charter Art. V, sec. 20
Budget, Charter Art. V. secs. 3, 5
Amendment after adoption, Charter Art. V, sec. 9
Records, Charter Art. V, sec. 8
Town commission action on, Charter Art. V, sec. 7
Budget message, Charter Art. V, sec. 4
Capital program, Charter Art. V, sec. 6
Records, Charter Art. V, sec. 8
Certificate of available funds, Charter Art. V, sec. 12
Check vouchers, 37.04
Claims, audit and certification of, Charter Art. V, sec. 15
Compliance with accepted standards, 37.01
Director (See FINANCE DIRECTOR)

FINANCE (Cont'd)
Fiscal year, Charter Art. V, sec. 2
Inventory of town equipment, 37.03
Investment advisory committee, Charter Art. V, sec. 16
Purchasing, certification of availability of funds, 38.12
Receipts, 37.02
Records, Charter Art. V, sec. 8, 37.02
Revenue certificates, Charter Art. V, sec. 18
System of accounts and forms, Charter Art. V, sec. 13
Work programs, Charter Art. V, sec. 11

FINANCE DIRECTOR, Charter Art. V, sec. 1
Bank accounts, maintenance of, 37.04
Custodian of social security funds and records, 34.11
Dog and cat tag issuance, 91.10
Inventory of town equipment, 37.03
Receipts and records, 37.02
Systems of accounts and forms, Charter Art. V, sec. 13

FINES (See PENALTIES)

FIRE CHIEF (See FIRE DEPARTMENT)

FIRE DEPARTMENT, Ch. 94
Chief
Appointment of by Town Manager, Charter Art. III, sec. 4(b)
Employment policies, 34.45—34.53
Impersonating officials of, 94.12
Notice of fire to be given to, 94.25
Number, rank of fire officers, 32.26
Retirement system
Beneficiaries, 34.53
Benefits
Amounts, eligibility, 34.48
Distribution, 34.58
Forfeiture, 34.63
Maximum, 34.57
Optional forms, 34.52
Rollover distributions, direct transfers, 34.66
Transferability, 34.61
Validity, 34 62
Board of Trustees, 34.45
Claims procedures, 34.54
Contributions, 34.47
Death, pre-retirement, 34.49
Definitions, 34.43
Disability, 34.50
False statements, effect, 34.64
Family and Medical Leave Act, 34.67
Finances, fund management, 34.46

FIRE DEPARTMENT (Cont'd)
Generally, 34.59
Indemnification, 34.65
Membership, 34.44
Reports to Division of Retirement, 34.55
Roster of retirees, 34.56
Tax exemption, 34.61
Termination, repeal of system, 34.60
Vesting, 34.51
Right of entry, 94.12

FIRE LANES
Parking in, 72.01

FIRE PREVENTION CODE
Access for fire apparatus, 94.33
Administration
Alternative to requirements, 94.11
Approval of plans and installations, 94.18
Authority of having jurisdiction, 94.10
Certificates, 94.14
Fires and explosions, authority to investigate, 94.13
Inspections
Construction, installation work, 94.17
Periodic, purpose, fees, 94.171
Permits, 94.14
Records, 94.16
Right of entry, 94.12
Violation procedure, 94.15
Alarm annunciators, 94.48
Alternative electric and water supply systems, 94.52
Application of chapter, 94.04
Automatic sprinkler systems, 94.46
Beaches, building fires on, 94.12(A)
Carelessness with fire, 94.27
Combustible decorations, 94.43
Construction design requirements, 94.51
Construction or installation work, inspection, 94.17
Definitions, 94.02
Emergency electrical power, 94.50
Emergency medical aid
Definitions, 94.55
Fees, schedule, 94.56
False alarms, 94.30 (See also ALARMS)
Fire alarm systems, 94.45
Fire doors, 94.35
Fire escapes, storage on, 94.39
Fire protection equipment, interference with, 94.36
Fire safety equipment, inoperative, 94.32
Fire safety regulations, posting, 94.31

FIRE DEPARTMENT (Cont'd)
Fire station connections, 94.49
Fumigation, 94.38
Hazardous conditions, reporting, maintaining, 94.26
Heating and lighting equipment, clearance between, 94.37
Key box system, 94.34
National Fire Code adopted, 94.03
Numbering of occupancies, 94.44
Obstructing passageways and aisles, 94.41
Open sources of ignition, 94.28
Overcrowding, prevention of, 94.40
Failure to vacate, 94.42
Penalty, 94.99
Roofs, storage on, 94.39
Sprinkler systems, 94.46
Standpipes, 94.47
Title, 94.01
Unauthorized burning, 94.29
Unfriendly fire, discovery of, 94.25

FIREARMS, 130.04

FISH (See BEACHES)

FLOOD CONTROL
Administrator, Town Manager as, 154.06
Applicability of regulations, 154.01
Breakaway walls, 154.12
Compliance with regulations required, 154.04
Definitions, 154.03
Development permits, 154.09
Disclaimer of liability 154.05
Floodproofing, 154.11
Flood zones
A1-30, 154.07
V1-30, 154.08
Interpretation, 154.02
Liability, disclaimer of, 154.05
Minimum floor elevation, 154.10
Nonconforming structures, 154.16
Penalty, 154.99
Purpose of regulations, 154.01
Residential improvements, form for estimating the cost of, 154.100
Subdivision proposals, 154.13
Utilities, 154.14
Variances, 154.15

FLORIDA BAR, Charter Art. VI, secs. 1, 2

FLORIDA UNIFORM DISPOSITION OF TRAFFIC INFRACTIONS ACT, 70.01

FOOD (See HEALTH AND SANITATION)

FORM OF GOVERNMENT, Charter Art. I, sec. 4

FOWL (See ANIMALS)

FRANCHISES, Charter Art. I, sec. 5(b), T.S.O. I

FUMIGATION
Fire Department notification, 94.38

G

GAMBLING
Gambling vessels, prohibited activities, 93.20

GARAGE SALES, 158.141(B)(1)

GARBAGE, RUBBISH, AND JUNK (See also HEALTH AND SANITATION)
Billing, 95.08
Burning, 94.29
Burning or burying rubbish, 95.18
Collection
By town, 95.05
Preparation of refuse for, 95.06
Times, 95.07
Containers, 95.02, 95.03
Inspection of, 95.04
Definitions, 95.01
Fees, 95.08
Junk
Accumulation of, 95.25
Assessment to become lien, 95.30
Delinquent, 95.32
Interest on, 95.31
Right to appeal, 95.33
Statute of limitations, 95.34
Definition, 95.25
Removal by town, 95.26, 95.29
Removal notice, 95.27
Failure to obey, 95.28
Policy, 95.15
Recycling
Billing of recyclable collection service charges to customers, 95.50
Combining recyclable materials, yard trash and solid waste prohibited, 95.43
Conflict with other laws, 95.55
Definitions, 95.41
Hazardous and special waste, 95.45
Mandatory recycling, 95.42
Ownership of containers, 95.46

GARBAGE, RUBBISH, AND JUNK (Cont'd)
Ownership of recyclable materials, 95.47
Penalties and enforcement, 95.54
Procurement of recycled product, 95.53
Promotion of recycling, 95.52
Removal
Fees for removal, 95.49
Unauthorized removal, 95.48
Separation and curbside collection and collection fees, rules and regulations re, 95.51
Yard trash, recycling of, 95.44
Throwing or spilling from vehicles, 95.17
Unlawful deposits, 95.16

H

HANDICAPPED PERSONS
Use of bicycle paths, 73.02

HEALTH AND SANITATION (See also GARBAGE, RUBBISH, AND JUNK)
Accumulation of brush, 96.11
Policy, 96.10
Failure to maintain premises a nuisance, 96.02, 96.13
Correction of violations by town, 96.03, 96.14
Food and drink establishments
Closing of, 96.37
Construction or alteration of premises, 96.33

HEALTH AND SANITATION (Cont'd)
Definitions, 96.30
Enforcement of regulations, 96.38
Inspections, 96.36
Fees, 96.81
Management, training requirements, 96.34
Permit, 96.31, 96.32
Work card for employees, 96.35
Mosquito breeding sites, 96.04
Overgrowth of vegetation (See also NUISANCES)
Accumulation of brush prohibited, 96.11
Duty to keep premises cleared, 96.12
Policy, 96.10
Penalty, 96.99
Pollution control
Policy, 96.45
Prohibited acts, 96.46
Responsibility of property owner, 96.01, 96.12

HEALTH OFFICER
Rabies, notification of, 91.13

HEARINGS
Abandoned, seized property, 99.05
Assessment for junk removal, 95.29
Buildings declared a nuisance, 150.23
Code enforcement board on code violations, 33.08
Commission; public hearings, 30.01(E)
Dangerous buildings, appeal, 150.22(C)
Dredging and filling application, 152.04
Junk, failure to abate, 95.28
Planning and zoning board, 33.25
Public parks, closing of, 92.01(B)
Suspension and revocation of film permit, hearings for (See FILM INDUSTRY)

HELICOPTERS (See AIRCRAFT AND AIRPORTS)

HOTELS
Certain employees to register, 96.20, 96.21

I

IMPERSONATING A FIRE OFFICIAL, 94.12

IMPERSONATING LAW ENFORCEMENT OFFICERS, 130.06

IMPOUNDING DOGS AND CATS, 91.11, 91.15

IMPOUNDING VEHICLES, 70.02, 72.08

INSURANCE COMPANIES
Excise tax on, 37.11

ITINERANT MERCHANTS (See PEDDLERS)

J

JUNK (See GARBAGE, RUBBISH, AND JUNK)

L

LAND DEVELOPMENT CODE, Title XV
Ordinances concerning, 10.09

LAGOONS (See WATERWAYS)

LAW ENFORCEMENT OFFICER (See SUPPLEMENTAL CODE ENFORCEMENT)

LIABILITY OF TOWN, 35.02

LICENSES (See also PERMITS)
Dogs and cats, 91.10
Occupational
Appeal, 111.12
Application, 111.05
Charitable, religious, educational institutions
Exemptions, 111.03(A), (B)
Waivers, 111.03(C)
Contents, 111.10
Required when, 111.02
Separate for each location, 111.01
State certification prerequisite, 111.06
Tax, 111.01
Collection of, 111.04
Delinquent, 111.07
Refund, 111.09
Schedule, 111.13
Town rights reserved, 111.11
Transfer, 111.08
Peddler, 112.01
Subdivisions, 157.05

LIVESTOCK (See ANIMALS)

LOCAL PLANNING AGENCY (See also ZONING; SUBDIVISION REGULATIONS; PLANNING AND ZONING BOARD)
County technical advisory committees, 32.06
Duties, 32.02
Establishment of, 32.01
Funding, 32.05
Meetings, 32.04
Organization, 32.03
Planning and zoning board designated as, 32.01

LOCAL PLANNING AGENCY (Cont'd)
Powers, 32.02
Records, 32.04

M

MANGROVES (See TREES)

MAYOR
Administrative officer designation, Charter Art. III, sec. 3
Code enforcement board appointment, 33.03
Commission, as presiding officer of, 30.03
Election from town commission, Charter Art. II, sec. 11
Florida industrial commission, agreements with, 34.07
Functions of, Charter Art. II, sec. 12
Powers of, Charter Art. II, sec. 12

MINORS (No Ordinance)*

MISDEMEANORS (See OFFENSES)

MOBILE HOME PARKS
Flood zones, construction in, 154.07, 154.08
Water and sewer service plans, 50.05

MOSQUITOS (See HEALTH AND SANITATION)

MUNICIPAL POWERS, Charter Art. I, sec. 5

N

NATIONAL ELECTRIC CODE
Adoption of, 153.01
Amendments to, 153.02

NATIONAL FIRE CODE, 94.03

NOISE
Dogs and cats, barking, howling, or biting, 91.18
Loud and unnecessary, 130.02
Watercraft, 93.03

NOTICES
Abandoned, seized property, 99.04
Assessment hearing, accumulation of junk, 95.29
Buildings, dangerous or illegal work to stop, 150.21
Code violations, 33.07(B)
Cost, payment by permittee, 35.01
Dangerous buildings, repair or demolish, 150.22
Dead fish on beaches, owner to remove, 92.23
Dredging and filling, application hearing, 152.04
Film industry, notice of hearing and grounds for revocation/suspension, 113.08
Fire prevention code violations, 94.15
Flood control variance, to applicant, 154.15(D)

See Note, Page 1 of Index

NOTICES (Cont'd)
Hearing on buildings constituting nuisance, 150.23
Junk, removal of by town, 95.27
Overgrowth of weeds, notice to abate, etc., 93.13, 93.14
Peddler's license and permit required, 112.10
Street closing, hearing regarding, 97.11
Unfriendly fires to be reported to fire department, 94.25
Unlicensed dogs and cats, owner to obtain license, 91.11

NUDITY
In public prohibited, 130.07

NUISANCES
Dangerous buildings, 150.23
Dead fish on beaches, 92.21
Overgrowth of weeds, 96.13
Abatement by town, cost, 96.14
Notice to abate, 96.13
Property, failure to maintain, 96.02
Abatement procedure, 96.02(B)

O

OATH OF OFFICE, Charter Art. II, sec. 20

OCCUPANCY CERTIFICATE (See GENERAL SERVICE FEE; BUILDINGS)

OCCUPATIONAL LICENSE TAX (See LICENSES)

OFFENSES
Annoying spotlights or floodlights, 130.03
Firearms and weapons, 130.04
Impersonating law enforcement officers, 130.06
Loud and unnecessary noise, 130.02
Nudity in establishments selling alcoholic beverages, 130.05
Obscene language on beaches, 92.12(F)
Peddler
Crying out, 112.06
Street obstruction, 112.07
Public nudity, 130.07
State misdemeanors, 130.01

ORDINANCES (See also CODE OF ORDINANCES; SUPPLEMENTAL CODE ENFORCEMENT)
Codification of, Charter Art. II, sec. 19
County, enforcement
Manatee County, 10.10.1
Sarasota County, 10.10
Emergency, Charter Art. II, sec. 8
Enactment of, Charter Art. II, sec. 17
Land use and control, 10.09
Preparation of, 30.08
Repealed, 10.13

ORDINANCES (Cont'd)
Repeal or amendment, effect of, 10.06
Saved, 10.15
Unaffected, 10.14

P

PARKING (See TRAFFIC CODE)

PARKING SCHEDULES, Ch. 74

PARKS (See PUBLIC PARKS)

PEAFOWL, 91.04 (See also ANIMALS)

PEDDLERS
Crying out, noisemaking, 112.06
Definition, 112.02
Enforcement, 112.09
License, permit, 112.01
Appeal, 112.11
Application, 112.03
Denial of application, 112.05
Display of, 112.04
Exhibition, 112.08
Fee, 112.03
Investigation, issuance, denial, 112.04
Revocation 112.10
Transfer 112.05
Violation, 112.13

PENALTIES (See also CODE ENFORCEMENT BOARD; SUPPLEMENTAL CODE ENFORCEMENT)
Aircraft and airports, 90.99
Animals, 91.99
Beaches, 92.99
Bicycles, 73.06
Fire prevention code, 94.99
Flood control, 154.99
Garbage, rubbish, and junk, 95.99
General, 10.99
Health and sanitation, 96.99
Parking, 72.99
Peddler license and permit, 112.13
Permits, 111.99
Public works, 50.99
Sea turtles, beach lighting regulations, 100.07
Signs, 156.16(B)
Subdivision regulations, 157.99
Trees, 98.12
Vessels and watercraft, 93.99
Water shortages, 54.05

2000 TOWN CODE

PENSIONS (See EMPLOYMENT POLICIES)

PERMITS (See also LICENSES)
- Building, 150.30
- Bulkhead construction, 150.05
- Coastal construction, 151.03
- Drainage culvert construction, 97.01
- Dredging and filling, 152.01
- Film industry permits for motion pictures (See FILM INDUSTRY)
- Flood zone development, 154.09
- Food and drink establishment, 96.31
- Garbage disposal, special arrangements, 95.05
- Handicapped persons using bicycle paths, 73.02
- Live-aboards, 93.11(B)
- Moving buildings, 150.50
- Notice cost payment, 35.01
- Peddlers, 112.01
- Penalty, 111.99
- Qualifications for, 111.17
- Sewer connection, 52.17
- Signs, 156.03
- Subdivisions, 157.05
- Tree burial, 150.172
- Tree removal, 98.02, 98.03

PERSONNEL (See EMPLOYMENT POLICIES)

PLANNING (See LOCAL PLANNING AGENCY)

PLANNING AND ZONING BOARD
- Chairman of, 33.20(A)
- Creation, 33.20(A)
- Duties, 33.21
- Hearings, 33.25
- Local planning agency, designation as, 32.01(B)
- Meetings, 33.23
- Members, 33.20(A)
- Minutes, 33.24
- Officers, 33.21
- Planned unit development review, 158.067
- Public hearings, 33.25
- Subdivision amendments, 157.08
- Subdivision preliminary plat review, 157.30
- Terms, 33.20(B)
- Vacancies, 33.20(B)

PLANTS
- Parks, in, taking or disturbing, prohibitions, 92.04

PLUMBING CODE
- Adoption of Standard Plumbing Code, 155.01
- Amendments to Standard Plumbing Code, 155.02

POLICE CHIEF, 32.15 (See also POLICE DEPARTMENT)
Appointment of by town manager, Charter Art. III, sec. 4(a)
Designation of areas for water activities, 93.09
Dog and cat warden, designation of, 91.17
Peddler license and permit application investigation, 112.04

POLICE DEPARTMENT
Abandoned property seizure, 99.02
Bicycle regulations, enforcement of, 73.03
Chief (See POLICE CHIEF)
Duties, 32.16
Employment policies, 34.45 - 34.53
Firearms or weapons retained by, 130.04(D)
Impersonating officer, 130.06
Impoundment of vehicles, 70.02
Law enforcement education expenditures, assessment for, 35.04
Number, rank of police officers, 32.18
Peddler's permit, investigation of application, 112.03
Powers, 32.16
Retirement system
Beneficiaries, 34.23
Benefits
Amounts, eligibility, 34.18
Distribution, 34.28
Forfeiture, 34.33
Maximum, 34.27
Optional forms, 34.22
Rollover distributions, direct transfers, 34.36
Transferability, 34.31
Validity, 34.32
Board of Trustees, 34.15
Claims procedures, 34.24
Contributions, 34.17
Death, pre-retirement, 34.19
Definitions, 34.13
Disability, 34.20
False statements, effect, 34.34
Family and Medical Leave Act, 34.37
Finances, fund management, 34.16
Generally, 34.29
Indemnification, 34.35
Membership, 34.14
Reports to Division of Retirement, 34.25
Roster of retirees, 34.26
Tax exemption, 34.31
Termination, repeal of system, 34.30
Vesting, 34.21
Seized property notice, 99.04
Special police, 32.17

POLICY (See TOWN POLICY)

POLLUTION (See HEALTH AND SANITATION)

PRIVIES, 52.05(C)

PROPERTY, ABANDONED, SEIZED
- Definitions, 99.01
- Designation to administer lost or abandoned property, 99.03
- Procedure for abandoned or lost property, 99.02

PUBLIC OFFICERS AND EMPLOYEES
- Bond, Charter Art. II, sec. 21
- Oath of office, Charter Art. II, sec. 20

PUBLIC PARKS (See also BEACHES)
- Alcoholic beverages, possession, 92.02
- Closing of, 92.01
- Joan M. Durante Community Park
  - Prohibited activities, 92.03
- Overlook Park
  - Restricted activities, 92.05
- Plants, animals, taking or disturbing, prohibitions, 92.04
- Quick Point Nature Preserve
  - Restricted activities, 92.05

PUBLIC UTILITIES (See PUBLIC WORKS)

PUBLIC WORKS (See also SEWERS; WATER)
- Appeal to town commission, 50.06
- Bond required to make tap, 50.04
- Charges, rates, and billing
  - Adjustment, 51.31
  - Automatic adjustments, 51.33
  - Complaints, 51.31
  - Contracts with large users, 51.04
  - Defective meter, 51.01(B)
  - Definition, 51.02
  - Delinquencies, 51.30(B)
  - Free service, 51.01
  - Large users, 51.04
  - Nonpayment, discontinuance of service for, 51.32(B)
  - Payment procedure, 51.30
  - Separate connection and meter required, 51.03
  - Service deposit, refund of, 51.32
  - Sewers, 51.20—51.22
  - Water, 51.10—51.12
- Connections to water or sewer lines, 50.01
- Easements and rights-of-way, 50.02
- Housing developments, 50.05
- Mobile home parks, 50.05
- Penalty, 50.99

PUBLIC WORKS (Cont'd)
Pipes, water and sewer, maintenance of, 50.03
Sewers (See SEWERS)
Special exceptions, 50.06
Subdivisions, 50.05
Variances, 50.06
Water (See WATER)

PUBLIC WORKS DEPARTMENT, 95.01

PUBLIC WORKS DIRECTOR (See DIRECTOR OF PUBLIC WORKS)

PURCHASING
Bidding procedures (See also Procurement procedures hereunder)
Bid invitations and proposal requests, 38.30
Bond, 38.33
Direct negotiation, 38.31
Invitations for bids or requests for proposals, 38.30
Protest and claims, 38.34
Responsibility of bidders, 38.32
Department of purchasing created, 38.10
Encumbrance of funds, 38.12
Procurement procedures (See also Bidding procedures hereunder)
Blanket purchase orders, 38.25
Day-to-day purchases, 38.21
Information a public record, 38.14
Objectives generally, 38.20
Public entity bid, purchases of goods through, 38.24
Purchases over $10,000, 38.23
Purchases under $10,000, 38.22
Sole-source purchases, 38.26
Purpose of provisions, 38.01
Real estate, purchases of
Procedures, 38.37

PURCHASING AGENT
Authority to settle bid protests and contract claims, 38.34
Department head purchasing authority, 38.13
Duties, 38.11
Town manager as, Charter Art. III, sec. 4 (K), 38.10

R

RABIES (See ANIMALS)

RECYCLING (See GARBAGE, RUBBISH AND JUNK)

RETIREMENT (See EMPLOYMENT POLICIES; FIRE DEPARTMENT; POLICE DEPARTMENT)

RUBBISH (See GARBAGE, RUBBISH, AND JUNK)

RULES OF CONSTRUCTION, 10.03

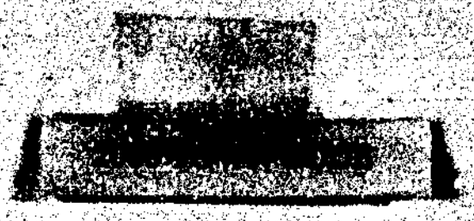
S

SEA TURTLE
- **Beach lighting restrictions**
  - **Enforcement, penalties**, 100.07
  - **Existing, development**, 100.05
  - **New developments**
    - **Exemptions**, 100.04
    - **Generally**, 100.03
  - **Publicly owned lighting**, 100.06
- **Definitions**, 100.01
- **Purpose of provisions**, 100.02

SEPARABILITY CLAUSE, Charter Art. VIII, sec. 6, 10.08

SEPTIC TANKS, 52.05 (C)

SEWERS (See also PUBLIC WORKS)
- **Building sewers and connections**
  - **Compliance with standards (52.15)**
  - **Connections**
    - **Gas- and water-tight**, 52.18
    - **Permit**, 52.17
    - **Prohibited**, 52.16
  - **Costs**, 52.24
  - **Excavations**, 52.22
    - **Restoration**, 52.24
  - **Inspections**, 52.23
  - **Liability**, 52.24
  - **Lifts**, 52.21
  - **Old building sewers**, 52.20
  - **Separate sewers**, 52.19
- **Cesspools**, 52.05 (C)
- **Connection**, 52.02
  - **Fee**, 51.20
  - **Required**, 52.02
  - **Town, by**, 52.03
- **Definitions**, 52.01
- **Discharges, unlawful**, 52.30
- **Equipment, damaging**, 52.08
- **Floodproofing regulations**, 154.11
- **Grease, oil, and sand interceptors, 52.33**
- **Inspections**, 52.37
- **Interceptors**, 52.33
- **Manholes**, 52.35
- **Measurements, tests, and analyses, 52.36**



SEWERS (Cont'd)
Monthly billing, 51.22
Moving or demolishing buildings, 52.07
Pretreatment of wastes, 52.32(B), 52.34
Private wastewater disposal, 52.04
Privies, 52.05(C)
Rates and charges, 51.21
Review of certain wastes by town manager, 52.32
Right of entry, 52.37
Sanitary disposal, 52.06
Septic tanks, 52.05(C)
Special arrangements for certain wastes, 52.38
Storm water, 52.31
Unlawful disposal, 52.05

SIDEWALKS (See STREETS AND SIDEWALKS)

SIGN CODE
Abandoned signs, 156.13(B)
Appeals, 156.11(B)
Applicability of other code, regulatory requirements, 156.02
Construction design standards, 156.10(B)
Definitions, 156.100
Enforcement, 156.16(A)
Exempt signs designated, 156.04
Hazards, sign causing imminent danger of, 156.14(F)
Historical signs, designation, procedure, 156.09(A)
Illuminated signs, 156.08
Maintenance requirements, 156.13(A)
Nonconforming signs, 156.12
Penalties, 156.16(B)
Permanent signs
Changeable copy signs, 156.07(F)
Directory signs, 156.07(E)
Freestanding signs, 156.07(B)
General conditions, permit requirements, 156.07(A)
Illuminated signs, generally, 156.08
Overhang, covered walkway signs, 156.07(D)
Wall signs, 156.07(C)
Permits
Application requirements, 156.03(B)
Fee schedule, 156.03(D)
Identification tag, 156.03(C)
Required when, 156.03(A)
Revocation when, 156.15
Placement regulations, 156.10(A)
Prohibited signs designated, 156.05
Purpose of provisions, 156.01
Removal when, 156.14
Temporary signs
General conditions, permit requirements, 156.06(A)
Types permitted, 156.06(B)

SIGN CODE (Cont'd)
Unsafe signs, 156.14(E)
Variances, 156.11(A)
Violations, removal, 156.14

SKIING (See VESSELS, WATERWAYS AND WATER ACTIVITIES)

SKIN DIVING (See VESSELS, WATERWAYS AND WATER ACTIVITIES)

SOCIAL SECURITY (See EMPLOYMENT POLICIES)

SOLICITORS (See PEDDLERS)

STANDARD BUILDING CODE, 150.01

STANDARD MECHANICAL CODE, 150.02

STATE MISDEMEANORS, 130.01

STATE UNIFORM TRAFFIC CONTROL ACT, 70.01

STREETS AND SIDEWALKS
Closing streets
Action by town commission, 97.11
Deposits to cover expenses, 97.13
Ordinance to be recorded, 97.12
Petition of interested party, 97.10(B)
Town commission motion, 97.10(A)
Dedication
Acceptance, rejection, 97.14
Deed, 97.16
Standards, 97.15
Drainage culvert construction, 97.01
Removal of illegally constructed, 97.02
Inspection of improvements, 97.03
Street names in subdivisions, 157.16(D)(16), 156.46(L)
Subdivision design standards, 157.46

SUBDIVISION REGULATIONS
Amendments, 157.08
Building permit
Compliance with regulations required for, 157.06
Certification of plat by land surveyor, 157.27
Conflict with other regulations, 157.09
Construction, plat approval required before starting, 157.26
Definitions, 157.03
Design standards
Blocks, 157.44
Conformance to other regulations, 157.42
Dedication of land to public use, 157.43
Lots, 157.45
Street access, 157.41
Street names, 157.46(L)
Streets, 157.46
Suitability of land, 157.40

2000 TOWN CODE

SUBDIVISION REGULATIONS (Cont'd)
Flood control regulations, 154.13
Improvements
Construction plans and specifications, 157.56
Drainage, 157.59
Elevation and land filling, 157.57
Minimum, 157.55
Monuments, 157.61
Streets, 157.58
Utilities, 157.60
Jurisdiction, 157.02
Licenses
Approval required before issuance of, 157.05
Penalty, 157.99
Permits
Approval required before issuance of, 157.05
Plats
Appeal, 157.25
Approval, 157.25—157.31
Approval required before starting construction, 157.26
Certificates, 157.18
Certification by land surveyor, 157.27
Dedication of streets and easements, 157.28
Final plat approval, 157.31
Final plat specifications, 157.17
Preapplication plans and data, 157.15
Preapplication procedure, 157.29
Preliminary plat approval, 157.30
Preliminary plat specifications, 157.16
Specifications, 157.15—157.18
Submission of, 157.25
Purpose, 157.02
Streets, 157.41, 157.46, 157.58
Title, 157.01
Utility services, approval required before permitted, 157.04
Variances, 157.07
Water and sewer service plans, 50.05

SUPPLEMENTAL CODE ENFORCEMENT (See also CODE ENFORCEMENT BOARD)
Authority, 33.14
Issuing citations, 33.16
Code enforcement officer
Authority to issue citations, 33.16
Violations; procedures, etc., 33.18
Definitions, 33.15
Law enforcement officer
Authority to issue citations, 33.16
Violations; procedures, etc., 33.18
Ordinances enforced, 33.17
Penalties assessed, 33.17
Purpose, 33.14

SUPPLEMENTAL CODE ENFORCEMENT (Cont'd)
Violations
Procedures, 33.18
Schedule of fines and fees, 33.18

SWIMMING (See VESSELS, WATERWAYS AND WATER ACTIVITIES)

SWIMMING POOLS
Construction standards, 150.60

T

TAXATION (See also FINANCE)
Homestead exemption for persons 65 and older, 37.15
Insurance companies, excise tax on, 37.11
Occupational license tax, 111.01
Public services, excise taxes on, 37.10

TAXICABS (No Ordinance)*

TIME, COMPUTATION OF, 10.11

TOWN ATTORNEY
Appointment of, Charter Art. VI, sec. 1
Assistant town attorneys, Charter Art. VI, sec. 2
Code enforcement board, counsel to, 33.04(B)
Duties, Charter Art. VI, sec. 3
Ordinances, preparation of, 30.08
Qualifications, Charter Art. VI, sec. 1

TOWN CLERK
Alcoholic beverage license tax, 110.01
Appointment of, Charter Art. IV, sec. 1
Bonds to be kept on file, Charter Art. II, sec. 21
Duties, Charter Art. IV, sec. 2
Election return transmission, certification, Charter Art. II sec. 7
Oaths, record to be kept, Charter Art. II, sec. 20
Powers, Charter Art. IV, sec. 2

TOWN COMMISSION (See COMMISSION)

TOWN EMPLOYEES (See EMPLOYMENT POLICIES)

TOWN MANAGER
Acting, Charter Art. III, sec. 3
Appointment of, Charter Art. III, sec. 1
Budget, submission to town commission, Charter Art. V, sec. 3
Budget message, Charter Art. V, sec. 4
Building official, appointment of, 150.15
Capital program, preparation and submission to town commission, Charter Art. V, sec. 6
Compensation, Charter Art. III, sec. 1
Dangerous buildings, determination as to, 150.22(C)
Dead fish on beaches, notice to owner to remove, 92.23

See Note, Page 1 of Index

TOWN MANAGER (Cont'd)
Drainage culvert construction, permit issuance, 97.01
Duties, Charter Art. III, sec. 4
Finance director, appointment of, Charter Art. V, sec. 1
Fire prevention code, as authority having jurisdiction, 94.02
Flood control administrator, 154.06
Flood zone development permit issuance, 154.09
Junk, notice of removal, 95.27
Power, Charter Art. III, sec. 4
Purchasing agent, as, Charter Art. III, sec. 4(K)
Qualifications, Charter Art. III, sec. 1
Removal of, Charter Art. III, sec. 2
Sewer connection permit issuance, 52.17
Subdivision plats, submission of to, 157.25
Town clerk, appointment of, Charter Art. IV, sec. 1
Tree removal or trimming permit, issuance, 98.05
Wastes, certain to be reviewed by before discharge into sewers, 52.32

TOWN POLICY
Law enforcement education expenditures, assessment for, 35.04
Liability insurance on town-owned vehicles, 35.03
Permit applications, cost of giving notice for, 35.01
Town or town officials, liability of, 35.02

TRAFFIC CODE
Bicycle paths, use of vehicle on, 73.02
Bicycles (See BICYCLES)
Coastal beaches, vehicular traffic on, 71.01
Impoundment of vehicles, 70.02
Obstruction of traffic, 72.03
Parking
All-night, 72.04
Bicycle paths, on, 73.02(B)
Impoundment, 72.08
Penalty, 72.99
Prohibited, Ch. 74, Sched. I
For certain purposes, 72.05
In certain places, 72.01
Removal by police officer, 72.08
Restricted, Ch. 74, Sched. II
Restricted zones, 72.07
Restrictions on, 72.06
Unattended vehicle, 72.02
Parking schedules, Ch. 74
Speed limits, 71.02
State law, application of, 70.01
Stop signs, Ch. 75, Sched. I
Traffic-control devices, obedience to, 71.03
Travel trailers, use of, 72.06
Unattended vehicle, 72.02

TRAFFIC-CONTROL DEVICES (See TRAFFIC CODE)

TRAFFIC SCHEDULES, Ch. 75 (See also TRAFFIC CODE)

TRANSIENT VENDORS (See PEDDLERS AND SOLICITORS)

TRAVEL TRAILERS, 72.06 (See also TRAFFIC CODE)

TREES
- Burial, 150.172
- Casuarina removal, 98.10
- Definitions, 98.01
- Mangrove trimming
  - Permit required, 98.03(B)
  - Requirements, 98.09(A)
- Permit
  - Application
    - Fees, 98.04
    - Investigation, 98.04
    - Procedures, 98.03
  - Exemptions, 98.02(B, C, D)
  - Issuance, 98.05
  - Required, 98.02(A)
- Petition for review, 98.11
- Prohibited species, 98.08
- Protection during work, 98.07
- Relocation or replacement, 98.06
- Removal of trees other than mangroves
  - Permit required, 98.03(A)
- Trimming (See also Mangrove trimming hereunder)
  - Other than mangroves
    - Permit required, 98.03(A)
    - Requirements, 98.09(B)
- Violation, penalty, 98.12

V

VEHICLES (See also TRAFFIC CODE)
- Animals, confinement in, 91.03
- Bicycles (See BICYCLES)
- Refuse, throwing or spilling from, 95.17
- Town-owned, liability insurance on, 35.03

VESSELS, WATERWAYS AND WATER ACTIVITIES (See also BEACHES; PUBLIC PARKS)
- Abandonment of vessels, 93.16
- Compliance with state law required, 93.17
- Definitions, 93.02
- Disturbing the peace prohibited, 93.09
- Exemptions to provisions, 93.08
- Gambling vessels, prohibited activities, 93.20
- Live-aboards regulations, 93.11
- Map, "Idle Speed-No Wake," "Slow Down-Minimum Wake," 93.100
- Mooring regulations, 93.10, 93.11
- Obstructions prohibited, 93.15
- Penalty, 93.99
- Purpose of provisions, 93.01
- Sanitation, health regulations, 93.12
- Skiing, skin diving regulations, 93.13
- Speed (See Vessel, watercraft operations hereunder)
- Swimming regulations, 93.13
- Vessel, watercraft equipment
  - Regulations generally, 93.14
  - Identification numbers, 93.14(C)
- Vessel, watercraft operations
  - Careful, prudent operation required, 93.03(A)
  - Disturbing the peace prohibited, 93.09
  - Speed of watercrafts, 93.03(B), 93.04
- Water activities
  - Areas of restricted, designated, 93.05
  - Designating additional areas, procedure, 93.07
  - Regulations generally, 93.06

VICE-MAYOR
- Election from town commission, Charter Art. III, sec. 11
- Mayor, in place of, Charter Art. II, sec. 11

W

WATER (See also PUBLIC WORKS)
- Change of occupancy procedure, 53.08
- Connection
  - Fee, 51.10
  - Required, 53.02
- Consumer duties, 53.07
- Department, 53.01
- Distribution systems, planning construction of, 53.12
- Emergency use restrictions, 53.10
- Floodproofing regulations, 154.11
- Injunctions, 53.13
- Meter reading, 51.12
- Nonpotable water supply, 53.09
- Potable, determination of, 53.03

WATER (Cont'd)
Rates and charges, 51.11
Service application, 53.04
Shortage (See WATER SHORTAGES)
Special contract agreements, 53.11
Subdivisions, 157.04
Tapping without permission, 53.05
Town rights and duties, 53.06
Water department, 53.01

WATERCRAFT (See VESSELS, WATERWAYS AND WATER ACTIVITIES)

WATER DEPARTMENT, 53.01

WATER SHORTAGES
Agreement prerequisite to water service, 54.06
Applicability of provisions, 54.02
Declaration of shortage or emergency, 54.03
Definitions, 54.01
Enforcement of provisions, 54.04
Violation, penalty, 54.05

WATER SPORTS (See VESSELS, WATERWAYS AND WATER ACTIVITIES)

WATERWAYS (See also BEACHES; VESSELS, WATERWAYS AND WATER ACTIVITIES)
Obstructions in, 93.15

WEAPONS, 130.04

WEEDS AND BRUSH (See also NUISANCES)
Overgrowth of vegetation (See HEALTH AND SANITATION)

WIRELESS SERVICE FACILITIES (See ZONING)

Z

ZONING
Accessory uses, buildings
Density (See also Lot, yard and bulk regulations hereunder)
Use regulations, proposed land uses re, 158.137
Lot, yard and bulk regulations, minimum requirements, 158.151
Regulations generally, 158.127
Schedule of use regulations (See Use regulations hereunder)
Amendment of provisions, procedures for, 158.030
Appeals
Board of adjustment re, 158.027
Hearing authority, 158.026(F)
Procedures designated, 158.027
Applicability of provisions (See also Interpretation, application of provisions hereunder)
Generally, 158.004
Auditorium
Off-street parking requirements, 158.128
Board of adjustment
Appeals, duties generally, 158.027
Establishment, organization, 158.026(A—E)

ZONING (Cont'd)
Powers, duties generally, 158.026(F)
Special exceptions
Approval authority, duties, 158.126
Duties generally, 158.028
Swimming pool waiver authority, 158.127
Variances, grant authority, 158.029
Building height (See Lot, yard and bulk regulations hereunder)
Bulk regulations (See Lot, yard and bulk regulations hereunder)
C-1 district
Description of, policies of, 158.009(N)
Establishment of, 158.008
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
C-2 district
Description of, policies of, 158.009(O)
Establishment of, 158.008
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
C-3 district
Description of, policies of, 158.009(P)
Establishment of, 158.008
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
Church
Off-street parking requirements, 158.128
Use regulations, 158.134
Club, private
Use regulations, 158.134
Commercial uses
Off-street parking requirements, 158.128
Use regulations, 158.127(C)
Community facility - institutional district (See INS district hereunder)
Compliance (See Enforcement authority, compliance requirements; Statements of zoning compliance; hereunder)
Comprehensive plan, zoning regulations relationship to, 158.005
Continuing education center
Off-street parking requirements, 158.128
Coverage (See Lot, yard and bulk regulations hereunder)
Day care center
Off-street parking requirements, 158.128
Daylight plane regulations waivers, hearing authority, 158.026(F)(3)
Definitions, 158.006
Parks, open space land acquisition, 158.017(A)
Vested rights, 158.031

ZONING (Cont'd)
- **Density (See also Lot, yard and bulk regulations hereunder)**
  - **Calculation, 158.137(B—C)**
  - **Planned unit developments, 158.070**
- **Dental uses**
  - **Off-street parking requirements, 158.128**
- **Dish antennas**
  - **Special exception, use regulations, 158.1261**
  - **Use regulations, 158.127(F)**
- **Districts (See also specific districts hereunder)**
  - **Description of, policies of, 158.009**
  - **Establishment of, 158.008**
  - **Use regulations, nonconformities, status of, 158.138**
- **Drive-in facilities**
  - **Use regulations, 158.131**
- **Enforcement authority, compliance requirements, 158.025**

ZONING (Cont'd)
Fees
Consultants, site development review, 158.096
Parks, open space lands acquisition, 158.017
Flood zones A1-30, 154.07
Floor area (See Lot, yard and bulk regulations hereunder)
Gasoline station
Off-street parking requirements, 158.128
General commercial district (See C-2 district hereunder)
Golf
Off-street parking requirements, 158.128
GPD district
Description of, policies of, 158.009(L)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
Gulf planned development district (See GPD district hereunder)
Height regulations (See Lot, yard and bulk regulations)
High-density mixed residential district (See R-6MX district hereunder)
High-density tourist resort commercial district (See T-6 district hereunder)
Highway-oriented commercial district (See C-3 district hereunder)
Home occupations
Use regulations, 158.135
Hotel
Off-street parking requirements, 158.128
Implementation (See Purpose, objectives of provisions, implementation of hereunder)
INS district
Description of, policies of, 158.009(B)
Establishment of, 158.008
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
Interpretation, application of provisions, 158.003
Island preserve residential district (See R-1IP district hereunder)
Judicial review, relief, right to, 158.031
Landscaping
Mobile home park, 158.133
Off-street parking requirements, 158.128
Library
Off-street parking requirements, 158.128
Limited commercial district (See C-1 district hereunder)
Lot, yard and bulk regulations
Height regulations, 158.153
Intersection visibility, 158.148
Lot dimensions, measurement, reduction prohibited, 158.147
Lot excavation, grades, frontage, 158.156
Lot illustrations (See Appendix: Land use charts and illustrations)

ZONING (Cont'd)
Maximum coverage by buildings, 158.149
Minimum regulations for accessory structures, 158.151
Multifamily residential, tourism uses, supplemental controls, 158.102(L)
Off-street parking requirements, 158.128
Schedule of regulations, 158.145
Screening regulations, 158.154
Structures over water, 158.155
Walls, fences, hedges, etc., 158.152
Yards
Accessory structures, requirements when, 158.151
Regulations generally, 158.150
Lounges
Off-street parking requirements, 158.128
Low-medium-density mixed residential district (See R-3MX district hereunder)
Low-medium density tourist resort commercial district (See T-3 district hereunder)
M-1 district
Description of, policies of, 158.009(Q)
Establishment of, 158.008
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
Map (See Zoning map hereunder)
Marina
Off-street parking requirements, 158.128
Marine commercial service district (See M-1 district hereunder)
Mayor
Appointing authority, board of adjustment, 158.026(A)
Medical uses
Off-street parking requirements, 158.128
Medium-density-mixed residential district (See R-4MX district hereunder)
Mobile home park
Special exception, use regulations, 158.133
Motel
Off-street parking requirements, 158.128
Multifamily dwelling
Off-street parking requirements, 158.128
Museum
Off-street parking requirements, 158.128
Negotiated planned development district (See NPD district hereunder)
Nonconformities (See Use regulations hereunder)
NPD district
Description of, policies of, 158.009(L)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)

ZONING (Cont'd)
Schedule of use regulations (See Use regulations hereunder)
Objectives (See Purpose, objectives of provisions, implementation of hereunder)
Office - institutional district (See OI district hereunder)
Office uses
Off-street parking requirements, 158.128
Official (See Planning and zoning official hereunder)
Off-street loading requirements, 158.129
Off-street parking
Mobile home park, 158.133
Parking area illustrations (See Appendix: Land use charts and illustrations)
Required when, requirements generally, 158.128
OI district
Description of, policies of, 158.009(M)
Establishment of, 158.008
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
Open space district (See OS district hereunder)
Open space requirements (See also Parks, open space land acquisition hereunder)
Planned unit developments, 158.069
Operating permit
Mobile home park, 158.133
OS district
Description of, policies of, 158.009(A)
Establishment of, 158.008
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
Parking area illustrations (See Appendix: Land use charts and illustrations)
Parks, open space land acquisition
Definitions, 158.017(A)
Requirements, procedures for, 158.017
PD district
Description of, policies of, 158.009(L)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
Penalties, 158.049
Permitted uses with or without site plan review
Schedule of use regulations (See Use regulations hereunder)
Personal wireless service facilities
Site plan approval or exemption, application requirements, 158.097(W)
Exempt proposal, designation, 158.100A(A)(7)
Use regulations, 158.1361
Place of worship
Off-street parking requirements, 158.128
Planned development district (See PD district hereunder)

ZONING (Cont'd)
Planned unit developments
Minimum area, 158.068
Open space requirements, 158.069
Preapplication conference required, purpose of, 158.066
Procedure chart, planned unit development (See Appendix: Land use charts and illustrations)
Proposed land uses, restrictions designated, 158.071 Purpose of regulations, 158.065
Residential density restrictions, 158.070 Review, approval procedures for, effect, 158.067
Planning and zoning board
Planned unit development review, approval authority, duties, 158.067
Site development plan review duties generally, 158.099
Special exceptions approval authority, duties, 158.126
Zoning amendments; review of, 158.030
Planning and zoning official
Amendment of provisions, duties when, 158.030
Appeals duties generally, 158.027(C)
Enforcement authority, 158.025
Planned unit development review, approval authority, duties, 158.067
Site development plan review
Duties generally, 158.099
Preapplication conference duties, 158.098
Pool
Off-street parking requirements, 158.128
Purpose, objectives of provisions, implementation of, 158.002
R-IIP district
Description of, policies of, 158.009(C)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
R-1SF district
Description of, policies of, 158.009(D)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
R-2SF district
Description of, policies of, 158.009(E)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
R-3MX district
Description of, policies of, 158.009(I)

ZONING (Cont'd)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
R-3SF district
Description of, policies of, 158.009(F)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder) R-3SF
Schedule of use regulations (See Use regulations hereunder)
R-4MX district
Description of, policies of, 158.009(J)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
R-4SF district
Description of, policies, of, 158.009(G)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
R-6MX district
Description of, policies of, 158.009(K)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
R-6SF district
Description of, policies of, 158.009(H)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
Use regulations, 158.143
Recreational facilities, private
Regulations generally, 158.127(D)
Recreational uses
Off-street parking requirements, 158.128
Residential uses
Conversions, use regulations, 158.137(D)
Restaurants
Off-street parking requirements, 158.128

ZONING (Cont'd)
Outdoor dining regulations, 158.136
School
Off-street parking requirements, 158.128
Screening (See Lot, yard and bulk regulations)
Service station
Use regulations, 158.130

ZONING (Cont'd)
Signs (See SIGN CODE)
Single-family dwelling
Off-street parking requirements, 158.128
Single-family high-density residential district (See R-6SF district hereunder)
Single-family low-density estate residential district (See R-1SF district hereunder)
Single-family low-density residential district (See R-2SF district hereunder)
Single-family low-medium-density residential district (See R-3SF district hereunder)
Single-family medium-density residential district (See R-4SF district hereunder)
Site development plans
Approval
Application procedures, contents, 158.097
Grant or denial of applications, 158.103
Findings of fact, conclusions required for, 158.103
Consultants, use by town, fees designated, 158.096
Criteria, standards designated, 158.102
Exempt proposals, changes designated, 158.100
Planned unit developments (See Planned unit developments hereunder)
Required when, requirements generally, 158.095
Review
Application, contents, procedures generally, approval effect, 158.099
Preapplication conference required, procedure, 158.098
Procedure chart, site plan review (See Appendix: Land use charts and illustrations)
Special exception uses (See also Special exceptions hereunder)
Approval procedure, requirements, expiration, discontinuance, 158.126
Mobile home parks, 158.133
Schedule of use regulations (See Use regulations hereunder)
Special exceptions (See also Special exception uses hereunder)
Application, grant procedures for, 158.028
Application requirements, 158.058
Dish antennas, 158.1261
Hearing authority, 158.026(F)
Statements of zoning compliance
Recordkeeping requirements, 158.059
Required when, 158.057
Swimming pools
Use regulations, 158.127(B)
T-3 district
Description of, policies of, 158.009(R)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)
Schedule of use regulations (See Use regulations hereunder)
T-6 district
Description of, policies of, 158.009(R)
Establishment of, 158.008
Planned unit developments, residential density, 158.070
Schedule of lot, yard and bulk regulations (See Lot, yard and bulk regulations hereunder)

ZONING (Cont'd)
- Schedule of use regulations (See Use regulations hereunder)

Temple
- Off-street parking requirements, 158.128

Tennis
- Off-street parking requirements, 158.128

Tennis courts
- Regulations generally, 158.127(E)

Theater
- Off-street parking requirements, 158.128

Time-share tourism unit (See also Tourism unit hereunder)
- Conversion to, regulations when, 158.140
- Off-street parking requirements, 158.128

Title of provisions, citation, 158.001

Tourism unit (See also Time-share tourism unit hereunder)
- Off-street parking requirements, 158.128

Tourism uses
- Use regulations, 158.127(C), 158.132

Town commission
- Amendment of provisions, duties when, 158.030
- Appointment confirmation authority, board of adjustment, 158.026(A)
- Districts, regulation authority generally, 158.002
- Planned unit development review, approval authority, duties, 158.067
- Site development plan
  - Public hearings, calling, authority to, 158.101
  - Review duties generally, 158.099
  - Supplementary controls waiver, 158.102(L)
- Vested rights determination, 158.031

Townhouse
- Illustrations townhouse (See Appendix: Land use charts and illustrations)
- Off-street parking requirements, 158.128

Two-family dwelling
- Off-street parking requirements, 158.128

Use regulations (See also Special exceptions hereunder)
- Accessory uses, buildings, 158.127
- Area transfer, 158.144
- Drive-in facilities, 158.131
- Home occupations, 158.135
- Nonconformities
  - Reconstruction, 158.139
  - Regulations generally, 158.138
- Off-street loading, 158.129
- Off-street parking, schedule of, 158.128
- Proposed land uses; density, 158.137
- Recreational amenities, 158.143
- Residential uses, 158.132
- Schedule of use regulations, 158.125
- Service stations, 158.130
- Signs, 158.136
- Temporary use, 158.141

ZONING (Cont'd)
Variances
Board of adjustment re, 158.029
Permitted when, required conditions for, 158.029
Vested rights
Definition, 158.032
Determination procedure, 158.032
Violation, penalty, 158.049
Wireless service facilities, personal (See Personnel wireless source facilities hereunder)
Yard regulations (See also Lot, yard and bulk regulations hereunder)
Off-street parking requirements, 158.128
Zoning board of adjustment (See Board of adjustment hereunder)
Zoning compliance (See Statements of zoning compliance hereunder)
Zoning map
Adoption, interpretation, 158.007
Zoning official (See Planning and zoning official hereunder)
ZONING MAP CHANGES, T.S.O. II