

**CODE OF ORDINANCES**

**TOWN OF  
PIERSON, FLORIDA**

Published by Order of the Town Council

WAUGH GRANT PLLC  
Orlando, Florida 2022

OFFICIALS  
of the  
TOWN OF PIERSON, FLORIDA  
AT THE TIME OF THIS CODIFICATION

Samuel G.S. Bennett

*Mayor*

Samuel G.S. Bennett  
Robert Greenlund  
Thomas Larrivee  
James T. Peterson  
Sergia Cardenas

*Council Members*

Christian W. Waugh

*Town Attorney*

Carmen Spelorzi

*Town Clerk*

## PREFACE

This volume contains Part I the Code of Ordinances of the Town of Pierson, Florida.

Part I, the Code of Ordinances, constitutes the second codification of the ordinances of the Town of Pierson, containing ordinances of a general and permanent nature. As expressed in the Adopting Ordinance, the Code supersedes all such ordinances not included herein or recognized as continuing in force by reference thereto.

Source materials used in the preparation of the Code were 1987 Code, as supplemented, and the ordinances subsequently adopted by the Town Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the Comparative Table appearing in the back of this volume, the reader can locate any section of an ordinance forming the basis of a Code section.

The chapters of the Code have been arranged in alphabetical order and the various sections within each chapter have been catchline to facilitate usage. References which tie related sections of the Code together and which refer to relevant state laws have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this volume.

### *Numbering System*

The numbering system used in this Code is the same system used in many state and municipal codes. Each section number consists of two (2) component parts separated by a hyphen, the figure before the hyphen representing the chapter number and the figure after the hyphen indicating the position of the section within the chapter. Thus, the first section of Chapter 1 is numbered 1-1 and the sixth section of Chapter 2 is 2-6. Under this system each section is identified with its chapter and, at the same time, new sections or even whole chapters can be inserted in their proper places, simply by using the decimal system for amendments. By way of illustration: if new material consisting of one section that would logically come between sections 2-22 and 2-23 is desired to be added, such new section would be numbered 2-23.5. New chapters, articles and divisions may be included in the same way. Articles and divisions may also be placed at the end of the chapter or article where they belong. Care should be taken to maintain the alphabetical sequence of chapter titles.

### *Indices*

The indices have been prepared with the greatest of care. Each particular item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology and still others in language generally used by municipal officials and employees. There are numerous cross references within the indices which stand as guideposts to direct the user to the particular item in which he is interested.

### *Loose-leaf Supplements*

A special feature of this Code to which the attention of the user is directed is the loose-leaf system of binding and supplemental service. With this system, the Code will be kept up-to-date periodically. Upon the final passage of amendatory ordinances, they will be properly edited and the appropriate page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the Code, with instructions for the manner of inserting the new pages and deleting the obsolete pages. Each such amendment, when incorporated into this Code, may be cited as a part hereof, as provided in the Adopting Ordinance.

The successful maintenance of this Code up-to-date at all times will depend largely upon the holder of the volume. As revised sheets are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publishers that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

### *Acknowledgements*

The publication of this Code was under direct supervision of Christian W. Waugh of Waugh Grant PLLC as Town Attorney. Credit is gratefully given to the other staff members for their sincere interest and able assistance throughout the project.

The publishers are most grateful to all of the town officials who participated in this project. It is hoped that their efforts and those of the publishers have resulted in a Code which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

WAUGH GRANT PLLC  
Orlando, Florida

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**[CHARTER INTENTIONALLY  
DELETED]**

## CHARTER COMPARATIVE TABLE

This table shows the derivation of the Town Charter included herein and the disposition of subsequent amendments thereto.

Laws of Florida (Year)	Chapter	Section	Disposition Art./Sec.
1929	14315		I 1-11
			II 1
			III 1-7
			IV 1-3
			V 1-7
			VI 1-11
			VII 1-5
			VIII 1-6

Part I

**CODE OF ORDINANCES**

Chapter 1

**GENERAL PROVISIONS**

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

The ordinances embraced in the following chapters, articles, divisions and sections shall constitute and be designated “The Code of Ordinances, Town of Pierson,” and may be so cited. Such Code may also be cited as the “Pierson Code,” or “this Code.”

**Sec. 1-2. Definitions.**

In the construction of this Code and of all ordinances, the following words and terms shall have the meanings respectively ascribed, except where the context clearly indicates otherwise, or unless otherwise specifically defined:

*Charter.* The word “Charter” shall mean Chapter 14315 of the Laws of Florida, 1929, as amended, as printed in Part I of this volume.

*Code.* Reference to “this Code” or “the Code” shall mean the Code of Ordinances, Town of Pierson, Florida, as designated in section 1-1.

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

**State law reference** – Computation of time, Florida Rules of Civil Procedure, Rule 1.090(a).

*Council.* The words “council,” “town council” or “governing body” shall mean the town council of the Town of Pierson. The members of the council are referred to as “council members” or the “mayor and council.”

*County.* The words “the county” or “this county” shall mean Volusia County, Florida.

*Delegation of authority.* Whenever a provision appears requiring the head of a department or officer of the town to do some act or make certain inspections, it is to be construed to authorize the head of the department or officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

*Florida Statutes or F.S.* The words “Florida Statutes” or the abbreviation “F.S.” shall mean the latest edition or supplement of the Florida Statutes.

*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.

*Interpretation.* In the interpretation and application of any provision of this Code, this Code shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

*Mayor.* The word “mayor” shall refer to the mayor of the town.

*Month.* The word “month” shall mean a calendar month.

*Name of officer, department, board, etc.* The naming of an officer, department, board, etc., shall be construed as if followed by the words “of the Town of Pierson.”

*Nontechnical words and technical words.* Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired peculiar and appropriate meanings in law shall be construed and understood according to such meanings.

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

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

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

*Person.* The word “person” shall extend and be applied to individuals, children, associations, firms, joint adventures, estates, trusts, business trusts, syndicates, fiduciaries, partnerships and bodies politic and corporate, and all other groups and combinations.

*Public place.* The term “public place” shall include any park, cemetery, school yard or open space adjacent thereto and any lake, stream or waterway.

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

*Signature or subscription.* The words “signature” and “subscription” include a mark when the person cannot write.

*State.* The words “the state” or “this state” shall mean the State of Florida.

*Street.* The word “street” shall embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public high. ways in the town, and shall include the entire width of the right-of-way thereof if the sense so requires or admits.

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

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Town.* The words “the town” or “this town” shall mean the municipal corporation of Pierson, Florida, or any of its officers, agents or departments, as the sense shall require.

*Written or in writing.* The words “written” or “in writing” shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

*Year.* The word “year” shall mean a calendar year, unless otherwise specified.

**State law reference** – Construction of Florida Statutes, F.S. §1.01 et seq.

### **Sec. 1-3. Catchlines of sections.**

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

### **Sec. 1-4. History notes.**

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

### **Sec. 1-5. Editor's notes and other editorial apparatus.**

The editor's notes, cross references and state law references introduced by boldface type are intended as advisory and informational only. The editorial apparatus is not intended to be construed as the law.

### **Sec. 1-6. Code does not affect prior offenses, rights, etc.**

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of this Code.

## **Sec. 1-7. Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any ordinance promising or guaranteeing the payment of money by the town, or authorizing the issuance of any bonds of the town, or any evidence of the town's indebtedness, or any contract or obligation assumed by the town;
- (2) Any administrative ordinances;
- (3) Any right or franchise granted by any ordinance;
- (4) Any ordinance establishing positions, classifying positions and setting salaries of town employees;
- (5) Any appropriation ordinance or any ordinance levying or imposing taxes;
- (6) Any ordinance providing for local improvements and assessing taxes therefor;
- (7) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing or vacating any street, alley or other public way in the town;
- (8) Any ordinance establishing and prescribing the street grades in the town;
- (9) Any ordinance prescribing traffic and parking regulations for specific streets and locations;
- (10) Any ordinance establishing the official plat of the town;
- (11) Any ordinance annexing territory or excluding territory from the town;
- (12) Any subdivision ordinance;
- (13) Any ordinance dedicating or accepting any plat or subdivision in the town;
- (14) Any ordinance establishing a comprehensive plan or any amendments thereto;
- (15) Any zoning ordinance;
- (16) Any zoning map amendment or rezoning ordinance;
- (17) Any temporary or special ordinance;
- (18) Any provision of Laws of Florida, 1929, Chapter 14315, as amended, the Charter of the town, or any other special act which has been converted to ordinance by operation of section 166.021, Florida Statutes;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

### **Sec. 1-8. Supplementation of Code.**

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the town. A supplement to the Code should include all substantive, permanent and general parts of ordinances passed by the council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code, and should also include all amendments to the Charter enacted during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages should be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter" "this article" "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1-9. Amendments to Code; effect of new ordinances; amendatory language.**

(a) All ordinances passed subsequent to the effective date of this Code which amend, repeal or in any way affect this Code of Ordinances may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages.

(b) Amendments to any of the provisions of this Code may be made by specific reference to the section number of this Code in substantially the following language: "That section \_\_\_\_\_ of the Code of Ordinances, Town of Pierson, Florida, is hereby amended to read as follows: \_\_\_\_\_." The new provisions may then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered \_\_\_\_\_, which section reads as follows: \_\_\_\_\_." The new section may 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.

**Sec. 1-10. Effect of repeal of ordinances.**

(a) The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.

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

**State constitutional law reference** – No bill of attainder, ex post facto law or law impairing the obligation of contracts shall ever be passed, Fla. Const. Art. I, § 10.

**State law reference** – Procedure for adoption of ordinances and resolutions, F.S. § 166.041.

**Sec. 1-11. Severability of parts of Code.**

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

**Sec. 1-12. General penalty; continuing violations.**

(a) Whenever in this Code any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such

provision of this Code shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days, or by both a fine and imprisonment. 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 hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be abated by the city, as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

**State law references** – Fines and forfeitures in county court payable to municipality, F.S. § 34.191; punishment for misdemeanors, F.S. §§ 775.082, 775.083.

Chapter 2

**ADMINISTRATION<sup>1\*</sup>**

- Art. I. In General, §§ 2-1–2-20**
- Art. II. Town Council, §§ 2-21–2-30**
- Art. III. Personnel, § § 2-31–2-70**
  - Div. 1. Generally, §§ 2-31–2-50
  - Div. 2. Old Age and Survivors' Insurance, §§ 2-51–2-70
- Art. IV. Departments and Other Agencies, §§ 2-71–2-83**
  - Div. 1. Generally, § § 2-71–2-80
  - Div. 2. Public Works Department, §§ 2-81–2-83
  - Div. 3. Emergency Management Program §§ 2-84 – 2-93

**ARTICLE I. IN GENERAL**

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered 2-1, which section reads as follows:

**Sec. 2-1. Transfer of Funds**

The Town Clerk, with approval of the Chairman of the Town Council and the Town auditor, is authorized to transfer funds within the General Fund, as may be needed, to cover payment of line item expenses which exceed the approved budget line item.

(Ord. No. 98-1, § 1, 1-13-98)

**Secs. 2-2–2-20. Reserved.**

**ARTICLE II. TOWN COUNCIL**

**Sec. 2-21. Meetings.**

(a) *Regular meetings.* The regular meetings of the town council shall be held in such building in the town and at such hour as from time to time the council, by resolution, may designate.

(b) *Special meetings.* Special meetings of the council may be called by the mayor or the chairman of the council or any two (2) members thereof by giving reasonable notice to all members of the council that can be found in the town.

(Ord. No. 1, § 8, 9, 8-16-27)

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<sup>1</sup> \*Cross references – Alcoholic beverages, Ch. 4; animals and fowl, Ch. 5; buildings and building regulations, Ch. 6; licenses and business regulations, Ch. 13; offenses and miscellaneous provisions, Ch. 15; traffic and motor vehicles, Ch. 20; zoning, App. A; airport zoning, App. B.

## **Sec. 2-22. Chairman.**

(a) *Election.* The town council shall at its first regular meeting after each annual election, or as soon thereafter as convenient, elect one (1) of its members chairman of the council.

(b) *Duties; election of chairman pro tem.* The chairman of the town council shall preside at all the meetings thereof, and shall have power to enforce such rules and regulations as may be adopted by the town council for its government. In his absence, the town council shall elect one of its members chairman pro tem who shall in all respects discharge the duties of the chairman.

(c) *When to act as mayor.* In case of absence, illness, disqualification, or other disability of the mayor, the chairman of the town council shall act as mayor and perform all his duties, and while so acting as mayor shall be disqualified from presiding over the council when considering or passing any ordinance.

(Ord. No. 1, §§ 1-3, 8-16-27)

## **Sec. 2-23. Quorum.**

Three (3) council members shall constitute a quorum of the town council for the transaction of business.

(Ord. No. 1 § 4, 8-16-27)

## **Sec. 2-24. Voting.**

No member shall vote on any question in which he has a personal interest. Each member, including the chairman, shall vote when his name is called, unless excused by unanimous consent. In the case of a tie vote, the proposition voted upon shall be decided as lost.

(Ord. No. 1, § 7, 8-16-27)

**State law references** – Code of ethics for public officers and employees, § 112.311 et seq.; voting requirement at meetings of governmental bodies, F.S. § 286.012.

## **Sec. 2-25. Appointment of committees.**

Immediately after the organization of the council, or as soon thereafter as may be practicable, the chairman shall, with the approval of the town council, appoint the standing committees, which shall consist of three (3) members each.

(Ord. No. 1, § 5, 8-16-27)

## **2-26–2-30. Reserved.**

## **ARTICLE III. PERSONNEL**

### **DIVISION 1. GENERALLY**

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered 2-31, which section reads as follows:

#### **Sec. 2-31. New personnel rules.**

The Town of Pierson hereby adopts new Personnel Rules and Regulations, attached to Ordinance No. 94-6 as Exhibit A, and all previous Personnel Rules and Regulations are repealed in their entirety and replaced.

(Ord. No. 94-6, § 1, 2, 9-13-94)

#### **2-32–2-50. Reserved.**

### **DIVISION 2. OLD AGE AND SURVIVORS' INSURANCE**

#### **Sec. 2-51. Policy and purpose.**

It is the policy and purpose of the town to extend, effective as of January 1, 1973, to the employees and officials thereof not excluded by law nor excepted herein, the benefits of the system of Old Age and Survivors' Insurance as authorized by the Federal Social Security Act and amendments thereto, and by Chapter 650, Florida Statutes, as amended, and to cover by such plan all services which constitute employment as defined in Section 650.02, Florida Statutes, performed in the employ of the town by employees and officials thereof.

(Ord. No. 75, § 1, 1-1-73)

#### **Sec. 2-52. Exclusions.**

There is excluded from this division any authority to include in any agreement entered into under section 2-53 hereof any service, position, employee, or official now covered by or eligible to be covered by an existing retirement system.

(Ord. No. 75, § 2, 1-1-73)

#### **Sec. 2-53. Execution of agreement; administration.**

The chairman of the town council is hereby authorized and directed to execute all necessary agreements and amendments thereto with the 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 the town as provided in sections 2-51 and 2-52 hereof, which agreement shall provide for such methods of administration of the plan by the town as are found by the state agency to be necessary

and proper. The agreements shall be effective with respect to services in employment covered by such agreement performed on and after the first day of October, 1972.

(Ord. No. 75, § 3, 1-1-73)

**Sec. 2-54. Employee contributions.**

Withholdings from salaries, wages, or other compensation of employees and officials for the purpose provided in section 2-51 hereof are hereby authorized to be made, and shall be made, in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state agency designated by said laws or regulations to receive such amounts.

(Ord. No. 75, § 4, 1-1-73)

**Sec. 2-55. Town contributions.**

There shall be appropriated from available funds, derived from ad valorem taxes, such amounts at such times as may be required to pay promptly the contributions and assessments required of the town as employer by applicable state or federal laws or regulations, which shall be paid over to the lawfully designated state agency at the times and in the manner provided by law and regulation.

(Ord. No. 75, § 5, 1-1-73)

**Sec. 2-56. Records and reports.**

The town shall keep such records and make such reports as may be required by applicable state or federal laws or regulations, and shall adhere to the regulations of the state agency.

(Ord. No. 75, § 6, 1-1-73)

**Sec. 2-57. Related laws adopted.**

The town hereby 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 of all officers and employees of its departments and agencies to be covered under the agreement.

(Ord. No. 75, § 7, 1-1-73)

**Sec. 2-58. Duties of town clerk regarding funds, reports and records.**

The clerk of the town 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 clerk of the town is made the withholding and reporting agent and charged with the duty of maintaining personnel records for the purposes of this division.

(Ord. No. 75, § 8, 1-1-73)

**Secs. 2-59 - 2-70. Reserved.**

## **ARTICLE IV. DEPARTMENTS AND OTHER AGENCIES**

### **DIVISION 1. GENERALLY**

**Secs. 2-71 - 2-80. Reserved.**

### **DIVISION 2. PUBLIC WORKS DEPARTMENT<sup>2\*</sup>**

**Sec. 2-81. Created.**

There is hereby created a Pierson Public Works Department.

(Ord. No. 84, § 1, 7-9-74)

**Sec. 2-82. Authority; duties.**

The public works department shall have the authority to supervise, plan and implement the routine management of all public works within the municipal limits, including, but not limited to, streets, rights-of-way, drainage, sidewalks, lighting, refuse and waste disposal, and the municipal airport. Expenditures of public monies and contracts therefor shall be presented and approved to the town council in the regular manner.

(Ord. No. 84, § 2, 7-9-74)

**Sec. 2-83. Director; appointment and compensation.**

The department of public works shall be under the authority and control of the director of public works who shall be appointed by the town council. A member of the town council may be the director of the public works department, and as such becomes an employee of the town and may be compensated for his duties as such.

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<sup>2\*</sup>**Cross references** – Buildings and building regulations, Ch. 6; environmental protection, Ch. 9; health and sanitation, Ch. 12; streets and sidewalks, Ch. 18; ning, App, A; airport zoning, App. B.

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a division to be named Division 3, Emergency Management Program, which reads as follows:

### DIVISION 3. EMERGENCY MANAGEMENT PROGRAM

#### **Sec. 2-84. Created.**

There is hereby created the Town of Pierson Comprehensive Emergency Management Plan.

(Ord. No. 99-1, § 1, 6-23-99)

#### **Sec. 2-85. Definitions.**

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

Attack means a direct or indirect assault against the city, its government, its environs, or of the nation, by the forces of a hostile nation or the agents thereof, including assault by bombing, radiological, chemical or biological warfare, or sabotage.

Coordinator means the coordinator of the Town Office of Emergency Management, appointed as prescribed in this chapter.

Emergency Management Director means the chairman of the Town Council, or at the time of any declaration of state of emergency, or in the event of the physical disability or absence from the city of the chairman, the vice-chairman of the city who is physically present within the city and physically qualified to assume the duties of the director, and who is next in precedence according to the order of succession set forth herein.

Emergency means any occurrence, or threat thereof, whether accidental, natural, technological or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property within the city.

Emergency management, in its broad meaning, means to carry out the basic government functions of maintaining the public peace, health and safety during an emergency. This shall include the formulation of plans and preparation for protection from, and relief, recovery and rehabilitation from, the effects of an emergency, as defined herein, and shall also include the effects of an attack on the city by the forces of an enemy nation or the agents thereof. It shall not, however, include any activity that is the primary responsibility of the military forces of the United States or other federal agencies.

Emergency management force means the employees, equipment and facilities of all city departments, boards and institutions and, in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.

Emergency management volunteer means any person duly registered, identified and appointed by the coordinator of the office of emergency management and assigned to participate in the emergency management activity.

Regulations include plans, programs and any other emergency procedures deemed essential to the emergency management as promulgated by legally constituted authority.

Volunteer means contributing a service, equipment or facilities to the emergency management organization without remuneration.

## **Sec. 2-86. General Emergency Management Powers and Duties.**

(a) Emergency Management Director. The Director shall have the following general powers and duties relating to emergency management:

(1) The emergency management director shall order emergency management forces to the aid of other communities when required in accordance with mutual-aid agreements or applicable state.

(2) The Emergency Management Director may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life and property of the people, and bind the city for the fair value thereof.

(3) The Emergency Management Director may require emergency services of any city employee or appointive officer. If regular city forces are determined inadequate, the Emergency Management Director may require the services of such other personnel as he can obtain that are available, including citizen volunteers. All duly authorized person rendering emergency services shall be entitled to the privileges and immunities as are provided by state statute, the city charter and ordinances for regular city employees and other registered and identified emergency management workers and, upon demand, may receive appropriate compensation for their emergency employment.

(4) The Emergency Management Director will cause to be prepared the basic plan herein referred to and will exercise his ordinary powers as chairperson of the Town Council, all the special powers conferred upon him or her by the city charter and this Code and all powers conferred upon him or her by any statute or any other lawful authority.

## **Sec, 2-87. Creation; filing.**

The Town of Pierson, Florida shall create an Emergency management program which shall be placed on file with the city clerk.

Upon a declaration of a state of emergency promulgated by the chairman; or the vice chairman in the event of incapacitation or absence of the chairman from the city; or in the absence from the city or incapacitation of both the chairman and the vice chairman, then such successive promulgation may be any city council member in order of tenured service on the Town Council.

**Sec. 2-88. Reserved.**

**Sec. 2-89. Declaration of state of emergency.**

(a) A state of emergency shall be declared by executive order when a promulgating authority finds pursuant to Section 252.38(3)(a)5, Florida Statutes, that an emergency has occurred or that the threat thereof is imminent.

(b) The initial duration of any state of emergency declared shall be seven (7) days. When necessary, a state of emergency may be extended by executive order in seven (7) day increments.

(c) Any declaration of a state of emergency may be altered or rescinded either by the issuance of a subsequent executive order or by an appropriate resolution of the city council.

**Sec. 2-90. Emergency Management Powers.**

(a) Upon declaration of a state of emergency, the Emergency Management Director has the power and authority to direct and compel the evacuation of all or part of the population from the stricken or threatened areas within the city if the director deems this action necessary for the preservation of life or other emergency mitigation, response or recovery.

(b) Upon declaration of a state of emergency, the director has the power and authority to waive the procedures and formalities otherwise required of the city by law or ordinance pertaining to:

- (1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety and welfare of the community;
- (2) Entering into contracts;
- (3) Incurring obligations;
- (4) Employment of permanent and temporary workers;
- (5) Utilization of emergency management volunteers;
- (6) Rental of equipment;
- (7) Acquisition and distribution, with or without compensation, of supplies, materials and facilities; and
- (8) Appropriation and expenditure of public funds.

(c) During the existence of a state of emergency, the director has the power and authority to impose by executive order any or all of the following restrictions:

(1) Prohibit or regulate the purchase, sale, transfer or possession of explosives, combustibles, firearms, dangerous weapons of any kinds, or alcoholic beverages;

(2) Prohibit or regulate any demonstration, parade, march, vigil or participation therein from taking place on any public right-of-way or upon any public property;

(3) Prohibit or regulate the sale or use of gasoline, kerosene, naphtha, or any other explosive or flammable fluids or substances altogether, except by delivery into a tank properly affixed to an operable vehicle;

(4) Prohibit or regulate the participation in or carrying on of any business activity, and prohibit or regulate the keeping open of places of business, places of entertainment, and any other place of public assembly;

(5) Prohibit or regulate travel upon any public street, highway or upon any other public property. Persons in search of medical assistance, food or other commodity or service necessary to sustain the well being of themselves or their families or some member thereof may be exempted or excepted from such prohibition or regulation;

(6) Impose a curfew upon all or any portion of the city thereby prohibiting persons from being on public streets, highways, parks, or other public places during the hours when the curfew is in effect;

(7) Prohibit state and/or local business licensees, vendors, merchants, and any other person operating a retail business from charging more than the normal average retail price for any goods, materials or services sold during a declared state of emergency; except when the wholesale price or the cost of obtaining the merchandise is increased as a result of the emergency. The average retail price as used herein is defined to be that price at which similar merchandise or services has been sold during the ninety (90) day period immediately preceding the declared state of emergency. Notwithstanding anything in the foregoing to the contrary, the average retail price may be increased, but only to the degree that the maximum increase in retail price shall be a percentage less than or equal to the amount representative of the average mark-up percent between wholesale and average retail price for any merchandise during the ninety (90) day period immediately preceding the declared state of emergency;

(8) Prohibit any person, firm or corporation from using the fresh water supplied by the city for any purpose other than cooking, drinking or bathing.

(d) The executive orders of the director may exempt, from all or part of any restrictions, physicians, nurses and ambulance operators performing medical services, on-duty employees of hospitals and other medical facilities, on-duty military personnel, bona fide members of the news media, personnel of public utilities maintaining essential public services, city authorized and

requested firefighters, law enforcement officers and personnel, and such other classes of persons as may be essential to the preservation of public order or necessary to serve safety, health and welfare needs of the people within the city.

(e) Pursuant to Section 252.46(s), Florida Statutes, all executive orders and emergency rules imposed by the director pursuant to this section shall be reduced to writing as soon as possible, filed with the office of the city clerk, and concurrently posted prominently upon the premises then serving as the headquarters of city governmental operations. Further, copies of all such executive orders and emergency rules shall be delivered as soon as possible to representatives of the print and electronic news media and all appropriate law enforcement officers and other appropriate government administration officials.

(f) All executive orders and emergency rules issued under this section shall indicate the nature of the emergency, the threatened area or areas of the city, and the conditions creating the disaster or threat. The content of such orders shall be promptly disseminated to the general public and to the governing bodies of the city and Volusia County.

(g) During the existence of a state of emergency, the town council may convene to perform its legislative powers as the situation demands, and shall receive reports relative to emergency management activities. Nothing in this article shall be construed as abridging or curtailing the powers or restrictions of the town council as defined in the city charter.

#### **Sec. 2-91. Order of succession for director.**

During a state of emergency, if due to physical absence from the city, injury or illness, or any other type of incapacitation, the chairman of the Town Council is unable to serve as director or unable to fully exercise the emergency powers may be executed by the town officer next in the following order of succession, who shall serve as acting director until the removal of such disability which prevents the chairman from acting as director:

(1) Vice chairman.

(2) City commissioner in order longest time served on the city council.

#### **Sec. 2-92. Termination of state of emergency.**

The terms imposed by executive order or emergency rule through orders or actions of the director under the authority of this ordinance shall terminate upon a declaration made by any competent and appropriate authority ending the state of emergency.

#### **Sec. 2-93. Violation of regulations.**

It shall be unlawful for any person to violate any of the provisions of this chapter or of the regulation, plans, executive orders or emergency rules issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the emergency management

organization, as herein defined, in the enforcement of the provisions of this chapter or any regulation, or plan, executive order or emergency rule issued thereunder.

(Ord. No. 99-1, §§ 1-9, 6-23-99)

Chapter 3

**RESERVED**

## Chapter 4

### ALCOHOLIC BEVERAGES<sup>3\*</sup>

#### Sec. 4-1. Definition.

That section 4-1, of the Code of Ordinances, Town of Pierson, Florida, is hereby amended to read as follows:

Definitions contained in F.S. chs. 561, 562, 563, 564, 565, 567, and 568 (the Beverage Law) are hereby adopted as the definitions for purposes of this section. These definitions are reflected below:

(1) "Division" means the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.

(2) "Department" means the Department of Business and Professional Regulation.

(3) "State bonded warehouse" means any licensed warehouse used to store alcoholic beverages.

(4) (a) "Alcoholic beverages" means distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume.

(b) The percentage of alcohol by volume shall be determined by measuring the volume of the standard ethyl alcohol in the beverage and comparing it with the volume of the remainder of the ingredients as though said remainder ingredients were distilled water.

(5) "Intoxicating beverage" and "intoxicating liquor" mean only those alcoholic beverages containing more than 4.007 percent of alcohol by volume.

(6) "The Beverage Law" means this chapter and chapters 562, 563, 564, 565, 567, and 568.

(7) "Manufacturer" means all persons who make alcoholic beverages except those who make beer or wine for personal or family consumption pursuant to s. 562.165

(8) (a) "Tax" means all taxes or payments required under the Beverage Law.

(b) "There shall be paid" means "there is hereby levied and imposed and shall be paid."

(9) "Sale" and "sell" mean any transfer of an alcoholic beverage for a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than

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<sup>3\*</sup>State law reference – Liquors and beverages, § 561.01 et seq.

an alcoholic beverage for a consideration, or the serving of an alcoholic beverage by a club licensed under the Beverage Law.

(10) "Discount in the usual course of business" means a cash or spirituous or vinous beverage merchandise discount given pursuant to an agreement made at the time of sale. However, such agreement shall not result in an accrued, accumulated, or retroactive discount. The same discounts shall be offered to all vendors of the same license series or type buying similar quantities. Any discount which is in violation of this section shall be considered an arrangement for financial assistance by gift.

(11) "Licensed premises" means not only rooms where alcoholic beverages are stored or sold by the licensee, but also all other rooms in the building which are so closely connected therewith as to admit of free passage from drink parlor to other rooms over which the licensee has some dominion or control and shall also include all of the area embraced within the sketch, appearing on or attached to the application for the license involved and designated as such on said sketch, in addition to that included or designated by general law. The area embraced within the sketch may include a sidewalk or other outside area which is contiguous to the licensed premises. When the sketch includes a sidewalk or other outside area, written approval from the county or municipality attesting to compliance with local ordinances must be submitted to the division to authorize inclusion of sidewalks and outside areas in licensed premises. The division may approve applications for temporary expansion of the licensed premises to include a sidewalk or other outside area for special events upon the payment of a \$100 application fee, stipulation of the timeframe for the special event, and submission of a sketch outlining the expanded premises and accompanied by written approval from the county or municipality as required in this subsection. All moneys collected from the fees assessed under this subsection shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund.

(12) "Special airport license" means a vendor license to sell certain alcoholic beverages only on those airport premises which have been designated in the 'United States National Airport System Plan, 49 U.S.C. s. 1711, as air carrier airports, commuter airports, and reliever airports.

(13) "Airport terminal" means the airport passenger handling facilities or premises publicly owned or leased by a county, municipality, or public authority at airports which have been designated in the 'United States National Airport System Plan, 49 U.S.C. s. 1711, as air carrier airports, commuter airports, and reliever airports.

(14) "Licensee" means a legal or business entity, person, or persons that hold a license issued by the division and meet the qualifications set forth in s. ~

(15) "Bottle club" means a commercial establishment, operated for a profit, whether or not a profit is actually made, wherein patrons consume alcoholic beverages which are brought onto the premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the premises, and which is located in a building or other enclosed permanent structure. This definition does not apply to sporting facilities where events sanctioned by nationally recognized regulatory athletic or sports associations are held, bona fide restaurants licensed by the

Division of Hotels and Restaurants of the Department of Business and Professional Regulation whose primary business is the service of full course meals, or hotels and motels licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(16) "Exporter" means any person that sells alcoholic beverages to persons for use outside the state and includes a ship's chandler and a duty-free shop.

(17) "Performing arts center" means a facility consisting of not less than 200 seats, owned and operated by a not-for-profit corporation qualified as an exempt organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1986 or of the corresponding section of a subsequently enacted federal revenue act, which is used and occupied to promote development of any or all of the performing, visual, or fine arts or any or all matters relating thereto and to encourage and cultivate public and professional knowledge and appreciation of the arts through:

(a) The preparation, production, public presentation, or public exhibition of dramatic or musical works, dance, opera, motion pictures, television, music, recordings, or works of fine, performing, or visual arts of any nature;

(b) The conducting of lectures, seminars, classes, or workshops for development of skills or techniques related to the practice or appreciation of any or all of these arts;

(c) The broadcast or telecast of the performing or visual arts through whatever means is desirable, including, but not limited to, television, radio, cable, or the latest state-of-the-art media, equipment, or techniques;

(d) The reproduction of the performing, visual, or fine arts through motion pictures, videotapes, video disks, delayed presentations, sound recordings, or whatever in the future becomes a viable means or state-of-the-art;

(e) The provision of banquet, concession, or other on-premises food and alcoholic and nonalcoholic beverage activities;

(f) The conduct of retail activities reasonably related to the other uses of the facility;

(g) The conduct of fundraising activities reasonably related to the arts;

(h) The provision of auxiliary services for performing or visual artists, educators, students, or the public which are necessary or desirable to promote or facilitate the foregoing uses, including, but not limited to, the publication and dissemination of any or all materials related to the foregoing;

(i) The conduct of rehearsals, conventions, meetings, or commercial or other activities; or

(j) Such other activities for the promotion and development of the arts not described in paragraphs (a)-(i) as the not-for-profit corporation determines, provided that no such

activity is inconsistent with or otherwise violates any applicable statute, ordinance, or regulation.

(18) "Entertainment/resort complex" means a theme park comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owner(s)/operators(s) of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity shall include an area within a 5-mile radius of the theme park complex.

(19) "Common carrier" means any person, firm, or corporation that undertakes for hire, as a regular business, the transportation of persons or commodities from place to place, offering its services to all who choose to employ it and pay its charges.

(20) "Permit carrier" means a licensee authorized to make deliveries as provided in s. 561.57

(21) For purposes of license qualification pursuant to s. 561.20(2)(a) 1. the term "historic structure " means a structure that is listed on the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, or is within and contributes to a registered historic district pursuant to 26 U.S.C. s. 48(g)(3)(B), or has been found to meet the criteria of historical significance of the Division of Historical Resources of the Department of State, as certified by that division or by a locally established historic preservation board or commission, or like body, which has been granted authority to designate historically significant properties by the jurisdiction within which the hotel or motel is located.

(Ord. No. 93-6, § 1, 8-10-93; Ord. No. 05-05; § 1, 9-13-05)

#### **Sec. 4-2. Exceptions to chapter provisions.**

That section 4-2, of the Code of Ordinances, Town of Pierson, Florida, is hereby amended to read as follows:

- (a) None of the provisions of this chapter shall apply to ethyl alcohol intended for use and/or used for the following purposes:
  - (1) Scientific, chemical, mechanical, industrial and/or medicinal purposes.
  - (2) Patented, patent, proprietary, medicinal, pharmaceutical, antiseptic, toilet, scientific, mechanical and/or industrial preparations or products unfit for beverage purposes.
  - (3) Flavoring extracts and syrups unfit for beverage purposes.

- (b) None of the provisions of this chapter shall apply to beverages served upon any dining, club, parlor, buffet, or observation car operated on any railroad, but such beverages may sold only to passengers upon such cars and must be served for consumption herein.

(Ord. No. 93-6, § 1, 8-10-93; Ord. No. 05-05; § 1, 9-13-05)

#### **Sec. 4-3. Where consumption prohibited.**

(a) *Public property.* It shall be unlawful for any person to consume any alcoholic beverage on the streets, sidewalks, thoroughfares, or on any public property in the Town of Pierson.

(b) *Commercial establishments.* It shall be unlawful for any person to consume any alcoholic beverage on private property which is operated as a commercial establishment to which the public is customarily invited, including parking lots and vacant land adjacent to said commercial property and under control of the owner thereof, if the owner of such commercial establishment posts a clearly visible legible sign containing a warning that the consumption of alcoholic beverages on the premises is strictly forbidden.

(c) *In motor vehicles.* It shall be unlawful for any person to consume any alcoholic beverages in any motor vehicle, whether moving or not, whether said motor vehicle is located on public property and whether said consumption is during daylight hours or nighttime hours. Any container containing alcoholic beverages which is in the vehicle and which the original seal has been broken on and which has been opened, if it is readily accessible by the occupants of the vehicle, shall raise a presumption that said alcoholic beverages are being consumed in the motor vehicle. The owner or person having the vehicle under his immediate possession and control at the time alcoholic beverages are consumed therein shall be deemed in violation of this section, as well as the person actually consuming said beverages.

**Cross reference** – Streets and sidewalks, Ch. 18; traffic and motor vehicles, Ch. 20.

#### **Sec. 4-4. Hours of sale.**

That section 4-4, of the Code of Ordinances, Town of Pierson, Florida, is hereby amended to read as follows:

The sale of intoxicating liquors; wines and beers is hereby prohibited between the hours of 12:00 midnight and 7:00 a.m., weekdays, and between the hours of 12:00 midnight Saturday and 7:00 a.m. Monday.

(Ord. No. 93-6, § 1, 8-10-93; Ord. No. 05-05; § 1, 9-13-05)

#### **Sec. 4-5. Distance of licensed establishment from schools and churches.**

That section 4-5, of the Code of Ordinances, Town of Pierson, Florida, is hereby amended to read as follows:

(a) Except for locations that are licensed as restaurants, which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages, pursuant to chapter 509, F.S., establishment licensed to sell alcoholic beverages for on-premises consumption may not be located within 500 [1,000] feet of the real property that comprises a public or private elementary school, middle school, or secondary school [or an established church or house of worship] unless the Town Council approves the location as promoting the public health, safety, and general welfare of the community under proceedings as provided in s. 166.041 (3)(c), F.S. This restriction shall not, however, be construed to prohibit the issuance of temporary permits to certain nonprofit organizations as provided for ins. 561.422, F.S.

(b) This section shall not be construed to prevent any established church from using wine as sacramental wine or in connection with religious services.

(Ord. No. 93-6, § 1, 8-10-93; Ord. No. 05-05; § 1, 9-13-05)

**Sec. 4-6. Alcohol Content in Various Beverages.**

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered 4-6, which section reads as follows:

<b>BEVERAGE</b>	<b>PERCENT ALCOHOL</b>	<b>PROOF</b>
BEER	4 – 6	8 – 12
WINE	7 – 15	14 – 30
CHAMPAGNE	8 – 14	16 – 28
DISTILLED SPIRITS	40 – 95	80 – 190

(Ord. No. 93-6, § 1, 8-10-93; Ord. No. 05-05; § 1, 9-13-05)

**Sec. 4-7. Penalties.**

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered 4-6, which section reads as follows:

The minimum fine for violation of this Ordinance is \$50.00 and the maximum fine is \$500.00 and Sixty (60) Days confinement in the County Jail.

(Ord. No. 93-6, § 1, 8-10-93; Ord. No. 05-05, § 1, 9-13-05)

**Cross references** – Zoning, App. A.

Chapter 5

**ANIMALS AND FOWL**

**Art. I. Fowl, §§ 5-1–5-20**

**Art. II. Dogs and Cats, §§ 5-21–5-68**

Div. 1. Generally, §§ 5-21–5-30

Div. 2. Rabies Vaccination and Licensing, §§ 5-31–5-35

Div. 3. Animal Control Ordinance §§5-36 – 5-68

**ARTICLE I. IN GENERAL**

**Sec. 5-1. Town limits declared bird sanctuary.**

It shall be unlawful to trap, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob their nests. Provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of Volusia County, then in such event such health authorities shall meet with representatives of the audubon society, garden club or humane society, after having given at least three (3) days' actual notice of the time and place of such meeting. If no satisfactory alternative is found to abate such nuisance, then such birds may be destroyed in such numbers and in such manner as is deemed advisable by the health authorities under the supervision of the town chief of police.

(Ord. No. 69, 5-13-69)

**Cross reference** – Health and sanitation, Ch. 12.

**Secs. 5-2 – 5-20 Reserved.**

**ARTICLE II. DOGS AND CATS**

**DIVISION 1. GENERALLY**

**Sec. 5-21. Definitions.**

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

*Animal under restraint* means any dog or cat secured by a leash or lead or confined within a vehicle or confined within the real property limits of its owner.

*At large* means a dog or cat not under restraint (whether licensed or unlicensed) and off the premises of \_the owner. Dogs used for hunting purposes may be permitted to run free for training and/or hunting when accompanied in the field by the owner or his agent.

*Domesticated dogs and cats* means dogs and cats such as are accustomed to live in or about the habitation of humans.

*Kennel* means any facility where four (4) or more dogs or cats are kept for sale, breeding, boarding or treatment purposes, or any premises where four (4) or more dogs or cats, six (6) months or older, are kept, harbored and maintained. In any instance where a kennel exists, then a facility shall be maintained which provides adequate fencing to hold the animals kept there within the kennel, a concrete slab with not less than one (1) square yard of surface area per animal, adequate drainage to allow for daily cleaning and an adequate drywell to hold the animal waste.

*Owner* means any person owning, keeping, harboring or acting as custodian of a domesticated dog or cat.

(Ord. of 5-14-85, § 1)

**Sec. 5-22. Running at large.**

No owner or custodian shall permit a dog or cat to be at large within the city or its parks.

(Ord. of 5-14-85, § 2)

**Sec. 5-23. Creating a nuisance.**

No owner or custodian shall allow:

- (1) Any dog or cat to frequently bark, whine or howl.
- (2) Any dog to chase or run after persons or vehicles.
- (3) Any dog or cat to destroy or damage any property of another person.

(Ord. of 5-14-85, § 3)

**Cross reference** – Disorderly conduct, § 15-3.

**Sec. 5-24. Duty of person striking animal with a vehicle.**

Any person who knows he has struck a dog or cat with a vehicle shall take such dog or cat to a veterinarian or immediately notify either the owner of the animal, the chief of police or the animal control officer.

(Ord. of 5-14-85, § 4)

**Cross reference** – Operation of vehicles generally, § 20-21 et seq.

**Secs. 5-25 - 5-30. Reserved.**

## DIVISION 2. RABIES VACCINATION AND LICENSING

### **Sec. 5-31. Vaccination-Required; certificate; exceptions.**

(a) Annually, every person who owns and/or harbors any dog or cat in the city shall have such dog or cat vaccinated against rabies, as prescribed by regulations authorized by this article, by a licensed veterinarian of his choice. Evidence of such vaccination shall consist of a current county certificate issued and signed by the veterinarian administering the vaccine. However, no animal need be vaccinated where:

(1) A licensed veterinarian has examined the animal and certified that at such time vaccination would endanger its health because of its age, infirmity, debility, illness, or other medical consideration; and

(2) Such exception certificate is presented to the city clerk within five (5) days of such examination.

However, the animal shall be vaccinated against rabies as soon as its health permits.

(b) The cost of the rabies vaccination shall be borne by the owner of the animal.

(Ord. of 5-1-85, § 5)

### **Sec. 5-32. Same-Designation of qualified persons.**

All veterinary doctors actively engaged in the practice of that profession in the state who are duly registered and licensed as such by the state are hereby authorized to vaccinate dogs and cats against rabies and to execute county certificates of vaccination thereof as provided by law.

(Ord. of 5-14-85, § 6)

### **Sec. 5-33. Same-Certificate.**

Upon vaccination, the veterinarian administering the vaccine shall execute and furnish to the owner of the animal as evidence thereof, a certificate upon a form furnished by the county.

(Ord. of 5-14-85, § 7)

### **Sec. 5-34. License-Required.**

No dog or cat shall be permitted to be or remain in the city without being annually licensed as hereinafter provided.

(Ord. of 5-14-85, § 8)

**Sec. 5-35. Same-Tags.**

(a) *Issuance; fee; term.* Each owner of any dog or cat in the city shall present a certificate of rabies vaccination to the city clerk. Upon paying a license fee of three dollars (\$3.00) for any dog or cat, the city clerk shall issue a serially numbered city tag bearing the month and year of issuance to be attached to the collar or harness of the animal. Such licenses shall run for a period of one (1) year from the date of issuance.

(b) *Duplicate tags.* If a dog or cat license tag is lost, the owner shall obtain another by presentation of the original certificate to the city clerk and payment of a fifty cent (\$0.50) fee.

(Ord. of 5-14-85, §§ 9, 10)

DIVISION 3. ANIMAL CONTROL ORDINANCE

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a division to be named Division 3. Animal Control, which division reads as follows:

**Sec. 5-36. Purpose.**

Enforcement standards are hereby established in regards to controlling the animal population in the Town of Pierson, for the health, safety, and general welfare of its residents.

**Sec. 5-37 Applicability.**

This ordinance shall apply to and be enforced in the incorporated areas of the town.

**Sec. 5-38. Definitions.**

The following words and phrases, when used in this ordinance shall have the meanings respectively ascribed to them:

1. *Adult animal* means any dog or cat over the age of six months.
2. *Animal* shall mean dogs, cats, fowl or other domesticated animal.
3. *Animal control authority* means an entity acting alone or in concert with the town and authorized by the town to enforce the animal control laws of the town, county or state.
4. *Animal control officer* means any individual employed or contracted with the town for the purpose of aiding in the enforcement of this article relating to the licenser of animals, control of animals or seizure and impoundment of animals and includes any law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

5. *Animal exposed to rabies* shall mean an animal bitten by or associated with any animal determined by the county health officer or the animal control officer to be infected with rabies.
6. *Animal quarters* means the premises and all buildings, pens, yards and their appurtenances used for the keeping of dogs, cats, grazing animals and poultry.
7. *Animal under restraint* shall mean any animal secured by a leash, chain, rope, or lead or confined within a vehicle or confined within the property limits of any parcel of land with the animal owner's consent or confined within a crate or a pen. Any animal in an open vehicle is to be tethered so that the animal cannot reach any side of the vehicle.
8. *At large* shall mean any animal not under restraint (whether licensed or unlicensed) and off the premises of the owner.
9. *Boarding kennel* shall be defined as any facility or business operation where one or more dogs or cats are kept, maintained, cared for or boarded overnight.
10. *Town* shall mean the Town of Pierson or the administration of the Town of Pierson, Florida.
11. *Control* means the regulations or the possession, ownership, care and custody of animals.
12. *Cruelty* means any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal.
13. *Dangerous animal* shall mean any animal which has made an unprovoked attack on any person or any animal, or which has been trained to attack on command.
14. *Dangerous Dog* means any dog that, according to the records of the appropriate authority:
  - A. Has aggressively bitten, attacked, endangered or has inflicted severe injury on a human being on public or private property;
  - B. Has more than once severely injured or killed a domestic animal while off the owner's property;
  - C. Has been used primarily or in part for the purpose of dogfighting or is a dog trained for dogfighting; or
  - D. Has, when unprovoked, chased or approached a person upon the streets, sidewalks, any public grounds, or private property in a menacing fashion or apparent attitude of attack provided that such actions are attested to in a sworn

statement by one (1) or more persons and dutifully investigated by the appropriate authority.

15. *Fowl* shall mean all kinds of birds, whether wild or domesticated.
16. *Impounding or holding facility* shall mean any one (1) or combination of a pet shop, kennel, cattery or humane society or any facility the town may so designate.
17. *Licensed veterinarians* means all veterinarians actively engaged in the practice of that profession in the State of Florida, who are duly registered and licensed as such by the state, and who are authorized to vaccinate dogs and care against rabies and to execute certificates of vaccination.
18. *Owner* means any person, firm, corporation or organization possessing, harboring, keeping or having control or custody or custody of an animal or, if the animal is owned by a person under the age of eighteen (18), that person's parent or guardian.
19. *Poultry* shall mean all domesticated food birds, including, but not limited to, chickens, turkeys, ducks, guineas, geese and pigeons.
20. *Proper enclosure of a dangerous dog* means, while on the owner's property, a dangerous dog is security confined indoors. An owner who maintains a dangerous dog out-of-doors must fence a portion of his or her property with a perimeter or area fence. Within this perimeter fence, the dangerous dog must be humanely confined inside a pen or kennel of adequate size. The pen or kennel may not share common fencing with the area or perimeter fence. The kennel must have secure sides and a secure top attached to all sides and the side must be either buried two feet into the ground, sunk into a concrete pad, or securely attached to a wire bottom. The gate to the kennel must be locked.
21. *Public nuisance animal* shall mean any animal which meets any one of the following criteria:
  - A. is repeatedly found at large;
  - B. damages the property of anyone other than their owner;
  - C. is a vicious animal or dangerous animal;
  - D. causes unsanitary conditions of enclosures or surroundings as determined by the animal control officer;
  - E. is a diseased animal and dangerous to human health;
  - F. barks excessively; makes prolonged or disturbing noises interfering with the peace and quietude of the neighboring properties, providing a complaining

neighbor has filed a sworn statement with either the Animal Control Officer or the Town Hall describing the disturbance;

G. has been determined to be a stray;

H. is a female animal that is not confined within a building, structure, cage or not under restraint during her estrous cycle.

22. *Severe injury* means any physical injury that results in broken bones, multiple punctures or disfiguring lacerations requiring sutures or cosmetic surgery.
23. *Stray animals* means any unlicensed or unattended animal.
24. *Unprovoked* means that the victim who has been conducting himself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.
25. *Vicious animal* shall mean any animal which has made unprovoked attack(s) on any person or person or any animal or animals.
26. *Wild animal* shall mean any animal which is not accustomed to living in or about the habitation of humans. Ownership and possession of such animals shall be prohibited unless it is in compliance with F.S. 372.65. A violation of this section shall be punishable in accordance with F.S. 372.65.
27. *Pet Shops* shall mean any facility or business operating which sells animals, fish, reptiles or animal supplies.
28. *Pet Groomers* shall mean any facility, business or short operation where dogs and cats are bathed, clipped or groomed.
29. *Exotic Animal* shall mean any species of animal not indigenous to the State of Florida. Ownership and possession of such animals shall be prohibited unless it is in compliance with F.S. 372.65. A violation of this section shall be punishable in accordance with F.S. 372.65.

#### **Sec. 5-39. Enforcement; animal control officer.**

The town shall either employ or contract with a person or persons as animal control officer(s) to enforce the regulations of this ordinance and any applicable state laws. The Town Council shall have supervision of the performance of duties of the animal control officer who shall have full and complete authority to pick up, catch or procure any animal or poultry at large, creating a nuisance, infected with rabies or believed to be infected with rabies; or a dog not wearing a collar or harness with a license tag attached, except as otherwise prohibited, in any area of the town and cause such animal to be impounded.

The town shall assume no liability while animals are being held or transported.

**Sec. 5-40. Enforcement; interference with animal control officer.**

- A. No person shall interfere with, hinder, resist, or obstruct the animal control officer or town personnel in the lawful performance of their duties as set forth in this ordinance.
- B. No person shall, without proper authority, release, remove or attempt to release or remove any animal from the custody of the animal control officer or humane society personnel.
- C. No person shall tear down, bum, deface, destroy or otherwise injure an impounding facility or enclosure.

**Sec. 5-41. Enforcement; public nuisance; complaint against owner**

It shall be unlawful and prohibited for animal(s) or poultry to be a public nuisance. When an animal or poultry has been determined by the animal control officer to be a public nuisance, the animal control officer shall issue a *notice of violation* to the owner who is in violation of this ordinance. The *notice of violation* shall:

- a. State the date and time of the violation and the name and address of the animal's owners.
- b. State the nature of the violation and provide a description of the animal involved.
- c. Contain a demand that the offense be abated within the time period stated on the notice of violation.

Should the owner fail to abate the violation, the person complaining of said public nuisance may file a complaint against the violator in the proper county court; or the animal control officer may issue a notice to appear in court or issue a citation. Also, the animal may be impounded until final disposition of the case at owner's expense.

**Sec. 5-42. Enforcement; investigation.**

- 1. The animal control officer may request the owners of an animal to exhibit the animal and if applicable, the license of such animal.
- 2. It shall be the duty of the animal control officer to keep the following records:
  - a. Accurate and detailed records of the licensing, impoundment and disposition of all animals coming into his custody.
  - b. Accurate and detailed records of all reported bite cases and investigations for a period of three (3) years.

#### **Sec. 5-43. Enforcement; impoundment facilities**

The town may construct and operate impounding or holding facilities or contract with an organization or individuals with such facilities to provide adequate animal impounding.

#### **Sec. 5-44. Enforcement; impounding at large, unlicensed or public nuisance animals**

1. Any at large or unlicensed animal which is required to be licensed may be impounded by the animal control officer.
2. Any animal creating a public nuisance as defined in this article may be impounded by the animal control officer except that hunting dogs shall be exempt from the terms of the definition of "at large" or subsections A-F of the definition of public nuisance animal or animals": when engaged in a hunt or at large as a result of a hunt during legally declared hunting seasons, as the same shall be designated from year to year by the Florida Game and Freshwater Fish Commission.

#### **Sec. 5-45. Enforcement; impoundment - redemption**

1. Where an animal bears an indicia of ownership, the animal control officer shall notify the owner of said animal by the best means at the animal control officer's discretion of the animal's impoundment. The Town may confine licensed or otherwise identified animals and then transport them to Halifax Humane Society. Said animal shall only be required to be confined for 72 hours from the time of impoundment. At the expiration of 72 hours, if no owner has appeared to claim said animal, it shall be deemed unowned and may be disposed of by the Halifax Humane Society.
2. All fees for impoundment shall be remitted by the owner before the animal can be redeemed.

#### **Sec. 5-46. Enforcement; impoundment - disposition**

Any unredeemed animal shall become the property of the impoundment facility and may be humanely destroyed by a licensed veterinarian or by an animal control officer certified in euthanasia, or by gift or sale, be placed in the custody of some person deemed to be a responsible and suitable owner who will agree to comply with all the provisions of the article. Upon the adoption or placement of unclaimed animals the impoundment facility shall provide the adopter or purchaser with a certificate for sterilization in accordance with Section 823.15 Florida Statutes.

#### **Sec. 5-47 Enforcement; impoundment - fees**

The town shall charge an impoundment fee for apprehension in the amount of \$25.00. The fee shall be set by Resolution adopted by the Town Council. The impoundment facility may charge a fee for boarding, care, feeding and maintenance of animals.

#### **Sec. 5-48. Duty of animal owners**

1. It shall be the duty of every owner of any animal, or anyone having any animal in his or her possession or custody, to exercise reasonable care and to take all necessary steps and precautions to protect other people, property and animals from injuries or damage which might result from his or her animals' behavior, regardless of whether such behavior is motivated by mischievousness, playfulness or ferocity.
2. In the event that the owner or keeper of any animal is a minor, the parent or guardian of the minor shall be responsible to ensure that all provisions of this section are complied with.
3. Any person found in violation of this section is subject to the penalties prescribed in this ordinance.

#### **Sec. 5-49. Restraint of animals while on property of owner**

1. It shall be the duty of every owner of any animal, or anyone having any animal in his or her possession or custody, to ensure that:
  - A. The animal is kept under restraint.
  - B. Reasonable care and precautions are taken to prevent the animal from leaving while unattended, the real property limits of its owner, possessor or custodian.
  - C. The animal is:
    - I. Securely and humanely confined within a house, building, fence, crate, pen or other enclosure; or
    - II. Humanely secured by chain, cable and trolley, rope or tether of sufficient strength to prevent escape; or
    - III. Leashed or otherwise controlled by a responsible person or is obedient to the commands of a person present with the animal at any time it is not secured as provided for in subsection 1 .C. I or II of this section. The voice command must be demonstrated as an effective restraint if requested.

#### **Sec. 5-50. Animal control; restraint of animals while off property of owner**

1. It shall be the duty of the owner of any animal or anyone having an animal in his or her possession to keep the animal under restraint and control at all times while the animal is off the real property limits of the owner, possessor or custodian. For the purpose of this section, an animal is deemed under control when it is:
  - A. Securely confined within a vehicle, parked or in motion; or

- B. Caged or short tethered in the open bed of a pickup truck; or
- C. Securely and humanely confined within a house, building, fence, crate, pen or other enclosure with the property owner's consent; or
- D. Humanely secured by a chain, cable and trolley, rope or tether of sufficient strength to prevent escape with the permission of the owner of the property where the restraint is being used; or
- E. Leashed or otherwise controlled by a responsible person or is obedient to the commands of a person present with the animal at any time it is not secured as provided for in subsections A, B, C, D above of this section. The voice command must be demonstrated as an effective restraint if requested.

**Sec. 5-51. Animals for sale or gift within the city.**

This section applies to all animals transported into, or native to the Town, for sale or gift.

1. Each animal transported into the Town for sale and each animal offered in the Town for sale or gift shall be subject to the provisions of 828.29 Florida Statutes or its successor, which is hereby adopted and incorporated herein by reference.
2. County operated or Town operated animal control agencies and registered nonprofit humane organizations shall be exempt from the provisions of this section.
3. The sale, transfer or display of all live animals at flea markets or similar outdoor markets shall be subject to the following restrictions and or limitations;
  - A. All animals must be displayed in crates that meet current minimum United States Department of Agriculture requirements regarding crating of live animals. There shall be no more than two animals per crate.
  - B. Crates will allow for a free flow of air. The crates shall be displayed in such a manner that access to the animals is controlled by the vendor.
  - C. A source of heat and mechanical ventilation shall be available at the site for use as necessary.
  - D. All animals must be kept in a clean and sanitary environment.
  - E. All animals must be located under a permanent roofed structure and be in a shaded area.
  - F. All animals must be provided with adequate water and food available to them at all times.

G. The owner or manager of the flea market or related outdoor market shall inspect the site of all animal vendors on a daily basis and shall report any violations that he or she is aware of to the appropriate agencies.

4. Pet Shops or Other Non-outdoor Markets:

A. Crates/Cages: All animals must be displayed in animal crates that meet current minimum United States Department of Agriculture requirements regarding crating of live animals. Animals must be able to stand up and turn around. There shall be no more than two (2) adult animals per crate.

B. Crates will allow for a free flow of air. Crates shall be displayed in such a manner that access to the animals is controlled by employees.

C. All animals must be kept in a clean and sanitary environment.

D. All animals must be provided with adequate food and water which must be available at all times.

E. Cages must be cleaned and disinfected at least once per day with a disinfectant which is normally used in the kennel industry.

F. Animal Control Officer or an enforcement office shall inspect the pet shop on a routine basis.

**Sec. 5-52. Pet groomers.**

1. All animals must be kept in animal crates that meet current minimum United States Department of Agriculture requirements regarding crating of live animals. Animals must be able to stand up and turn around.

2. Crates will allow for a free flow of air.

3. Animals must be provided with water.

4. All animals must be kept in a clean, safe and sanitary environment. Crates shall be cleaned and disinfected, with a disinfectant which is normally used in the kennel industry. Cages shall be disinfected between each animal.

5. Animal Control Officer or an enforcement office shall inspect the place of business on a routine basis.

**Sec. 5-53. Cruelty to animals.**

The provisions of Florida Statutes 828.12(1) (2), or its successor, is hereby adopted.

**Sec. 5-54. Confinement of animals without sufficient food; abandonment of animals.**

1. The provisions of Florida Statutes 828.13, or its successor, is hereby adopted.
2. As used in this section, abandon means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.
3. Whoever:
  - A. Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water.
  - B. Keeps any animals in any enclosure without wholesome exercise and change of air.

**Sec. 5-55. Disposal of live animals for experiment or vivisection prohibited.**

Live animals may not be disposed of to any school, college, university, person, firm, association, laboratory or corporation for experimentation or vivisection purposes, or to any person providing, selling or supplying dogs and cats and other animals to any school, college, university, person, firm, association or corporation for experimentation or vivisection purposes.

**Sec. 5-56. Selling or obtaining dogs or cats for purpose of human or animal consumption.**

Dogs or cats may not be obtained, sold or purchased within the municipal limits of the Town of Pierson for the purpose of human or animal consumption.

**Sec. 5-57. Duty of persons striking animal with a vehicle.**

Any person who knows he or she has struck a dog or cat with a vehicle shall immediately notify either the owner of the animal or Deputy Sheriff or an animal control officer.

**Sec. 5-58. Injuring, catching or detaining waterfowl prohibited.**

It shall be unlawful for any person, unless authorized by the Town, to catch, kill, maim, wound, detain, shoot at or molest any swans, ducks, geese, brant, coots, gallinules or any other kind of commonly classed as waterfowl, within the City limits by using any means whatsoever.

**Sec. 5-59. Grazing animals running at large; prohibition-fine.**

It shall be unlawful for any person owning or controlling a horse(s), mule(s), cow(s) or other grazing animals within the City to allow the animals to run at large. Each person owning or controlling a horse, mule, cow or other grazing animals shall keep such animal in a substantial

enclosure designed and constructed in such a manner as to prevent the animal( s) from running at large. Owners of large animals running at large shall be subject to a fine in the amount of \$100.00.

**Sec. 5-60. Poultry running at large; prohibited.**

It shall be unlawful for any person owning or controlling any poultry to allow the animals to run at large in the Town. Each person owning or controlling poultry shall keep such animals in a substantial enclosure designed and constructed in such a manner as to prevent the animals from running at large. There will be a 30 day moratorium immediately following the adoption of this ordinance to allow the town residences to comply with said ordinance. Thereafter, all poultry running at large will be picked up and disposed of.

**Sec. 5-61. Disposal on manure or waste material or poultry or grazing animals.**

It shall be unlawful for any manure or waste materials accumulating from poultry or grazing animals to be left above ground upon any premises in the city for longer than four ( 4) days, and it shall be the duty of any person owning or having control of the premises where the animals are permitted to be kept, to collect and dispose of the manure and waste materials so as to prevent the breeding of flies and other bacteria-carrying insects, and the emission of deleterious and offensive odors therefrom. This section shall not be applicable to premises or property containing two acres or more exclusive of residences or other structures where the animals are kept or corralled, unless sanitary conditions become offensive.

**Sec. 5-62. Removal of animal waste.**

The owner of every animal shall be responsible for the removal of any excreta deposited by his or her animal(s) on public walks, recreation areas or private property other than his or her own.

**Sec. 5-63. Certain animals prohibited around Pierson public lakes.**

All persons are hereby prohibited from allowing their poultry, horses, cattle, sheep, hogs or goats to remain at large within five hundred (500) feet of the public lakes in the city. At no time may the above-mentioned animals enter the public lakes of Pierson.

**Sec. 5-64. Animal, Poultry, Birds Noise Prohibited.**

The keeping of any animal(s), poultry or bird(s) which cause frequent or long continued noise which is plainly audible at a distance of one hundred ( 100) feet from the building or structure in which the animal(s), poultry or bird(s) is located is hereby prohibited.

**Sec. 5-65. Warning signs on premises where guard dogs, vicious animals or dangerous dogs are kept.**

All owners, keepers or harborers of any guard dog, vicious animal or dangerous dog shall display in a prominent place on their premises, and at each entrance and exit to the area where

such dog is confined, a sign easily readable by the public using the words "BAD DOG" or other suitable warning.

Any person found in violation of this section is subject to the penalties prescribed herein.

## **Sec. 5-66. Licensing; Dogs and Cats.**

### 1. Over Limit Permit.

There shall be a limit of six (6) adult animals per household, excluding hunting dogs. Licensed Breeders must obtain a permit from the Town Hall. Puppies and kittens are not included in this limit calculation until they reach six (6) months of age at which time they are considered adults.

### 2. Veterinarian Authorized To Sell License Tags .

Any veterinarian licensed to practice in the State of Florida and the Town of Pierson area may sell annual license, require the owner of the animal or animals to comply with the requirements of this article. Said veterinarian shall remit to the city the proper fee and a copy of the license, as requested by this article on a monthly basis. The veterinarian may charge a service fee for cost he incurs for selling said license, but said charge shall not exceed one dollar (\$1.00).

### 3. Removing Collar, Tag Or Muzzle.

It shall be unlawful for any person other than the owner or keeper, or animal control officer of a dog or cat to remove or take off or cause to be taken off or removed, the collar, tag or muzzle upon a live dog or cat within the city.

### 4. Transfer Of License To New Owner

Upon the change of ownership of a dog or cat, the new owner may have a current license transferred to his name upon payment of the proper transfer fee.

### 5. Misuse Of License Or Tag

No person shall use for any dog or cat a license receipt or license tag issued for another dog or cat.

### 6. Animals Exempt From Wearing License Tag

Racing greyhounds, hunting dogs while engaged in a hunt, show dogs, or dogs engaged in obedience or K-9 training while under the command or presence of the owner, trainer, or other responsible custodian directly related to the racing, hunting, show or training activities, respectively, are exempt from wearing the license tag. A dog having an

identifying tattoo registered with the county animal control office or the town is also exempt from the requirements of wearing a license tag.

## 7. Boarding And Breeding Kennels

Boarding and breeding kennels shall only be for the purpose of boarding or breeding cats and dogs and shall be located in Industrial or Large Commercial zoning. All dog runs and cages must be inside a completely enclosed building which includes four walls, a roof and floor. Any boarding facility must be soundproof in a manner which prohibits any noise from being heard by from adjoining properties. All septic tanks and drain fields must be constructed to conform to Health Department specifications and regulations. Approved permits must be obtained. Flooring must be of concrete and must drain into an approved septic.

Separate dog runs must be provided and must be separated with solid concrete wall or solid stainless steel dividers at least six (6) feet in height. Each individual dog run must also drain into an approved septic system. Dog runs shall be a minimum four feet in width by eight (8) feet in length. There shall be no more than two (2) dogs allowed in each run except a mother and her puppies, unless authorized by the owner after signing a Release of Liability in favor of the Town. Proper ventilation must be maintained between 65 degrees Fahrenheit and 80 degrees Fahrenheit. All cats must be boarded in a proper restraining stainless steel bank, which must be a minimum of 22" in width and 27" in length by 20" in height. There shall be one cat allowed in each cage except a mother and her kittens, unless authorized by the owner after signing a Release of Liability in favor of the Town.

## 8. Sanitation

Dog runs and cat cages shall be cleansed and disinfected at least once per day with a disinfectant which is normally used in the kennel industry. There shall not be any accumulation of feces, urine, animal excretions or other waste product. All emitting odors from the boarding of cats and dogs shall be confined to the boarding kennel property. The animal control officer or enforcement officer shall inspect the kennel on a routine basis.

## 9. Contagious Disease Control

All dogs must be current on vaccinations against Rabies, Hepatitis, Leptospirosis, Parainfluenza, Parvo virus and Bordetella. All cats must be current on vaccinations against Rabies, Panleukopenia, Rhino tracheitis, Calicivirus, Feline Pheumonitis, Peritonitis and Leukemia. Proof of these vaccinations must accompany the animal at time of boarding. Any animal exhibiting any symptoms of illness or disease shall be isolated from the other animals in a separate enclosed room to prevent the spread of any contagious disease or illness. Any animal exhibiting any sign of illness, disease, injury and/or malady shall be immediately evaluated and treated, if necessary, by a licensed Veterinarian, licensed to practice Veterinary Medicine in the State of Florida.

## 10. Annual Kennel License-Fee

Anyone operating a boarding kennel must purchase an annual kennel license at a fee to be set by Resolution of the Town Council.

**Sec. 5-67. Rabies Control.**

1. Vaccination Required

Annually, every owner of any dog or cat four ( 4) months of age or older within the incorporated areas of the Town shall have such cat or dog vaccinated against rabies by a licensed veterinarian. Evidence of such vaccination shall consist of a current certificate issued and signed by the veterinarian administering the vaccine.

2. Duties Of Owners Of Animal Infected With Rabies

It shall be the duty of the owner or of any person knowing of an animal infected with or showing suspicious symptoms of rabies or any unusual behavior to report the same immediately to the animal control officer.

**Sec. 5-68. Penalties**

Any person who shall violate any section or any other provision of this article for which no penalty is otherwise provided shall be penalized as follows:

1. For the first offense, there shall be a written warning or a fine of fifty dollars (\$50.00).
2. For the second offense, there shall be a fine of seventy-five dollars (\$75.00).
3. For third offense, there shall be a fine of one hundred dollars (\$100.00).
4. For subsequent offences, there shall be a fine of \$500.00 and/or 60 days imprisonment in the county jail.

(Ord. No. 01-02, §§ 1-26, 04-24-01)

## Chapter 6

### **BUILDINGS AND BUILDING REGULATIONS<sup>4\*</sup>**

#### **Sec. 6-1. Dilapidated buildings.**

It shall be unlawful for any person who owns, rents or occupies any parcel of land to fail or neglect to remove from the property owned, rented or occupied, any decayed buildings and buildings in a falling or dangerous condition.

(Ord. No. 33, § 2, 9-10-40)

**Cross reference** – Removal of brush, weeds, trash, etc., from private property § 12-1.

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered Sec. 6-2, which section reads as follows:

#### **Sec. 6-2. Nuisance or unsafe structure.**

(a) A structure or building is unsafe or dilapidated when any of the following conditions exist:

- (1) The structure or building's interior walls or other structural members list, lean, or buckle or the support for the structure has become damaged or deteriorated to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.
- (2) The structure or building has improperly distributed loads upon the floor or roof or the floor or roof is overloaded or has insufficient strength to be reasonably safe for the purpose used.
- (3) The structure or building has been damaged by fire, wind, or other causes and has become dangerous to life, safety, or the general health and welfare of people within or near the structure.
- (4) The structure or building is so dilapidated, decayed, unsafe, unsanitary, or so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation or is likely to cause sickness or disease so as to injure the health, safety, or general welfare.
- (5) The structure or building has parts which are so attached that there is a reasonable likelihood they may fall and injure members of the public or property in general.

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<sup>4\*</sup>**Cross references** - Public works department, § 2-81 et seq.; when permit required re storm water management, § 9-41; variance procedures re storm water management, § 9-45; property numbering, § 18-21 et seq.; zoning, App. A.

(6) The structure or building is vacant and not sufficiently secured to prevent easy access to trespassers and vagrants or is otherwise untended or unkempt to the extent that it poses a general health or safety hazard for neighboring people or property.

(b) A structure or building that is unsafe or dilapidated constitutes a nuisance. No person shall permit an unsafe or dilapidated structure to exist on property under his ownership or control.

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered Sec. 6-3, which section reads as follows:

**Sec. 6-3. Nuisance or unsafe vehicle.**

(a) A vehicle is unsafe when any of the following exists:

(1) The vehicle is damaged, unused, inoperable or unsafe and has been located on the property outside of an enclosed garage or enclosed building or is located less than five hundred (500) feet of a public right-of-way.

(2) The vehicle does not have a current valid tag, vehicle registration and insurance as required by State law and is located on the property outside of an enclosed garage or enclosed building or is located less than five hundred (500) feet of a public right-of-way.

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered Sec. 6-4, which section reads as follows:

**Sec. 6-4. Notice of determination.**

(a) Upon identification of a structure, building or vehicle as unsafe or dilapidated, a notice shall be sent to the owner of the real property and any lien holders as listed on the most recent available tax rolls, directing that it be repaired, removed or demolished. The notice shall contain the following information:

(1) The name of the person upon whom the notice is served.

(2) The street address of the structure, building or vehicle and the legal description of the property on which it is located.

(3) That the structure, building or vehicle has been determined to be unsafe or dilapidated, and the conditions upon which the determination is based.

(4) If repairs or alterations will remedy the conditions, the nature and extent of the repairs or alterations necessary.

(5) If the conditions are of such a character that repairs or alterations are not feasible or reasonably expected to remedy the conditions, notice that the structure must be demolished.

(6) That, within sixty (60) days from the mailing date of the notice, a complete building permit application for necessary repairs must be submitted and repairs commenced or the structure must be demolished or the vehicle must be removed or repaired.

(b) If the conditions are not remedied within sixty (60) days after the notice of determination is sent or a building permit for repairs is not applied for and repairs completed within a reasonable period of time, the property shall be referred to the Town Council for condemnation.

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered Sec. 6-5, which section reads as follows:

**Sec. 6-5. Condemnation by Town Council.**

(a) If the owner of any structure, building or vehicle has failed to remedy unsafe or dilapidated conditions within sixty (60) days after sending the notice of such conditions as provided in Section 2 the Town Council shall consider condemning the structure, building or vehicle.

(b) Upon finding that any structure, building or vehicle is unsafe or dilapidated in accordance with Section 2, the Town Council may adopt a resolution condemning it, requiring the owner to remedy the conditions by repair or removal by a date not less than thirty (30) days thereafter, and providing that failure of the owner to do so will result in the Town taking action to remedy the conditions and charging all expenses of the action against the property.

(c) If the conditions are not remedied within the time established, the Town shall take whatever action is determined necessary and appropriate to remedy the conditions, including vacating, fencing, securing, demolishing, or removing the unsafe or dilapidated structure, building or vehicle. The Town shall assess all costs associated with the action against the real property. The assessment shall constitute a priority lien upon the property to the same extent and character as a lien for special assessments and with the same rights of collection, foreclosure, and sale. The lien shall be superior to all others except taxes and shall accrue interest at the rate of ten percent per annum until paid.

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered Sec. 6-6, which section reads as follows:

**Sec. 6-6. Notice of condemnation.**

(a) A certified copy of the resolution of condemnation as provided in section 3, together with a copy of the notice of determination containing information as provided in section 2 and notice of appeal rights in accordance with section 6, shall be served either personally or by certified

mail, postage prepaid, return receipt requested, on each owner and lien holder as listed on the most recent available tax rolls.

(b) Notice of condemnation shall be posted on the structure, building or vehicle following the adoption of the resolution of condemnation.

(c) A certified copy of the resolution of condemnation shall be posted at city hall for a period of 20 days following its adoption.

(d) Failure of any person to receive notice shall not invalidate any proceedings under this section. Evidence of an attempt to serve notice, and proof of posting, shall be sufficient to show that these notice requirements have been met. 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 place of its posting.

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered Sec. 6-7, which section reads as follows:

**Sec. 6-7. Repairs after condemnation.**

After the Town Council has condemned a structure or building as provided in this article, no building permit application shall be accepted or permit issued for repairs of the structure except as follows:

(1) The Town shall review any application for a permit to repair a condemned structure or building and shall determine whether repairs are feasible.

(2) If the proposed repairs are not reasonably expected to resolve the conditions or are otherwise not feasible, the permit shall be denied.

(3) If the repairs are feasible and are reasonably expected to resolve the conditions, a permit shall be issued only upon written agreement of the owner or authorized agent specifying the nature of the repairs, the date on which the repairs shall be complete, and that failure to complete the repairs within the time provided shall result in the city taking remedial action with attachment of a lien for all costs or other action authorized by law.

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered Sec. 6-8, which section reads as follows:

**Sec. 6-8. Appeals.**

(a) Any owner or person in control of a structure, building or vehicle that has been condemned as unsafe or dilapidated by the Town Council may appeal the determination or appeal the denial of a permit to repair the structure by submitting a request for a hearing in writing to the Clerk of the Town Council within the time established by the city commission to remedy the conditions.

(b) The request for a hearing shall contain at least the following information:

- (1) The street address of the structure, building, vehicle or property.
- (2) The legal interest of the applicant in the structure, building, vehicle or property.
- (3) The reason the applicant believes the decision appealed from should be amended or reversed.
- (4) The signature and mailing address of the applicant.

(c) Upon receipt of a request for a hearing, The Clerk of the Town Council shall fix a date, time, and location for the hearing, which date shall be not more than sixty (60) days from the date the request was received. Written notice of the time and location of the hearing shall be delivered personally or mailed to the applicant by certified mail, postage prepaid and return receipt requested, at the address provided.

(d) The hearing shall offer the applicant a reasonable opportunity to be heard on those matters raised in the request for the hearing, and the Town Council shall make its decision based on the evidence presented. Failure of the applicant to request a hearing or to appear at a scheduled hearing shall constitute a waiver of the right to an administrative hearing.

(e) The Town Council shall be final administrative action, reviewable by certiorari in circuit court as provided by law.

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered Sec. 6-9, which section reads as follows:

**Sec. 6-9. Structure, building or property presenting condition of imminent danger.**

(a) A structure, building or property presents a condition of imminent danger to human life or health when:

- (1) Due to structurally unsound conditions, a person entering the structure or a portion of the structure is likely to suffer physical injury, and the structure or unsound portion is not completely secured against access;
- (2) Due to structurally unsound conditions, any portion of the structure is likely to fall, be carried by the wind, or otherwise detach or move and in doing so cause physical injury or damage to a person on the property or to a person or property nearby; or
- (3) The condition of the structure, building or property is such that it harbors or is inhabited by pests, vermin, or other organisms injurious to human health, the

presence of which constitute an immediate hazard to people or property in the vicinity.

(b) Upon receipt of information that any structure, building or property or portion of the structure, building or property is an imminent danger to human life or health, an inspection of the structure, building or property shall be conducted promptly to determine whether an imminent danger exists.

(c) Upon determination by the Town Council that an imminent danger exists, the owner and lien holder, as determined from the tax rolls or other information immediately available to the Town and any lien holders, and any occupant shall be notified of the imminent danger presented by the unsafe conditions. Notification shall be in writing provided by hand delivery or by registered letter to the most recent known address. In addition, notice of the unsafe conditions and imminent danger shall be posted on the property. If the owner cannot be determined or located, posting of the property shall constitute notice to the owner. The notice shall require that, within five days, the unsafe conditions be corrected or the occupants vacate the premises and the structure, building, or unsafe portion of the structure or building be demolished and removed. Corrective actions may include demolition and removal of structures, removal of building debris, fencing of the property, securing of windows and doors, removal of occupants, or any other action determined appropriate and sufficient to protect the public from injury by the unsafe conditions.

(d) If the unsafe conditions have not been corrected or removed within five (5) days after the receipt of notice by the owner and occupant or the posting of the property if the owner cannot be located, the city shall correct the unsafe conditions by demolition and removal of structures, removal of building debris, fencing of the property, securing of windows and doors, removal of occupants, or any other action determined appropriate to protect the public.

(e) Any costs incurred by the city to correct unsafe conditions pursuant to this section shall be charged to the owner of the property and shall constitute a lien against the property in favor of the city. The lien shall be entitled to the same priority as a lien for special assessments and shall have the same rights of collection and foreclosure. The lien shall accrue interest at the rate of ten percent per annum until paid.

(Ord. no. 08-01, § 1-10, 01-22-08)

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered Sec. 6-10, which section reads as follows:

**Sec. 6-10. Adoption of Building Codes.**

The Town of Pierson hereby adopts, in all respects, the various Standard Codes relating to amusement devices, building, fire prevention, gas, grading, housing, mechanical, plumbing and swimming pools. The adoption of these Codes is done to facilitate proper inspection activities by the Town of Pierson relating to construction and to maintenance of buildings within the corporate limits of said town and relating to public safety, health and general welfare. It is now ordained by

the Town of Pierson that the following Codes are hereby adopted by reference as though they were copied fully herein:

Standard Amusement Device Code -1988 Edition  
Standard Building Code -1988 Edition  
Standard Excavation and Grading Code -1975 Edition  
Standard Existing Building Code -1988 Edition  
Standard Fire Prevention Code -1988 Edition  
Standard Gas Code -1988 Edition  
Standard Housing Code -1988 Edition  
Standard Mechanical Code -1988 Edition  
Standard Plumbing Code -1988 Edition  
Standard Swimming Pool Code -1988 Edition  
Standard Unsafe Building Abatement Code -1988 Edition

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered Sec. 6-11, which section reads as follows:

**Sec. 6-11. Adoption of Building Codes; Officials.**

It is now ordained by the Town of Pierson that within said Codes when reference is made to the duties of certain officials named therein that designated official of the Town of Pierson who has duties corresponding to those of the named official in said Code shall be deemed to be the responsible official insofar as enforcing the provisions of said Code are concerned.

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a section to be numbered Sec. 6-12, which section reads as follows:

**Sec. 6-12. Adoption of Building Codes; Violations.**

Any violation of this Ordinance shall be punishable by a fine not exceeding \$500.00, or imprisonment for SIXTY (60) DAYS, or both such fine and imprisonment.

(Ord. No. 89-4, § 1-6, 11-14-89)

Chapter 7

**RESERVED**

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a chapter to be numbered Chapter 8, which chapter reads as follows:

## Chapter 8

### ELECTIONS

- Art. I. Election Schedule and Qualifications, §§ 8-1–8-2**
- Art. II. Electronic Campaign Filing, § 8-3**
- Art. III. Limits of Power, § 8-4**
- Art. IV. Ballot Questions, §§ 8-5–8-7**

#### ARTICLE I. ELECTION SCHEDULE AND QUALIFICATIONS

##### **Sec. 8-1. Election schedule.**

The Town Council of the Town of Pierson, Florida hereby establishes the Town's election qualifying dates and the Town's election schedule as follows:

A. In even numbered years, the Town shall hold its election qualifying during an 11 day period ending simultaneously with the time period established by the Florida Election Code for qualifying for the General Election, beginning at 9:00 A.M. and ending at noon on the appropriate days and the Town shall have elections on the date established by the State Election Code for first and second primaries.

B. In odd numbered years, the Town shall hold its election qualifying during normal business hours between 9:00 A.M. on the 71<sup>st</sup> day and at 12 noon on the 61<sup>st</sup> day prior to the first Tuesday after the first Monday in November. The Primary Election shall be held on the 28<sup>th</sup> day prior to the first Tuesday after the first Monday in November. The General Election shall be held on the first Tuesday after the first Monday in November.

C. The Town Council may by simple majority, vote to change any election date in order to avoid a conflict with a religious holiday.

(Ord. No. 99-10, § 1, 06-23-99)

##### **Sec. 8-2. Amended election dates.**

The term of office of the Chairman and each Town Council Member in office shall be extended to accommodate the election dates specified in the amended Section 8 of the Town's Charter.

(Ord. No. 09-03, § 2, 4-14-09)

## ARTICLE II. ELECTRONIC CAMPAIGN FILING

### Sec. 8-3. Requirements for candidates.

All candidates for elected office in the Town of Pierson shall electronically file their campaign treasurer's reports required by state law utilizing the Volusia County Supervisor of Elections Office's electronic filing system. Campaign treasurer's reports electronically filed as required by this section shall be deemed filed with the Town Clerk simultaneously upon the Volusia County Supervisor of Elections Office's receipt of the electronic filing.

(Ord. No. 2017-08).

## ARTICLE III. LIMITS OF POWER.

### Sec. 8-4. Amending powers of the town council.

The Town Charter is hereby amended to alter the powers of certain roles within the town council.

(Ord. No. 16-1, §§ 1-6, 5-24-16)

## ARTICLE IV. BALLOT QUESTIONS

### Sec. 8-5. Adding question to ballot.

The Town Charter is hereby amended to reflect the following question on the next available or general election ballot. It will read as follows:

“Shall the town charter be amended to require four (4) year, staggered council terms and four (4) year mayor terms to be implemented commencing with the 2008 regular town election and seat 4 and 5 extended to the 2010 regular town election?”

(Ord. No. 08-04, § 1, 5-27-08)

### Sec. 8-6. Adding question to ballot.

The Town Charter is hereby amended to reflect the following question on the next available or general election ballot. It will read as follows:

“Shall the town charter be amended to require four (4) year, staggered council terms and four (4) year mayor terms to be implemented commencing with the 2010 regular town election? This amendment would provide a cost savings to the town and coincide the town elections with state and federal elections.”

(Ord. No. 09-06, § 1, 9-22-09)

**Sec. 8-7. Adding question to ballot.**

The Town Charter is hereby amended to reflect the following four questions on the general election to be held on November 8, 2016. The questions will read as follows:

- (1) “Shall the Pierson Town Charter be amended to remove provisions relating to the initial incorporation of the town and transition provisions, and to remove the lengthy legal description of the original corporate boundaries of the town with the current boundaries to be kept on file with the Town Clerk pursuant to law?”
- (2) “Shall the Pierson Town Charter be amended to require that each candidate for the office of Council Member or Mayor shall have been a resident of the town for at least one year immediately preceding the qualifying date?”
- (3) “Shall the Pierson Town Charter be amended to clarify that general elections of the Town shall held in even numbered years on the date specified in law for the November general election, and to clarify that the candidate receiving the most votes cast in an election shall be declared elected?”
- (4) “Shall the Pierson Town Charter be amended to require that the Town Charter be reviewed for recommended revisions by a Charter Review Committee appointed by the Town Council at least every ten years?”

(Ord. No. 16-02, Exhibit A, 5-24-16)

**Secs. 8-8 – 8-20. Reserved.**

Chapter 9

**ENVIRONMENTAL PROTECTION<sup>5\*</sup>**

**Art. I. In General, §§ 9-1-9-20**

Div. 1. Water Restriction Ordinance, §§ 9-1-9-17

**Art. II. Storm Water Management and Conservation, §§ 9-21-9-48**

Div. 1. Generally, §§ 9-21-9-40

Div. 2. Permit, §§ 9-41-9-48

**Art. III. Groundwater Pollution Prevention, §§ 9-49-9-54**

**Art. IV. Flood Protection, §§ 9-55-9-166**

Div. 1. Flood Damage Prevention, §§ 9-55-9-81

Div. 2. Floodplain Management Ordinance, §§ 9-82-9-166

**Art. V. Other Environmental Factors §§ 9-167-9-182**

Div. 1. Tree Preservation and Protection Ordinance §§ 9-167-9-182

**ARTICLE I. IN GENERAL**

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a division to be named Division 1. Water Restriction Ordinance, which division reads as follows:

**DIVISION 1. WATER RESTRICTION ORDINANCE**

**Sec. 9-1. Purpose.**

It has been determined by the Town Council that the preservation and conservation of the water resources of the Town of Pierson is critical to the public health, safety and welfare. The St. Johns River Water Management District has issued a Water Shortage Bulletin Declaration effective Saturday, August 19, 1989 and modified March 29 and April 11, 1990; and the Town Council, in compliance with Florida Rule 40C-21 Water Shortage Plan has adopted the following mandatory restrictions:

**Sec. 9-2. Existing Landscape Irrigation Restrictions, Domestic and Commercial.**

A. For existing installations less than 5 acres in size, water use for irrigation is restricted to the hours of 4:00 a.m. to 8:00 a.m., three days per week.

B. For existing installations 5 acres or greater in size, water use for irrigation is restricted to the hours of 12:01 a.m. to 8:00 a.m., three days per week.

C. For all existing installations without automatic irrigation timing devices, irrigation is also permitted during the hours of 5:00 p.m. to 9:00 p.m., three days per week.

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<sup>5\*</sup>Cross reference – Public works department, § 2-81 et seq.

D. Installations with odd addresses are permitted to irrigate on Monday, Wednesday and Saturday. Installations with even addresses or no addresses are permitted to irrigate on Tuesday, Thursday and Sunday.

### **Sec. 9-3. New Landscape Irrigation Restrictions, Domestic and Commercial.**

A. Low volume irrigation of plants and crops with one hose, fitted with an automatic shutoff nozzle, is permitted but conservation should be practiced.

B. For installations including home flower gardens which have been in place less than 30 days and are less than 5 acres in size, irrigation using automatic timing devices is restricted to the hours of 2:00 a.m. to 8:00 a.m., Monday through Friday.

C. For acres 5 acres or greater in size, irrigation is restricted to the hours of 12:01 a.m. to 8:00 a.m. Monday through Friday.

D. For new installations including home flower gardens without automatic irrigation timing devices, irrigation is also permitted during the hours of 5:00 p.m. to 9:00 p.m., Monday through Friday. There are no restrictions for those watering by hand, using low volume methods.

E. Cleaning and adjusting of new irrigation systems is restricted to 10 minutes per zone on a one time basis.

### **Sec. 9-4. Home Vegetable Gardens.**

Irrigation with any type of sprinkler is permitted from 2:00 a.m. to 8:00 a.m. and 5:00 p.m. to 9:00 p.m., Monday through Friday. There are no restrictions on low volume irrigation with one hose, fitted with an automatic shutoff nozzle.

### **Sec. 9-5. Essential Use Restrictions.**

No restrictions on firefighting or medical uses. Hydrant flushing only on emergency basis.

### **Sec. 9-6. Household And Domestic Type Use Restrictions.**

Residential domestic use should be reduced to achieve a per capita consumption of 60 gallons per person per day.

### **Sec. 9-7. Water Utility Use Restrictions.**

Pressure reduction by at least 15% initial pressure at point of service (meter) where operationally feasible. Adequate line and fire flow pressure should be maintained.

### **Sec. 9-8. Commercial And Industrial Use Restrictions.**

Commercial car washes servicing passenger vehicles and mobile equipment weighing less than 10,000 pounds are prohibited from using in excess of 75 gallons of water per wash. Commercial car washes servicing passenger vehicles and mobile equipment weighing more than 10,000 pounds are prohibited from using in excess of 150 gallons of water per wash.

**Sec. 9-9. Agricultural Use Restrictions.**

- A. Overhead irrigation, except by portable volume gun, is restricted to the hours of 2:00 p.m. to 10:00 a.m.
- B. Flood and seepage irrigation must not discharge tailwaters from the property. This restriction does not apply to agricultural uses in the production of watercress planted prior to the declaration of a water shortage.
- C. Soil flooding for pest control or soil preservation is prohibited.

**Sec. 9-10. Nursery Use Restrictions.**

Inside overhead irrigation uses are restricted to 8:00 a.m. to 8:00 p.m., seven days per week. Outside use is restricted to 7:00 p.m. to 7:00 a.m., seven days per week.

**Sec. 9-11. Dewatering Use Restrictions.**

Discharge of fresh water to tidal waters is prohibited.

**Sec. 9-12. Water Based Recreation Restriction Use (Includes Pools, Water Slides, Swim Areas).**

Filling is permitted for new and existing facilities. Draining only is permitted onto porous surfaces. No draining into sewers. Adding water to maintain levels is permitted for both new and existing facilities.

**Sec. 9-13. Miscellaneous Use Restrictions.**

- A. Boat washing and motor flushing is permitted for up to a maximum total of 30 minutes following operation in salt or brackish water.
- B. Air conditioning (water source heat pumps) use restricted to water necessary to maintain temperature no cooler than 78 degrees Fahrenheit.
- C. Washing and cleaning streets, driveways, sidewalks, or other non-porous areas with water is prohibited.
- D. Non-commercial vehicle washing is restricted to the hours from 4:00 a.m. to 8:00 a.m. and from 5:00 p.m. to 9:00 p.m., three days per week, using even/odd house address method.

E. Outside pressure cleaning is restricted to only low volume methods, seven days per week.

F. Outside aesthetic uses of water are prohibited.

**Sec. 9-14. Violations.**

Violation of these restrictions constitutes a second degree misdemeanor, enforceable by local county and municipal law enforcement officers.

**Sec. 9-15. Variances.**

Variances from the provisions of the law may be requested by filing a petition for a variance with the St. Johns River Water Management District.

**Sec. 9-17. Applicability.**

The above restrictions will not apply to users whose source is reclaimed water or seawater. All other users, whether their water source is private well, surface water or public utility, must follow these restrictions.

(Ord. No. 90-5, §§ 1-16, 7-10-90)

**Sec. 9-18 – 9-20. Reserved.**

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding an article to be named Article II. Storm Water Management and Conservation, which article reads as follows:

**ARTICLE II. STORM WATER MANAGEMENT AND CONSERVATION**

**DIVISION 1. GENERALLY**

**Sec. 9-21. Short title.**

This article shall be known and may be cited as “The Storm Water Management and Conservation Ordinance.”

(Ord. of 3-11-80, § 1)

**Sec. 9-22. Purpose and intent.**

This article is intended to allow landowners reasonable use of their property, provided storm water runoff peak rates and volumes retained after development approximate existing predevelopment conditions and precautions will be taken to prevent erosion, sedimentation and flooding.

(Ord. of 3-11-80, § 2)

**Sec. 9-23. Definitions.**

For the purposes of this article, the following words and terms shall have the meanings respectively ascribed. Words not defined herein shall be construed to have the meanings given by common and ordinary use as defined by the latest edition of "Webster's Dictionary."

*Agricultural lands* means those lands in any agricultural use, including forestry.

*Applicant* means any person applying for or who has been granted a permit to proceed with a project.

*Aquifer* means an underground formation, group of formations, or part of a formation that is permeable enough to transmit, store or yield usable quantities of water.

*Artificial drainage system* means any canal, ditch, culvert, dike, storm sewer or other man-made facility which tends to control the surface flow of water.

*Clearing* means the removal of trees and brush from a substantial part of the land, but shall not include mowing.

*Discharge or discharge point* means the outflow of water from a project, site aquifer, drainage basin or facility.

*Drainage system or natural drainage system* means surface streams or swamps which convey water to natural points of discharge.

*Existing* means the average condition immediately before development or redevelopment commences.

*Ground water* means water beneath the surface of the ground, whether or not flowing through known and definite channels.

*Land* means the earth, water, air above, below or on the surface, and includes any vegetations, improvements or structures customarily regarded as land.

*Natural flow pattern* means the rate, volume and direction of the surface or ground water flow occurring under natural conditions for any given portion of the town.

*Person* means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal entity.

*Project* means the particular structures and improvements proposed by the applicant on a particular land area which are part of a common plan of development and shall include the subdivision of land.

*Project initiation* means all acts antecedent to actual construction activities and includes, but is not limited to, land clearing, utility construction and the like.

*Site plan* means the plan required to acquire a development, construction, building or storm water permit which shows the means by which the developer will conform with applicable provisions of this article and other applicable ordinances.

*Structure* means that which is built or constructed, an edifice or 'building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, but shall not include fences or signs.

*Subdivision* means the division of a parcel of land, whether improved or unimproved, into three (3) or more contiguous lots or parcels of land, whether by reference to a plat, by metes and bounds or otherwise, or, if the establishment of a new street is involved, any division of such parcel. However, the division of land into parcels of one (1) acre or more not involving any change in street lines or public easements of whatsoever kind is not to be deemed a subdivision for the purposes of this article. Subdivision includes a resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided.

*Volume* means occupied space and is measured in cubic units.

*Water* means all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses lakes, ponds, or diffused surface water and water standing, percolating or flowing beneath the surface of the ground.

*Water detention structure or water management structure* means a facility which provides for storage of storm water runoff and the controlled release of such runoff during and after a flood or storm.

*Water retention structure* means a facility which provides for storage of storm water runoff.

*Wetlands* means fresh or salt water marshes, swamps, bogs, and wet woodlands, characterized by specific vegetational types and plant communities, whether:

- (1) Flooded at all times;
- (2) Flooded only seasonably; or
- (3) Having a water table within six (6) inches of the ground surface for at least three (3) months of the year.

#### **Sec. 9-24. General hydrologic requirements.**

The hydrologic requirements mandated by this article shall be developed in accordance with the standards set by the U.S. Department of Agriculture, Soil Conservation Service, and/or the requirements established from time to time by the town through its building inspector. Alternate methods may be used if the methods have been approved by the Volusia County Engineer and the method produces similar results to the above-mentioned technical guide. Innovative approaches to storm water management shall be encouraged and the concurrent control of erosion, sedimentation and flooding shall be mandatory.

(Ord. of 3-11-80, § 6)

#### **Sec. 9-25. Enforcement.**

(a) If the building inspector determines that a project is not being carried out in accordance with the approved plan or if any project subject to this article is being carried out without a permit, he is authorized to:

(1) Issue written notice to the applicant specifying the nature and location of the alleged noncompliance, with a description of the remedial actions necessary to bring the project into compliance within a reasonable specified time; or

(2) Issue a stop-work order directing the applicant or persons in possession to cease and desist all or any portion of the work which violates the provisions of the article if the remedial work is not completed within the specified time. The applicant shall then bring the project into compliance or be subject to immediate revocation of his permit and to penalties in section 9-26.

(b) Any order issued pursuant to subparagraph (a)(1) or (a)(2) above shall become final unless the person or persons named therein requests, in writing, a hearing before the town council no later than fourteen (14) days after the date such order is served. Failure to act in accordance with the order after receipt of written notice shall be grounds for revocation of the permit.

(Ord. of 3-11-80, § 10)

#### **Sec. 9-26. Penalties.**

Any person who violates or causes to be violated any provision of this article or permits any such violation or fails to comply with any of the requirements hereof shall be punished as provided in section 1-12. In addition to any other remedies, whether civil or criminal, the violation of this article may be restrained by injunction, including a mandatory injunction, and otherwise abated in any manner provided by law.

(Ord. of 3-11-80, § 11)

#### **Secs. 9-29-9-40. Reserved.**

## DIVISION 2. PERMIT

### **Sec. 9-41. Required.**

(a) No person may subdivide or make any change in the use of land or construct a structure or change the size of a structure, except as exempted in section 9-46, without first obtaining a permit from the town as provided herein.

(b) For the purposes of this article, the following activities may potentially alter or disrupt existing storm water runoff patterns and as such, will, unless exempt pursuant to section 9-46 hereof, require a permit prior to the initiation of any project:

- (1) Clearing and/or draining of land as an adjunct to construction;
- (2) Clearing and/or draining of nonagricultural land for agricultural purposes;
- (3) Converting agricultural lands to nonagricultural uses;
- (4) Subdividing land;
- (5) Replatting recorded subdivisions and the development of recorded and unrecorded subdivisions;
- (6) Changing the use of land and/or the construction of a structure or changing the size of one (1) or more structures; and
- (7) Altering the shoreline or bank of any surface water body.

(Ord. of 3-11-80, § 4)

**Cross references** – Public works department, § 2-81 et seq.; buildings and building regulations, Ch. 6; changes and amendments in zoning, App. A, Art. XIII.

### **Sec. 9-42. Application procedures.**

(a) Preliminary permit application. Any persons proposing to make any change in the size of any structure or the use of land or to construct a new structure, except as exempted in section 9-46, when in doubt as to whether a standard permit application is necessary, may apply in writing to the town. No fee shall be charged for this preliminary application.

(1) *Contents.* The preliminary application shall be filed by the owner/applicant and shall contain the following elements:

- a. Location map.
- b. Statement and sketch expressing the intent and scope of the proposed project.

(2) *Review.* The preliminary application shall be reviewed by the building inspector. Within ten (10) working days after submission of the complete preliminary application, the building inspector will notify the applicant that either the project is approved, is exempt, or a standard permit application must be filed for the project.

(3) *Considerations:*

- a. Whether the proposed project is exempt.
- b. Whether the proposed project appears to increase the rate or volume of runoff in excess of ten (10) percent from the existing site.
- c. Whether the proposed project appears to adversely affect water quality.
- d. Whether there are other criteria which would require a standard application.

(b) *Standard permit application:*

(1) *Contents.* If a standard permit application is required for the project, the applicant shall furnish the following information to the town, together with a written permit application:

- a. The detailed site plan, including general location map for the proposed project, construction plans, specifications, computations and hydrographs necessary to indicate compliance with the requirements of this article, prepared by a professional engineer registered in the State of Florida.
- b. Topographic maps of the site before and after the proposed alterations.
- c. General vegetation maps of the site before and after the proposed alteration.

(2) *Review.* The building inspector will ascertain the completeness of the permit application within five (5) working days of its receipt.

(3) *Considerations.* The building inspector, in approving or denying a permit application, shall consider as a minimum the following factors:

- a. The characteristics and limitation of the soil at the proposed site.
- b. The existing topography of the proposed site and the extent of topographical changes after development.
- c. The existing vegetation of the proposed site and the extent of vegetational changes after development.

d. The existing hydrologic cycle of the proposed site and the impact of the proposed alterations on the existing hydrologic cycle.

e. The impact the proposed project will have on the natural recharge capabilities of the site.

f. The impact the proposed project will have on downstream water quantity and quality and specifically the potential for downstream flooding conditions.

g. The plans and specifications of structures or devices the applicant intends to employ for on-site water retention, detention, erosion control and flow attenuation.

h. The effect the proposed water retention or detention structures will have upon mosquito breeding habitats.

(c) Approval, denial, etc. Within thirty (30) days after the submission of a completed permit application package, the building inspector shall approve, or disapprove, with or without suggested conditions or modifications, the permit application, and submit it to the town council. The town council shall make a decision either approving or disapproving the application at its next regular meeting, at which time the applicant shall have the opportunity to be heard if the building inspector disapproves the application or suggests other conditions or modifications thereto.

(Ord. of 3-11-80, § 7)

#### **Sec. 9-43. Permit fees.**

(a) The town council may establish fees to be paid at the time an application pursuant to this article is submitted to the town. Such fee schedule may be adopted by resolution and may be amended at any time by the council by resolution.

(b) Where work for which a permit is required by this article is commenced prior to obtaining a permit, the fees specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this article in the execution of the work nor from any other penalties prescribed herein.

(Ord. of 3-11-80, § 8)

#### **Sec. 9-44. Plan adherence.**

The applicant shall be required to adhere strictly to the plan as permitted. Any changes or amendments to the plan must be approved by the building inspector in accordance with the procedures set forth in section 9-42 above. After the completion of the project, the building inspector may require as-built plans from the owner/applicant if the complete project appears to deviate from the approved plan. Enforcement officials shall be granted inspection rights and right-of-entry privileges in order to ensure compliance with the requirements of this article.

(Ord. of 3-11-80, § 9)

**Sec. 9-45. Variance procedure.**

Upon request by any person required to obtain a permit hereunder and where it may be shown that an increase in the rate or volume of surface runoff shall not be harmful to the water resources of the town, the town council, after recommendations by the building inspector, may grant or deny a variance to this article.

(Ord. of 3-11-80, § 12)

**Cross reference** – Buildings and building regulations, Ch. 6.

**Sec. 9-46. Exceptions to permit requirements-Generally.**

For the purpose of this article, the following activities shall be exempt from the formal permitting procedures of this article:

- (1) Single-family and duplex residences and accessory structures.
- (2) Bona fide agricultural pursuits, including forestry, except where an artificial drainage system will be used to increase the flow of surface water from the applicant's land.
- (3) Maintenance work performed on existing mosquito control drainage canals for the purpose of public health and welfare.
- (4) Any maintenance, alteration, renewal, use or improvement to an existing structure not changing or affecting rate or volume of storm water runoff and the construction of any structure or addition not otherwise exempt, not exceeding one thousand (1,000) square feet of impervious area on or parallel to the ground.

(Ord. of 3-11-80, § 5)

**Sec. 9-47. Same-Emergency exemption.**

The article shall not be construed to prevent the doing of any act necessary to prevent material harm to or destruction of real or personal property as a result of a present emergency, including but not limited to fire, infestation by pests, or hazards resulting from violent storms or hurricanes or when the property is in imminent peril and the necessity of obtaining a permit is impractical and would cause undue hardship in the protection of the property.

(Ord. of 3-11-80, § 13)

**Sec. 9-48. Vested rights.**

This article shall not in any way limit or modify the vested rights of any person to complete any development or improvements to lands based upon prior law where a previous permit or

authorization has been granted or applied for and where such previous permit or authorization remains in effect. The town council may acknowledge vested rights in other circumstances where it is equitable and just.

(Ord. of 3-11-80, § 14)

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding an article to be named Article III. Groundwater Pollution Prevention, which article reads as follows:

### ARTICLE III. GROUNDWATER POLLUTION PREVENTION

#### **Sec. 9-49. Policy and purpose.**

It is the public policy of the Town of Pierson, Florida, to prevent the disposal or spillage of hazardous waste onto the ground and into the ground or water supply of the Town; to conserve and protect the ground waters of the Town, and to protect, maintain and improve the quality thereof for domestic, agricultural, recreational uses and to protect, maintain and preserve the quality for the public water supplies; and to prevent the pollution of water and soils of the Town to protect public health, safety and welfare of the citizens of the Town.

#### **Sec. 9-50. Definitions.**

a. *Person* includes any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit and includes any political subdivision, municipality, state agency, bureau or department and the plural as well as the singular number.

b. *Pollution* is the presence in the outdoor atmosphere upon or within the ground or water of any substance in quantities, conditions or manner which may be harmful or injurious to human health or welfare, to animal or aquatic life, or to marine life, or which unreasonably interferes with or may interfere with the enjoyment of life or property or the future use and enjoyment thereof for all legitimate purposes.

c. *Water* includes but is not limited to any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, including but not limited to fresh, brackish, saline or tidal situated wholly or partly within or bordering upon the county.

#### **Sec. 9-51. Hazardous waste.**

No hazardous waste shall be dumped or disposed of on the Town grounds or within the Town waters through any surface spreading or spillage.

#### **Sec. 9-52. Soil and water pollution.**

It shall be unlawful for any person to cause the pollution of any of the soils or waters of the Town in violation of or by failure to comply with the Laws of the State of Florida, or this Ordinance including the orders or rules fixing standards of water or soil quality of permits issued under the Laws of the State of Florida or the authority of this Ordinance.

**Sec. 9-53. Violations.**

Violations of this Ordinance are punishable by imprisonment in the County Jail not to exceed 60 days or by a \$500.00 fine or both. Each day of violation shall constitute a separate offense. Additionally, the Town Council may institute a civil action in appropriate Court to recover costs for any damage inflicted on the environment through violation of this Ordinance and to recover the cost of investigation of the incident and the resulting subsequent cleanup.

**9-54. Aiding, assisting, and procuring.**

It is unlawful to aid, assist or procure another to violate this Ordinance.

(Ord. No. 93-12, § 1, 12-14-93)

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding an article to be named Article IV. Flood Protection, which article reads as follows:

ARTICLE IV. FLOOD PROTECTION.

DIVISION 1. FLOOD DAMAGE PREVENTION.

**Sec. 9-55. Statutory authorization.**

The Legislature of the State of Florida has authorized and delegated in Chapters 125 [counties] and 166 [municipalities] Florida Statutes, the responsibility of local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Council of the Town of Pierson, Florida does hereby adopt the following floodplain management regulations.

**Sec. 9-56. Findings of fact.**

- (1) The flood hazard areas of Town of Pierson, Florida are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

### **Sec. 9-57. Purpose.**

It is the purpose of this ordinance 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:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights and velocities;
- (2) Require that uses vulnerable to floods including facilities which serve such uses be protected against flood damage throughout their intended life span;
- (3) Control that alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

### **Sec. 9-58. Objectives.**

The objectives of this ordinance are to:

- (1) Protect human life, health and to eliminate or minimize property damage;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, roadways, and bridges and culverts located in flood plains;
- (6) Maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- (7) Ensure that potential homebuyers are notified that properly is in a flood hazard area.

### **Sec. 9-59. Definitions.**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**Accessory structure** (Appurtenant structure) means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

**Appeal** means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

**Area of shallow flooding** means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood hazard** is the land in the floodplain within a community subject to a one- percent or greater chance of flooding in any given year. This term is synonymous with the phrase "special flood hazard area."

**Base flood** means the flood having a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" and the "regulatory flood"). Base flood is the term used throughout this ordinance.

**Base Flood Elevation** means the water-surface elevation associated with the base flood.

**Basement** means that portion of a building having its floor sub-grade (below ground level) on all sides.

**Breakaway wall** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

**Building** - see **Structure**.

**Datum** A reference surface used to ensure that all elevation records are properly related. Many communities have their own datum that was developed before there was a national standard. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.

**Development** means any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment.

**Elevated building** means a non-basement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

**Encroachment** means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**Existing Construction** means, for the purposes of floodplain management, structures for which "the start of construction" commenced before the date of the initial Flood Insurance Rate Map (FIRM). Existing construction, means for the purposes of determining rates structures for which the "start of construction" commenced before 04/15/02. This term may also be referred to as "existing structures".

**Existing manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before 11/28/06.

**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, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood or flooding** means:

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters.
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
  - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a) (2) of this definition and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) Tile collapse or subsidence of land along a shore of a lake or other body of water as the result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) (1) of this definition.

**Flood Insurance Rate Map (FIRM)** means an official map of the community, issued by FEMA, which delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)** is the official hydraulic & hydrologic report provided by FEMA. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study may also contain flood profiles, as well as the FIRM, FHBM (where applicable), and other related data and information.

**Floodplain** means any land area susceptible to being inundated by water from any source (see definition of “flooding”)

**Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**Floodplain Administrator** is the individual appointed to administer and enforce the floodplain management regulations of the community.

**Floodplain management regulations** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power which control development in flood-prone areas. This term describes Federal, State of Florida, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

**Floodproofing** means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**Floodway fringe** means that area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

**Freeboard** means the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, bridge openings and hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected frequency flood and floodway conditions.

**Functionally dependent use** means a use that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

**Hardship** as related to variances from this ordinance means the exceptional hardship associated with the land that would result from a failure to grant the requested variance. The community requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**Highest adjacent grade** means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**Historic Structure** means any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district:
- c) Individually listed on the Florida inventory of historic places, which has been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By the approved Florida program as determined by the Secretary of the Interior, or
2. Directly by the Secretary of the Interior.

**Lowest adjacent grade** means the lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**Lowest floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the nonelevation design standards of this ordinance.

**Manufactured home** means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when collected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

**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.

**Market value** means the building value, which is the property value excluding the land value and that of the detached accessory structures and other improvements on site (as agreed to between a willing buyer and seller) as established by what the local real estate market will bear. Market value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach), Actual Cash Value (replacement cost depreciated for age and quality of construction of building), or adjusted tax-assessed values.

**Mean Sea Level** means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, or North American Vertical Datum (NAVD) of 1988.

**National Geodetic Vertical Datum (NGVD) of 1929** means a vertical control used as a reference for establishing varying elevations within the floodplain.

**New Construction** means, for floodplain management purposes, any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance (11/28/06). The term also includes any subsequent improvements to such structures. For flood insurance rates, structures for which the start of construction commenced on or after 04/15/02 and includes any subsequent improvements to such structures.

**New manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after 11/28/06.

**North American Vertical Datum (NAVD)** of 1988 means a vertical control used as a reference for establishing varying elevations within the floodplain.

**Program deficiency** means a defect in the community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the standards required by the National Flood Insurance Program.

**Public safety and nuisance** means anything which is injurious to safety or health of the entire community or a neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Recreational vehicle** means a vehicle that is:

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

**Regulatory floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**Remedy a deficiency or violation** means to bring the regulation, procedure, structure or other development into compliance with State of Florida, Federal or local floodplain management regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**Riverine** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Shallow flooding** means the same as area of shallow flooding.

**Special flood hazard** area means the same as area of special flood hazard.

**Start of construction** means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/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 building. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Storm cellar** means a place below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornadoes or similar windstorm activity.

**Structure** means for floodplain management purposes a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**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 percent of the market value of the structure before the damage occurred.

**Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions.

**Variance** is a grant of relief from the requirements of this ordinance.

**Violation** means the failure of a structure or other development to be fully compliant with the requirements of this ordinance. A structure or other development without the elevation

certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

**Watercourse** means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**Water surface elevation** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

#### **Sec. 9-60. Applicability.**

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the Town Council of the Town of Pierson, Florida.

#### **Sec. 9-61. Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency for the Town of Pierson, Florida, in the Volusia County Flood Insurance Study (FIS) dated 02/19/03, with the accompanying Flood Insurance Rate Map (panels 150G and 300G) and other supporting data, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and Flood Insurance Rate Map are on file at the Pierson Town Hall.

#### **Sec. 9-62. Designation of Floodplain Administrator.**

The Town Council of Town of Pierson, Florida hereby appoints the Chief Building Official to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

#### **Sec. 9-63. Establishment of development permit.**

A development permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

#### **Sec. 9-64. Compliance.**

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

#### **Sec. 9-65. Abrogation and greater restrictions.**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **Sec. 9-66. Interpretation.**

In the interpretation and application of this ordinance all provisions shall be:

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

### **Sec. 9-67. Warning and disclaimer of liability.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Town Council of Town of Pierson, Florida or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

### **Sec. 9-68. Penalties for violation.**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall be punishable for a non-criminal violation. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined not more than \$500, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful actions as is necessary to prevent or remedy any violation.

### **Sec. 9-69. Permit procedures.**

Application for a Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Application Stage:

- a) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
- b) Elevation in relation to mean sea level to which any non-residential building will be flood proofed;
- c) Certificate from a registered professional engineer or architect that the non-residential flood proofed building will meet the flood-proofing criteria in Article 4, Section A (2) and Article 5, Section B (2);
- d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
- (e) Elevation in relation to mean sea level of the bottom of the lowest horizontal structural member of the lowest floor and provide a certification from a registered engineer or architect indicating that they have developed and or reviewed the structural designs, specifications and plans of the construction and certified that are in accordance with accepted standards of practice in Coastal High Hazard Areas.

(2) Construction Stage:

Upon placement of the lowest floor, or flood-proofing by whatever construction means, or bottom of the lowest horizontal structural member it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NGVD or NAVD elevation of the lowest floor or flood-proofed elevation, or bottom of the lowest horizontal structural member as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor and flood-proofing elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct violations detected by such review. Failure to submit the surveyor failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

**Sec. 9-70. Duties and responsibilities of Floodplain Administrator.**

Duties of the Administrator shall include, but are not be limited to:

- (I) Review permits to assure sites are reasonably safe from flooding;

- (2) Review all development permits to assure that the permit requirements of this ordinance have been satisfied;
- (3) Advise permittee that additional Federal, State of Florida, or local permits may be required, and if such additional permits are necessary, especially as it relates to Chapters 161.053; 320.8249; 320.8359; 373.036; 380.05; 381.0065, and 553, Part IV, Florida Statutes, require that copies of such permits be provided and maintained on file with the development permit;
- (4) Notify adjacent communities, the Department of Community Affairs, Division of Emergency Management, the St. John's River Water Management District, the Federal Emergency Management Agency and other Federal and/or State of Florida agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;
- (5) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;
- (6) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (A- Zones) or bottom of the lowest horizontal structural member of the lowest floor (V -Zones) of all new or substantially improved buildings, in accordance with Article 5, Section B (1) and (2) and Section E (2), respectively;
- (7) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Article 5, Section B (2);
- (8) Review certified plans and specifications for compliance. When flood-proofing is utilized for a particular building, certification shall be obtained from a registered engineer or architect certifying that all areas of the building below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy in compliance with Article 5, Section B (2) of this ordinance. In Coastal High Hazard Areas, certification shall be obtained from a registered professional engineer or architect that the building is designed and securely anchored to pilings or columns in order to withstand velocity waters and hurricane wave wash. Additionally in Coastal High Hazard Areas, if the area below the lowest horizontal structural member of the lowest floor is enclosed, it may be done so with open wood lattice and insect screening or with non-supporting breakaway walls that meet the standards of Article 5, Section E of this ordinance.
- (9) Interpret the exact location of boundaries of the areas of special flood hazard. When there appears to be a conflict between a mapped boundary and actual field conditions, the Floodplain Administrator shall make the necessary

interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article;

(10) When base flood elevation data or floodway data have not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State of Florida, or any other source, in order to administer the provisions of Article 5;

(11) Coordinate all change requests to the FIS, FIRM and FBFM with the requester, State of Florida, and FEMA, and

(12) Where Base Flood Elevation is utilized, obtain and maintain records of lowest floor and flood proofing elevations for new construction and substantial improvements in accordance with Article 5, Sections B (1) and (2), respectively.

#### **Sec. 9-71. General standards for flood hazard reduction.**

In all areas of special flood hazard, all development sites including new construction and substantial improvements shall be reasonably safe from flooding, and meet the following provisions:

- (1) New construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State of Florida requirements for resisting wind forces;
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. See the applicable Technical Bulletin or Bulletins for guidance;
- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage. See the applicable Technical Bulletin or Bulletins for guidance;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance;
- (10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced;
- (11) All applicable additional Federal, State of Florida, and local permits shall be obtained and submitted to the Floodplain Administrator. Copies of such permits shall be maintained on file with the development. State of Florida permits may include, but not be limited to the following:
  - (a) Department of Community Affairs in accordance with Chapter 553, Part IV F.S., Florida Building Code
  - (b) Department of Health: in accordance with Chapter 381.0065 F.S. Onsite Sewage Treatment and Disposal Systems.
  - (c) Department of Environmental Protection, Coastal Construction Control Line: in accordance with Chapter 161.053 F.S. Coastal Construction and Excavation.
- (12) Standards for Subdivision Proposals and other Proposed Development (including manufactured homes):
  - (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
  - (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
  - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

**Sec. 9-72. Specific standards for flood hazard reduction.**

In all A-Zones where base flood elevation data have been provided (Zones AE, AI-30, and AH), as set forth in Article 3, Section B, the following provisions shall apply:

(1) *Residential Construction.* All new construction or substantial improvement of any residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, there must be a minimum of two openings on different sides of each enclosed area sufficient to facilitate automatic equalization of flood hydrostatic forces in accordance with standards of Article 5, Section B (3).

(2) *Non-Residential Construction.* All new construction or substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. All buildings located in A-Zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Flood proofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the Floodplain Administrator.

(3) *Elevated Buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor 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 foundation adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade); and

(iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net

area of the openings and permit the automatic flow of floodwaters in both directions.

(b) Fully enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and

(c) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.

(4) Standards for Manufactured Homes and Recreational Vehicles

(a) All manufactured homes that are placed, or substantially improved within Zones AI-30, AH, and AE, on sites

(i) outside of an existing manufactured home park or subdivision,

(ii) in a new manufactured home park or subdivision,

(iii) in an expansion to an existing manufactured home park or subdivision, or

(iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, the lowest floor be elevated on a permanent foundation to {no lower than one foot above} the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) All manufactured homes to be placed or substantially improved in an existing manufactured home park or subdivision within Zones A-I, AH, and AE, that are not subject to the provisions of paragraph 4 (a) of this Section, must be elevated so that either:

(i) The lowest floor of the manufactured home is elevated to no lower than one foot above the base flood elevation, or

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength that are no less than 36 inches {48 inches if one foot of freeboard adopted} in height above the grade and securely anchored to an adequate foundation system to resist flotation, collapse, and lateral movement.

(c) All recreational vehicles placed on sites within Zones AI-30, AH, and AE must either:

(i) Be on the site for fewer than 180 consecutive days,

(ii) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions), or

(iii) Meet all the requirements for new construction, including anchoring and elevation requirements in accordance with Section B, provisions (4) (a) and (b) of this Article.

(5) Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.

(6) Standards for streams with established Base Flood Elevations, without Regulatory Floodways located within the areas of special flood hazard established in Article 3, Section B, where streams exist for which base flood elevation data has been provided by the Federal Emergency Management Agency without the delineation of the regulatory floodway (Zones AE and AI-30), the following additional provisions shall also apply.

(a) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development including fill shall be permitted within the areas of special flood hazard, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(b) Development activities which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies with the community's endorsement for a conditional FIRM revision, and receives the approval of the Federal Emergency Management Agency.

(7) Floodways. Located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and have significant erosion potential, the following additional provisions shall also apply:

(a) Prohibit encroachments, including fill, new construction, substantial improvements and other developments within the regulatory floodway unless certification (with supporting technical data) by a registered professional engineer is provided through hydraulic and hydrologic analyses performed in accordance with standard engineering practice demonstrating that encroachments would not result in any increase in flood levels during occurrence of the base flood discharge.

(b) Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of Article 5, Section A (2), and the elevation standards of Article 5, Section B (1) and (2), and the encroachment standards of Article 5, Section B (7) (a), are met.

(c) Development activities including new construction and substantial improvements that increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies - with the community's endorsement - for a conditional FIRM revision, and receives the approval of FEMA.

(d) When fill is proposed, in accordance with the permit issued by the Florida Department of Health, within the regulatory floodway, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood in accordance with Article 5, Section (7) (a).

(8) For all structures located seaward of the Coastal Construction Control Line (CCCL), the lowest floor of all new construction and substantial improvements shall be elevated to the regulatory flood elevation established by the Florida Department of Environmental Protection or by FEMA in accordance with Article 3, Section B, whichever is higher. All non-elevation design requirements of Article 5, Section E shall apply

**Sec. 9-73. Specific standards for A-Zones without base flood elevations and regulatory floodways.**

Located within the areas of special flood hazard established in Article 3, Section B, where there exist A Zones for which no base flood elevation data and regulatory floodway have been provided or designated by the Federal Emergency Management Agency, the following provisions shall apply:

(1) Require standards of Article 5, Section A.

- (2) The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State of Florida, or any other source, in order to administer the provisions of this ordinance. When such data is utilized, provisions of Article 5, Section B shall apply. The Floodplain Administrator shall:
  - a) Obtain the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures,
  - b) Obtain, if the structure has been flood proofed in accordance with the requirements of Section B (2) of Article 5, the elevation in relation to the mean sea level to which the structure has been flood proofed, and
  - c) Maintain a record of all such information.
- (3) Notify, in riverine situations, adjacent communities, the State of Florida, Department of Community Affairs, NFIP Coordinating Office, and the applicable Water Management District prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
- (4) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (5) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Florida and local anchoring requirements for resisting wind forces.
- (6) When the data is not available from any source as in paragraph (2) of this Section, the lowest floor of the structure shall be elevated to no lower than three feet above the highest adjacent grade.
- (7) Require that all new subdivision proposals and other proposed developments (including proposals for (8) manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data.

#### **Sec. 9-74. Standards for AO-Zones.**

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures in all AO Zones shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the Flood Insurance Rate Map. If no flood depth number is specified, the lowest floor, including basement, shall be elevated to no less than two feet above the highest adjacent grade.
- (2) All new construction and substantial improvements of non-residential structures shall:
  - (a) Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the Flood Insurance Rate Map. If no flood depth number is specified, the lowest floor, including basement, shall be elevated to at least two feet above the highest adjacent grade, or
  - (b) Together with attendant utility and sanitary facilities be completely flood proofed to that level to meet the flood proofing standard specified in Article 5, Section B (2).
- (3) Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.

#### **Sec 9-75. Variance procedures; designation of variance and appeals board.**

The Town Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.

#### **Sec. 9-76. Duties of variance and appeals board.**

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Management Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Circuit Court.

#### **Sec. 9-77. Variance procedures.**

In acting upon such applications, the Town Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger of life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

**Sec. 9-78. Conditions for variances.**

- (1) Variances shall only be issued when there is:
  - a) A showing of good and sufficient cause;
  - b) A determination that failure to grant the variance would result in exceptional hardship; and
  - c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (2) Variances shall only be issued upon a determination that the variance is the minimum necessary deviation from the requirements of this ordinance.
- (3) Variances shall not be granted after-the-fact.
- (4) The Floodplain Administrator shall maintain the records of all variance actions, including justification for their issuance or denial, and report such variances in the community's NFIP Biennial Report or upon request to FEMA and the State of Florida, Department of Community Affairs, NFIP Coordinating Office.

**Sec. 9-79. Variance notification.**

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

- (1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
- (2) Such construction below the base flood level increases risks to life and property.

A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Clerk of Court and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

**Sec. 9-80. Historic structures.**

Variations may be issued for the repair or rehabilitation of "historic" structures - meeting the definition in this ordinance - upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a "historic" structure.

**Sec. 9-81. Structures in regulatory floodway.**

Variations shall not be issued within any designated floodway if any impact in flood conditions or increase in flood levels during the base flood discharge would result.

(Ord. No. 06-14, Art. 1-8, 11-28-06; Ord. No. 07-04, Art. 1-8, 4-13-07)

**DIVISION 2. FLOODPLAIN MANAGEMENT ORDINANCE**

**Sec. 9-82. Recitals; repeal of inconsistent ordinances and regulations.**

This ordinance specifically repeals and replaces all inconsistent ordinance(s) and regulation(s) of the Town related to the National Flood Insurance Program and management of development in flood hazard areas.

**Sec. 9-83. Title.**

These regulations shall be known as the Floodplain Management. Ordinance of the Town of Pierson, hereinafter referred to as "this ordinance."

**Sec. 9-84. Scope.**

The provisions of this ordinance shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling,

grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

#### **Sec. 9-85. Intent.**

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

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

#### **Sec. 9-86. Coordination with the Florida Building Code.**

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

#### **Sec. 9-87. Warning.**

The degree of flood protection required by this ordinance and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this ordinance.

**Sec. 9-88. Disclaimer of Liability.**

This ordinance shall not create liability on the part of the Town Council of the Town of Pierson or by any officer or employee thereof for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

**Sec. 9-89. Applicability.**

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. This ordinance shall apply to all flood hazard areas within the Town of Pierson, as established in Section 102.3 of this ordinance.

**Sec. 9-90. Basis for establishing flood hazard areas.**

The Flood Insurance Study for Volusia County, Florida and Incorporated Areas dated February 19, 2014, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this ordinance and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Town Hall, located at 106 North Center Street, Pierson, FL 32180.

**Sec. 9-91. Submission of additional data to establish flood hazard areas.**

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

- (1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this ordinance and, as applicable, the requirements of the Florida Building Code.

- (2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

#### **Sec. 9-92. Other laws.**

The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

#### **Sec. 9-93. Abrogation and greater restrictions.**

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

#### **Sec. 9-94. Interpretation.**

In the interpretation and application of this ordinance, all provisions shall be:

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

#### **Sec. 9-95. Designation of Floodplain Administrator.**

The Town Clerk is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

#### **Sec. 9-96. Duties and powers of the Floodplain Administrator.**

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

#### **Sec. 9-97. Applications and permits.**

The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

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

**Sec. 9-98. Substantial improvement and substantial damage determinations.**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this ordinance is required.

**Sec. 9-99. Modifications of the strict application of the requirements of the Florida Building Code.**

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

**Sec. 9-100. Notices and orders.**

The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this ordinance.

**Sec. 9-101. Inspections.**

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

**Sec. 9-102. Other duties of the Floodplain Administrator.**

The Floodplain Administrator shall have other duties, including but not limited to:

- (1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 103.4 of this ordinance;
- (2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

(3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;

(4) Review required design certifications and documentation of elevations specified by this ordinance and the Florida Building Code and this ordinance to determine that such certifications and documentations are complete; and

(5) Notify the Federal Emergency Management Agency when the corporate boundaries of the Town of Pierson are modified.

### **Sec. 9-103. Floodplain management records.**

Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this ordinance and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at the Town Hall, located at 106 North Center Street, Pierson, FL 32180.

### **Sec. 9-104. Permits required.**

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

### **Sec. 9-105. Floodplain development permits or approvals.**

Floodplain development permits or approvals shall be issued pursuant to this ordinance for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain

Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

**Sec. 9-106. Buildings, structures and facilities exempt from the Florida Building Code.**

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this ordinance:

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

**Sec. 9-107. Application for a permit or approval.**

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

- (1) Identify and describe the development to be covered by the permit or approval.

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

**Sec. 9-108. Validity of permit or approval.**

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

**Sec. 9-109. Expiration.**

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

**Sec. 9-110. Suspension or revocation.**

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

**Sec. 9-111. Other permits required.**

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

- (1) The St. Johns River Water Management District; section 373.036, F.S.

- (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- (3) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
- (4) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- (5) Federal permits and approvals.

**Sec. 9-112. Site plans and construction documents; information for development in flood hazard areas.**

The site plan or construction documents for any development subject to the requirements of this ordinance shall be drawn to scale and shall include, as applicable to the proposed development:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
- (2) Where base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 105.2(2) or (3) of this ordinance.
- (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 105.2(1) of this ordinance.
- (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
- (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
- (7) Existing and proposed alignment of any proposed alteration of a watercourse.

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

**Sec. 9-113. Information in flood hazard areas without base flood elevations (Approximate Zone A).**

Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

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

**Sec. 9-114. Additional analyses and certifications.**

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

- (1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed

development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 105.4 of this ordinance and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

- (2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 105.4 of this ordinance.

**Sec. 9-115. Submission of additional data.**

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

**Sec. 9-116. Inspections; generally.**

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

**Sec. 9-117. Development other than buildings and structures.**

The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

**Sec. 9-118. Buildings, structures and facilities exempt from the Florida Building Code.**

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

**Sec. 9-119. Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.**

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

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

**Sec. 9-120. Buildings, structures and facilities exempt from the Florida Building Code, final inspection.**

As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 106.1.2.1 of this ordinance.

**Sec. 9-121. Manufactured homes.**

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

**Sec. 9-122. Variances and appeals; generally.**

The Town Council, sitting as the Board of Adjustment shall hear and decide on requests for appeals and requests for variances from the strict application of this ordinance. Pursuant to section 553.73(5), F.S., the Board of Adjustment shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This power of the Board of Adjustment is not subject to Section 11.2.4 Limitation of Power to Grant Variances, of the Town's Unified Land Development Regulations.

### **Sec. 9-123. Appeals.**

The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this ordinance. Any person aggrieved by the decision of Board of Adjustment may appeal such decision to the Circuit Court, as provided by Florida Statutes.

### **Sec. 9-124. Limitations on authority to grant variances.**

The Board of Adjustment shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 107.6 of this ordinance, the conditions of issuance set forth in Section 107.7 of this ordinance, and the comments and recommendations of the Floodplain Administrator and/or the Building Official. The Board of Adjustment has the right to attach such conditions as it deems necessary to further the purposes and objectives of this ordinance.

### **Sec. 9-125. Restrictions in floodways.**

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

### **Sec. 9-126. Historic buildings.**

A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

### **Sec. 9-127. Functionally dependent uses.**

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

### **Sec. 9-128. Considerations for issuance of variances.**

In reviewing requests for variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this ordinance, and the following:

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

**Sec. 9-129. Conditions for issuance of variances.**

Variances shall be issued only upon:

- (1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this ordinance or the required elevation standards;
- (2) Determination by the Board of Adjustment that:

(a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

(b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and

(c) The variance is the minimum necessary, considering the flood hazard, to afford relief;

(3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and

(4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

#### **Sec. 9-130. Violations.**

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

#### **Sec. 9-131. Authority.**

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

#### **Sec. 9-132. Unlawful continuance.**

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

**Sec. 9-133. Definitions; generally.**

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

**Sec. 9-134. Definitions; terms defined in the Florida Building Code.**

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

**Sec. 9-135. Definitions; terms not defined.**

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

**Sec. 9-136. Definitions.**

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

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

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

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

**Base flood elevation.** The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVO) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 1612.2.]

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

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

(1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or

(2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

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

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

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

**Existing building and existing structure.** Any buildings and structures for which the "start of construction" commenced before November 23, 1973. [Also defined in FBC, B, Section 1612.2.]

**Existing Manufactured Home Park or Subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before July 18, 2007.

**Expansion to an existing manufactured home park or subdivision.** 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, the construction of streets, and either final site grading or the pouring of concrete pads).

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

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

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

(1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.

(2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Flood Insurance Rate Map (FIRM).** The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 1612.2.]

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

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

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

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

**Floodway encroachment analysis.** An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base

flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

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

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

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

**Historic structure.** Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings.

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

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

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

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

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

documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

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

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

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

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

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

**Market Value.** The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this ordinance, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

**New Construction.** For the purposes of administration of this ordinance and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after July 18, 2007 and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after July 18, 2007.

**Park Trailer.** A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in section 320.01, F.S.]

**Recreational Vehicle.** A vehicle, including a park trailer, which is: [see in section 320.01, F.S.)

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

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

**Start of construction.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]

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

**Substantial improvement.** Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]

(1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

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

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

### **Sec. 9-137. Flood resistant development; Design and construction of buildings, structures and facilities exempt from the Florida Building Code.**

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

### **Sec. 9-138. Subdivisions; minimum requirements.**

Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

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

**Sec. 9-139. Subdivision plats.**

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

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

**Sec. 9-140. Site improvements, utilities, and limitations; Minimum requirements.**

All proposed new development shall be reviewed to determine that:

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

**Sec. 9-141. Sanitary sewage facilities.**

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

#### **Sec. 9-142. Water supply facilities.**

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

#### **Sec. 9-143. Limitations on sites in regulatory floodways.**

No development, including but not limited to site improvements, and land disturbing activity involving fill or re-grading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 105.3(1) of this ordinance demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

#### **Sec. 9-144. Limitations on placement of fill.**

Subject to the limitations of this ordinance, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

#### **Sec. 9-145. Manufactured homes; generally.**

All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this ordinance.

#### **Sec. 9-146. Foundations.**

All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the Florida Building Code Residential Section R322.2 and this ordinance.

#### **Sec. 9-147. Anchoring.**

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

#### **Sec. 9-148. Elevation.**

Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 304.4.1 or 304.4.2 of this ordinance, as applicable.

**Sec. 9-149. General elevation requirement.**

Unless subject to the requirements of Section 304.4.2 of this ordinance, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A).

**Sec. 9-150. Elevation requirement for certain existing manufactured home parks and subdivisions.**

Manufactured homes that are not subject to Section 304.4.1 of this ordinance, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

- (1) Bottom of the frame of the manufactured home is at or above the elevation required in the Florida Building Code, Residential Section R322 .2 (Zone A); or
- (2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

**Sec. 9-151. Enclosures.**

Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322 for such enclosed areas.

**Sec. 9-152. Utility equipment.**

Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322.

**Sec. 9-152. Recreational vehicles and park trailers; temporary placement.**

Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

(1) Be on the site for fewer than 180 consecutive days; or

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

**Sec. 9-153. Permanent placement.**

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

**Sec. 9-154. Tanks; underground tanks.**

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

**Sec. 9-155. Above-ground tanks, not elevated.**

Above-ground tanks that do not meet the elevation requirements of Section 306.3 of this ordinance shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

**Sec. 9-156. Above-ground tanks, elevated.**

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

**Sec. 9-157. Tank inlets and vents.**

Tank inlets, fill openings, outlets and vents shall be:

(1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

**Sec. 9-158. Other development; generally.**

All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this ordinance or the Florida Building Code, shall:

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

**Sec. 9-159. Fences in regulated floodways.**

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

**Sec. 9-160. Retaining walls, sidewalks and driveways in regulated floodways.**

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

**Sec. 9-161. Roads and watercourse crossings in regulated floodways.**

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

**Sec. 9-162. Amendments to Town Code.**

The Town Code is hereby amended by the following administrative amendments to the Florida Building Code, Building.

Add a new Sec. 107.6.1 as follows:

**107.6.1 Building permits issued on the basis of an affidavit.** Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program /44 C.F.R. Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Section 105.14 and Section 107.6, shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.

Add a new Sec. 117 as follows:

### **117 VARIANCES IN FLOOD HAZARD AREAS**

**117.1 Flood hazard areas.** Pursuant to section 553.73(5), F.S., the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall not apply to Section 3109 of the Florida Building Code, Building.

#### **Sec. 9-163. Fiscal impact statement.**

In terms of design, plan application review construction and inspection of buildings and structures the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

#### **Sec. 9-164. Applicability.**

For the purposes of jurisdictional applicability, this ordinance shall apply in the Town of Pierson. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

#### **Sec. 9-165. Repealer.**

Any and all ordinances and regulations in conflict herewith are hereby repealed to the extent of any conflict

#### **Sec. 9-166. Inclusion into the Code of Ordinances.**

It is the intent of the Town Council that the provisions of this ordinance shall become and be made a part of the Town of Pierson's Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

(Ord. No. 2014-01, Ch. 1-3, 2-11-2014)

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding an article to be named Article V. Other Environmental Factors, which article reads as follows:

## **ARTICLE V. OTHER ENVIRONMENTAL FACTORS**

### **DIVISION 1. TREE PRESERVATION AND PROTECTION ORDINANCE**

#### **Sec. 9-167. Short title.**

This ordinance shall be known and may be cited as the “Tree Preservation and Protection Ordinance.”

#### **Sec. 9-168. Intent.**

This ordinance is intended through the preservation, protection and planting of trees to aid in the stabilization of soil by the prevention of erosion and sedimentation; to reduce storm water runoff and the costs associated therewith and replenish ground water supplies; to aid in the removal of carbon dioxide and generation of oxygen in the atmosphere; provide a buffer and screen against noise pollution; to provide protection against severe weather; to aid in the control of drainage and restoration of stripped land subsequent to construction or grading; to conserve and enhance the Town’s physical and aesthetic environment; and to generally protect and enhance the quality of life and the general welfare of the Town.

#### **Sec. 9-169. Definitions.**

For the purposes of this Ordinance, the following terms, phrases, words and their derivation shall have the meanings given herein when not inconsistent with the text. Words used in the present tense include the future tense. Words used in the singular number include the plural and words used in the plural include the singular. The word “shall” is mandatory and the word “may” is permissive. The word “person” includes a firm, partnership, trust, estate, company, association and organization, whether for profit or nonprofit, individual, co-partnership, joint venture or corporation.

For the purposes of this Ordinance, certain words or phrases shall be defined as follows: Webster’s New Collegiate Dictionary (G&C Merriam Co. most recent edition) shall be used for the definition of any words not defined in this glossary.

**Agricultural Use:** The use of land in horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee keeping, pisciculture and all forms of farm products and farm production.

**Appeal:** A request for review of the Enforcement Official’s interpretation of any provision of this ordinance or request for a variance.

**Applicant:** Any person applying for or who has been granted a development order and/or permit to proceed with a project.

**Buildable Area:** That portion of a lot excluding the front, rear, side or waterfront yards as set forth in the single family residential or two family residential classification in Article 8, Subparagraphs 2, 3 & 4 of Town of Pierson Ordinance No. 80-1, as amended.

**Caliper:** The minimum diameter of replacement tree as measured as a predetermined point of measurement. Trunk diameter for trees up to four (4) inches are to be measured six (6) inches above the soil line. All trees over four (4) inches in diameter will be ???  
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**Clearing:** The removal of any trees from the land, but shall not include mowing or grubbing.

**Cross-Sectional Area:** The area of the trunk of a tree taken four and one-half (4 ½) feet above the base of the tree measured perpendicular to the axis of the trunk.

**Diameter at Breast Height (DBH):** The trunk diameter of a tree measured four and one-half (4 ½) feet above the average ground level at the base of the tree. Provided, however, if the tree forks four and one-half (4 ½) feet above ground level, it is measured below the swell resulting from the double stem. Stems that fork below four and one-half (4 ½) feet above ground level should be considered separate trees.

**Deteriorated:** Degenerated, or damaged to the point where the death of tree is imminent or to the point where the tree poses a significant hazard.

**Developer:** Any person undertaking any development.

**Development:** Any significant man-made change as determined by the Town of Pierson to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, permanent storage of materials, or the dividing of land into two or more parcels. Development includes, but is not limited to the following:

- A) A reconstruction, alteration of the size, or structural change in the external appearance of a structure on land.
- B) A change in the intensity of use of land, such as: an increase in the number of dwelling units in a structure or on land; or, a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units or on the land as may be determined by the Town of Pierson.
- C) Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, or stormwater management facilities, including any “coastal construction” as defined in Section 161.021, Florida Statutes.
- D) Mining or excavation on a parcel of land, except to obtain soil samples.

- E) Demolition or removal of a structure.
- F) Clearing of land as an adjunct of construction.
- G) Deposit of refuse, solid or liquid waste, of fill on a parcel of land.

**Enforcement Official:** For the purpose of this Ordinance, the Building Inspector of the Town of Pierson.

**Historic Tree:** Any Live Oak (*quercus virginiana*) or Bald Cypress (*taxodium distichum*) 36 inches DBH or greater or other tree which is determined by the Town Council of the Town of Pierson to be of such unique and intrinsic value to the general public because of its size, age, historic association, or ecological value as to justify this TEXT CUT OFF a Florida State Champion, United States Champion or a World Champion by the American Forestry Association shall likewise be within this definition.

**Land:** The earth, water, air above, below or on the surface and includes any vegetation, improvements or structures customarily regarded as land.

**Multi-Family/ Commercial Lot:** A parcel of land duly subdivided which is zoned as other than a residential lot as defined in this Ordinance.

**Replacement Tree:** Any immature tree having an overall height of at least six (6) feet and shall have minimum DBH of one and one-half (1 ½) inches, but said term does not include any tree listed as exempt in Section 6.

**Residential Lot:** A parcel of land duly subdivided and zoned for single-family or duplex use.

**Site Development Plan:** The Plan which shows all site conditions, all proposed site improvements, and the means by which the developer will conform with the requirements of Section 7 of this Ordinance and other applicable ordinances pertaining to development within the Town.

**Specimen Tree:** The following species of trees with the minimum specified DBH are determined to be specimen trees in the Town of Pierson, Florida.

<u>Common Name</u>	<u>Botanical Name</u>	<u>DBH</u>
Turkey Oak	( <i>Quercus laevis</i> )	12 inches and larger
Other Oak Species	( <i>Quercus</i> spp.)	18 inches and larger
Maple	( <i>Acer</i> spp.)	18 inches and larger
Sweet Gum	( <i>Liquidambar styracflua</i> )	18 inches and larger
Hickory	( <i>Carya</i> spp.)	18 inches and larger
Elm	( <i>Ulmus</i> spp.)	18 inches and larger
Loblolly Bay	( <i>Gordonia lasianthus</i> )	12 inches and larger
Sweet Bay	( <i>Magnolia virginiana</i> )	12 inches and larger
Real Bay	( <i>Persea borbonia</i> )	12 inches and larger
Swamp Bay	( <i>Persea palustris</i> )	12 inches and larger

Sycamore	(Platanus occidentalis)	18 inches and larger
Magnolia	(Magnolia grandiflora)	12 inches and larger

**Tree:** Any woody self-supporting plant characterized by having a single trunk of at least six (6) inches DBH or multi-stem trunk system with well developed crown at least fifteen (15) feet high as measured from its base shall be considered a tree with the exception of those exempted trees listed in Section 6.

**Tree Survey:** A drawing prepared to a scale as may be determined by the Building Inspector, which provides the location, DBH and common name of specimen trees located on a given parcel of land intended for development. Said drawing shall show any improvement, structures or buildings proposed on the development. The tree survey need not encompass contiguous property of the applicant which is not to be included within the actual limits of the area subject to development consideration.

**Sec. 9-170. Review and approval of development sites.**

If a development requires site plan approval by the Building Inspector, then it shall be reviewed and approved by the Building Inspector prior to issuance of a tree removal permit.

**Sec. 9-171. Removal of trees.**

It shall be unlawful to cut down, move, remove, or effectively destroy through damaging, or to authorize the same unless the removal is authorized by a final development plan or tree removal permit.

**Sec. 9-171. Exemptions.**

Notwithstanding any other provision of this Ordinance to the contrary, any person may cut down, destroy or replace or authorize the removal of one or more trees, whose trunks lie wholly within the boundaries of property owned by said person without obtaining a Tree Removal Permit in accordance with the following:

- A) Said property is zoned for single-family or two-family use and a single-family or two-family dwelling or mobile home is located on said property and it is owner occupied, or
- B) Said property contains Agricultural uses as defined by Town codes, or
- C) Said property contains trees which may have been determined by the Town of Pierson to be deteriorated as a result of age, hurricane, storms, fire, freeze, disease, lightning of other Acts of God, or
- D) Said property is within an existing public or private right-of-way or maintenance easement and contains trees which must be removed or thinned to insure the safety of the motoring public and to maintain visibility of oncoming traffic at intersecting public streets or such other trees which may disrupt public utilities, such as powerlines, drainage ways or similar public needs. Provided, however, as may be determined by the Town of Pierson, specimen trees in public or private rights-of-way

or utility easements may only be removed upon the issuance of a Tree Removal Permit. Said tree so removed shall be replaced with a replacement tree and the location of said replacement tree shall be as determined by the Town of Pierson's Building Inspector, or

- E) Said property contains trees which are planted and grown for sale to the general public or some public purpose. All licensed plant or tree nurseries and botanical gardens are included in this exemption, or
- F) The following species are exempted from the removal restrictions of this Ordinance:

<u>Common Name</u>	<u>Botanical Name</u>
Australian Pine	Causuarina litorea
Australian Pine	Casuarina glauca
Brazilian Pepper	Schinus terebinthefolius
Chinaberry	Melia azedarach
Citrus	Citrus species
Ear Pod Tree	Enterolobium cyclocarpa
Eucalyptus	Eucalyptus species
Punk Tree	Melaleuca leucadendion
Silk Oak	Grevillea robusta
Woman's Tongue	Albizia lebbek

#### **Sec. 9-172. Application for tree removal permit.**

Prior to issuance of a tree removal permit, the developer shall submit a plan containing the following:

- A) A tree survey to scale no greater than one inch equals fifty feet (1" = 50 ft.), which identifies trees by location, common name and DBH.
- B) The tree survey shall denote the following information:
  - (a) Existing trees to be removed, relocated and retained, or,
  - (b) Replacement stock to be planted.
  - (c) Existing trees to be removed and trees to be retained requiring protection shall be clearly designated on-site. Method of designation shall be included in the plans submitted for review.
  - (d) Existing and proposed utility easements.
  - (e) Existing and proposed improvements on the site.
  - (f) Name and address, signature, and telephone number of property owner and developer.
  - (g) Legal description of the property and Parcel Number.
  - (h) North arrow, scale, and identification of streets abutting the property.
  - (i) Reason for removal of trees.

#### **Sec. 9-173. Specimen tree protection requirements.**

The following table sets forth the minimum requirements for the protection of specimen trees for all development within the Town upon site development plan or subdivision approval.

<u>No. of Specimen Trees</u>	<u>Min. Specimen Tree Protection Requirement</u>
Less than 3 per acre or a portion thereof	80 percent of all specimen trees
3.0 to 5.0 per acre	65 percent of all specimen trees
5.1 to 8.0 per acre	50 percent of all specimen trees
8.0 or more per acre	4 specimen trees per acre

Notwithstanding the exemptions of Section 6, the Developer of a subdivision shall provide legal mechanisms which insure the protection of specimen trees after construction has occurred on the development. Such mechanisms may include, but not be limited to conservation easements, common open space, tree protection easements, deed restrictions and homeowner association documents. Individual residential lots are to be permitted per Section 7 and Section 14.

**Sec. 9-174. Area tree protection requirements.**

Fifteen (15%) percent of the square footage of any development shall be designated for the protection of trees. The area required to protect specimen trees may be included to satisfy this requirement. This required area may be constituted as one or more sub-areas within the development. Said area may include any landscape buffer or other landscape areas, that may be required. Such designated areas shall contain sufficient land area to comply with minimum tree protection standards to adequately protect the trees contained within the areas. A minimum of fifty percent (50%) of the required minimum number of trees as provided in Section shall consist of existing trees within said area. The Building Inspector may provide for a waiver or modification of this requirement if the development contains an insufficient amount of existing trees to meet this requirement or, if a modification of this requirement is warranted by specific on-site conditions.

**Sec. 9-175. Relocation of trees.**

The Building Inspector may provide for the relocation of existing trees to suitable areas within the development. Relocation shall be performed in accordance with sound industry practices, including watering to insure survival of replacement trees. Relocated trees may be applied toward required replacement trees.

**Sec. 9-176. Natural vegetation retention areas.**

Areas of a development may be designated as natural vegetation retention areas indicating that all existing vegetation shall remain undisturbed on the area site. Under this designation, trees which contain sufficient size to meet the minimum replacement size and up to six (6) inches DBH size may be retained as replacement trees. Replacement trees shall be considered protected trees and shall be spaced sufficiently far apart to allow adequate growth room for the species.

**Sec. 9-177. Replacement of trees.**

Trees identified for removal on the tree removal permit application shall be replaced by replacement stock. Replacement shall be based on the replacement of one-tenth (1/10<sup>th</sup>) of the total cross-sectional area of the trunk(s) of the tree(s) removed. Cross sectional area shall be taken at the DBH of the tree. Single trees may be replaced with two or more trees provided the cross-sectional requirements are met. In no event shall replacement stock be less than six (6) feet in height not have a DBH of less than one and one-half (1 ½) inches. Replacement species shall be the same general species as the tree removed or an alternate species acceptable to the Building Inspector. Palms may be used a replacement stock up to the full cross-sectional replacement area of palms being removed from the site.

Palms may be substituted as replacements for other species being removed under the following conditions:

(1) If the cross-sectional area of palms being removed from the site comprises 0-25% of the total cross-sectional area of trees being removed, palms may be substituted for replacement of non-palm species up to a maximum of 25% of the total replacement cross-sectional area required.

(2) If the cross-sectional area of palms being removed exceeds 25% of the total cross-sectional area of trees being removed, no substitution of palms for non-palm species will be allowed. The use of palms will be restricted to the replacement cross-sectional area originally calculated based on palms that are being removed.

(3) Since palms are generally moved as mature trees, it is necessary to equate cross-sectional area of commonly moved palms to cross-sectional area of commonly planted non-palm species when substituting palms for non-palm species under Item #2 above. For the purpose of substitution of palms for non-palm species, a ratio of sixteen (16) square inches of replacement cross-sectional area of palms may be substituted for one (1) square inch of replacement cross-sectional area of non-palm species.

For example, a six (6) inch DBH palm tree containing 28.26 square inches may be substituted for a 1-½" DBH hardwood tree containing 1.77 square inches of cross-sectional area. The following informational chart indicates common size comparisons:

<u>DBH of Palm</u>	<u>DBH of Non-Palm Species</u>
6" equates to	1-½"
8" equates to	2"
10" equates to	2-2 ½"
12" equates to	3"
14" equates to	3-½"
16" equates to	4"

This substitution ratio applies only when replacing non-palm species with palm.

**Sec. 9-178. Tree Survival.**

Except for any exemptions contained in Section 6 of this Ordinance, all trees relocated, replaced, or existing within the terms of this Ordinance shall be replaced in the event said trees expire. Said replacement stock shall be maintained in accordance with sound industry practices, including watering. If the development otherwise meets the minimum requirement in Section 8, the Building Inspector may waive the replacement requirements. To insure survival of trees, the developer shall also utilize the provisions of the Tree Protection Manual for Builders and Developers published by the Florida Department of Agriculture and Consumer Services Division.

#### **Sec. 9-179. Tree protection during development.**

(A) Prior to the commencement of construction of a development, the applicant shall clearly mark any tree or tree groups to be maintained in the proximity of any area where land clearing equipment is to be operated. The marking shall remain in place during construction. Said equipment shall be operated in a manner as to not injure or destroy any trees in accordance with this section.

(B) During the construction stage of development, a temporary barrier at least three (3) feet in height shall be formed a minimum radius of six (6) feet from the base of the tree or trees and it shall include at least fifty (50%) percent of the area under the drip line of the trees. The developer shall not cause or allow the cleaning of equipment or material within the drip line of any tree or groups of trees to be maintained. Neither shall the developer cause or allow the disposal of waste material, such as paint, oil, solvents, asphalt, concrete, mortar, or any other material harmful to the life of a tree within the drip line of any tree or group of trees. No attachment, wire (other than the protective guy wires), signs, or permits may be fastened to a tree. Nothing contained herein shall be construed to prevent the designation of driveways or parking areas beneath tree branches so long as the impervious surface amounts to no more than fifty (50%) percent of the total area under the drip line of the tree. In no event shall the impervious area be located closer than six (6) feet from the trunk of the tree. In no event shall motorized equipment be allowed to park on or traverse that area which is to remain in its natural state surrounding a tree which is to be preserved.

(C) Except for palm trees, all trees and replacement stock shall have their natural soil level maintained. Tree Wells and/or planter island shall be provided, if necessary, to maintain the natural existing soil level. All efforts shall be made to maintain natural drainage to such trees.

(D) In connection with the clearing of any lot for new construction on any lot, each lot shall contain a minimum of one (1) tree for each 2,500 square feet of lot area (rounded to the nearest whole number). If the lot contains an insufficient number of existing trees to meet this requirement, or if the lot has no existing trees, replacement trees shall be provided.

#### **Sec. 9-180. Standards of review and appeals.**

The Building Inspector in approving or denying a Permit shall consider the following:

(1) The extent to which the actual or intended use of the TEXT CUT OFF.

(2) The desirability of preserving any tree by reason of its size, age, or some other outstanding quality, such as uniqueness, rarity or status as a historic or specimen tree.

- (3) The extent to which the area would be subject to increased water runoff and other environmental degradation due to removal of the trees.
- (4) The heightened desirability of preserving or enhancing tree cover in densely developed or densely populated areas.
- (5) The need for visual screening in transitional areas, or relief from glare, blight, commercial or industrial unsightliness or any other affront to the visual or aesthetic sense in the area.
- (6) The effect that changes in the natural grade will have on the trees to be protected and preserved.

The applicant has the right to appeal to the Town Council at its next regular meeting to be heard if the Building Inspector disapproves the application or suggests other conditions or modifications thereto.

**Sec. 9-181. Stop work orders.**

A Stop Work Order will be issued by the Building Inspector to any person found in the act of cutting down, destroying, damaging or removing trees in violation of this Ordinance. All work on any development permitted or non-permitted shall cease on the site when a Stop Work Order is issued and will not commence until in compliance.

**Sec. 9-182. Penalties.**

Any violation of this Ordinance shall be punishable by a fine not exceeding \$500.00, or imprisonment for Sixty (60) Days or both such fine and imprisonment.

(Ord. No. 89-11, §§ 1-17, 1-9-90)

Chapters 10, 11

**RESERVED**

Chapter 12

**HEALTH AND SANITATION<sup>6\*</sup>**

**Art. I. In General, §§ 12-1 – 12-22**

Div. 1. Quality and Safety of Municipal Water, §§ 12-1 – 12-5

Div. 2. Waste Disposal, §§ 12-6 – 12-19

Div. 3. Large Gatherings, §§ 12-20 – 12-22

**ARTICLE I. IN GENERAL.**

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a division to be named Division 1. Quality and Safety of Municipal Water, which division reads as follows:

**DIVISION 1. QUALITY AND SAFETY OF MUNICIPAL WATER**

**Sec. 12-1. Backflow Prevention.**

The water service connection of any customer that is deemed to constitute a hazard to the Town water supply shall cause the customer, at their own expense, to install, operate and maintain an approved backflow prevention device.

**Sec. 12-2. Time of Installation.**

The backflow prevention devices must be installed and approved by the Town at the time that industrial and commercial consumer users connect to the public water supply.

**Sec. 12-3. Cost.**

All industrial and commercial customers who are connected to the Town of Pierson water system at the time of adoption of this Ordinance, shall have a backflow prevention device installed and test once per year by the Town of Pierson and the customer shall bear only the actual cost of the installation of the device.

**Sec. 12-4. Manual.**

The manual of cross connection control attached to this Ordinance shall be applied to all industrial and commercial customers. The manual may be amended from time to time by vote of the Town Council or by Resolution.

**Sec. 12-5. Penalties.**

Any violation of this Ordinance shall be punishable by imprisonment in the County jail for not longer than sixty (60) days and by a fine of \$1,000.00 or both for each day of violation.

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<sup>6\*</sup>**Cross references** – Public works department, § 2-81 et seq.; town limits declared bird sanctuary, § 5-1.

(Ord. No. 06-11, §§ 1-7, 12-12-06; Ord. No. 08-02, §§ 1-7, 9-23-08)

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a division to be named Division 2. Waste Disposal, which division reads as follows:

DIVISION 2. WASTE DISPOSAL.

**Sec. 12-6. Duty to remove brush, weeds, trash, etc., from property.**

It shall be unlawful for any owner, renter or occupant of land to fail or neglect to remove from the property owned, rented or occupied, all brush, weeds, obnoxious growths of any kind (except such as is considered cover crops in the practice of agriculture), filth, garbage, trash and debris.

(Ord. No. 33, § 2, 9-10-40)

**Cross reference** – Dilapidated, decayed buildings, § 6-1.

**Sec. 12-7. Definitions.**

A. Town - shall mean the Town of Pierson, Florida.

B. Residential Units - shall mean

1. Single Family Residence - any structure or shelter used or constructed for use by one family only.
2. Multi-Family Dwellings - any building containing two (2) but not more than twenty (20) permanent living units. Hotels, motels, condominiums, etc. containing over twenty (20) units are classified as commercial accounts.

C. Commercial Units - shall mean all residential units not including a Sub-section B(2) above, including but not limited to hotels, motels and trailer parks, apartments, condominiums, lounges, restaurants, bowling alleys, stores, shops, offices and service stations.

D. Garbage Container - shall be defined to mean a plastic or galvanized metal can of a type commonly sold as a garbage can, of a capacity not less than four (4) gallons and not to exceed thirty-two (32) gallons, and having two (2) handles upon the sides of the can, or bail by which it may be lifted and a tight fitting top; or plastic bags that are commonly sold to be used for garbage bags that can be tied at the top. Bags must be securely tied or sealed to prevent emission or odors, be of a material so liquids and greases will not be able to penetrate through the material, and be of sufficient thickness and strength to contain the refuse enclosed without tearing or ripping under normal conditions.

E. Garden and Yard Trash - shall mean all accumulation of grass, leaves, shrubs, vines and tree parts that are placed in garbage containers or tied in bundles that are not more than twenty-four (24) inches in diameter and thirty-six (36) inches in length.

F. Trash - is hereby defined to mean any accumulation of paper, rags, wooden or paper boxes or containers, sweepings, and all other accumulations usual to housekeeping.

G. Garbage - is hereby defined to mean all refuse, accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of meats, fish, fowl, fruit, vegetables and any other matter, of any nature whatsoever which is subject to decay, putrefaction and generation of noxious and offensive gases or odors, or which, during and after decay, may serve as breeding or feeding material for flies and/or other germ carrying insects; and bottles, cans or other food containers, which due to their ability to retain water may serve as a breeding place for mosquitoes or other water breeding insects.

H. Commercial Trash - shall mean any and all accumulations of paper, rags, excelsior, wooden, paper or cardboard boxes or containers, sweepings, and any other accumulation not included under the definition of garbage, generated by the operations of stores, offices and other business places. Commercial trash shall also include all trash placed in public receptacles on public streets, in parks and playgrounds, and in other public places.

I. Refuse - shall include and mean all garbage, garden and yard trash, commercial trash and trash.

J. Bulky Wastes - shall mean large discarded items from residences within the incorporated areas of the Town of Pierson, such as boxes, barrels, crates, furniture, refrigerators, stoves and other household appliances.

K. Contractor - shall mean the firm with whom the Town of Pierson has contracted to provide refuse collection service or its designated franchise.

#### **Sec. 12-8. Purpose.**

It is the intent and purpose of this Ordinance to protect the health, safety, and welfare of the citizens of the incorporated areas of the Town of Pierson by requiring all owners of residential and commercial units in the incorporated areas of the Town of Pierson to arrange with the firm with whom the Town of Pierson has contracted to provide refuse collection service (hereinafter "Contractor") for the proper collection and disposal of refuse generated in the incorporated areas of the Town of Pierson.

#### **Sec. 12-9. Storage of garbage and trash.**

Any person using or occupying any building, home or structure within the incorporated areas of the Town of Pierson shall provide and maintain in good order and repair containers of

sufficient number to contain the garbage and trash that will accumulate on the premises between the collection dates and times herein provided.

**Sec. 12-10. Removal of contents.**

It shall be the duty of every owner of a garbage and trash container to remove and to have removed the contents of the same in accordance with the regulations provided by this Ordinance.

**Sec. 12-11. Unauthorized removal.**

It shall be unlawful for any person other than the contractor to collect any garbage or trash or to dump, incinerate or in any other manner dispose of garbage and trash or to permit himself to be employed or engaged for any such removal or disposal, (or to contract for such removal and disposal with anyone other than the Town's designated franchisee.)

**Sec. 12-12. Placement for collection.**

Garbage containers shall be kept in a place easily accessible to the Contractor at such point as the Contractor's route supervisor shall find and designate to be the most successful for collection and removal. Dumpster type containers must be kept in an area easily accessible to the Contractor. Garbage containers shall not be kept upon public property or neighboring property not in the ownership or tenancy of the person by whom the garbage is accumulated, whether such neighboring property be vacant or improved. Storage of garbage and trash in an open garbage container will not be permitted. The containers required by the Ordinance, except when placed for collection as provided herein, shall be screened from the public view. No container shall be placed at the designated point of collection before 7:00 p.m. of the day preceding the scheduled collection. All reusable containers placed for collection shall be removed from the designated point of collection by midnight of the day of collection.

**Sec. 12-13. Placing garbage and trash in containers.**

If trash is of such a nature that it cannot be placed in the required garbage container, it shall be carefully placed beside the garbage container in bundles less than twenty-five (25) pounds in weight, securely fastened so as to prevent spillage. Newspapers must be tied in bundles. The following items will not be collected by the Contractor and must be disposed of by the owners thereof:

1. Motor vehicles
2. Waste from demolition, destruction, burning or destruction of buildings;
3. Concrete;
4. Large lamps, tree trunks, tree roots;
5. Items weighing more than fifty (50) pounds.

**Sec. 12-14. Placing bulky waste for collection.**

Bulky waste shall be collected only at the request of the owner thereof at a time convenient to the Contractor.

**Sec. 12-15. Supervision of containers.**

Each owner, manager, occupant, tenant or lessee of a house or building used for residential business or commercial purposes shall maintain supervision and surveillance over the garbage containers serving such premises, and if such containers are not emptied and the contents removed by the Contractor or other duly authorized person for a period of five (5) days, he shall notify the Contractor of that fact within five (5) days.

**Sec. 12-16. Access to containers.**

It shall be the duty of any person using or occupying any building, house or structure within the Town to provide the Contractor property with easy access to the garbage containers on the property.

Vicious dogs or other animals must be controlled and must not be allowed to interfere with the Contractor's collection of garbage and trash.

**Sec. 12-17. Fees.**

(A) Fees for services provided by the Contractor pursuant to this Ordinance shall be determined by the Town. Fees for commercial units shall be collected by the Contractor based upon the volume of garbage and trash generated by each user. Fees for residential units shall be collected by the Town based upon the volume of garbage and trash generated by each user. The residences of the Town shall be divided into fair and reasonable types according to their structure and uses for the purpose of garbage and trash accumulation. The business, commercial, educational and other non-residential buildings and other institutions shall likewise be divided into reasonable types for the purpose of collection of garbage and trash accumulation.

(B) The charges fixed by the Town and Contractor for the collection and removal and disposal of all garbage or trash shall be entered in their respective amounts as charges against each owner, manager, occupant, tenant or lessee and the amount so fixed and charged. Commercial Units shall be collected monthly or quarterly as determined by the Contractor. Residential units shall be collected one (1) time per year by the Town through an annual non ad valorem tax roll assessment levied on each taxable residential unit within the Town. Should any owner, manager, tenant or lessee or any place or above or any business or commercial establishment fail or refuse to pay the charges fixed against him and his place of abode or his place of business when due, the Contractor shall have the right to discontinue service and to notify the Town of the delinquent nature of the account. The Town in its discretion may treat any delinquent account as a violation of the provisions of this Ordinance.

**Sec. 12-18. Penalty.**

Any person, firm or corporation violating any provision of this Ordinance shall be fined not less than Five (\$5.00) Dollars nor more than Five Hundred (\$500. 00) Dollars for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

### **Sec. 12-19. Applicability.**

This Ordinance which established a mandatory refuse collection service is applicable to all residential and commercial units within the incorporated areas of the Town of Pierson regardless of the degree of occupancy/utilization, i.e., part or full time. Further, it is the responsibility of the owner(s) of said units to comply with all applicable provisions of this Ordinance.

(Ord. No. 90-6, §§ 1-10, 9-11-90; amended by Ord. No. 04-01, §§ 1-10, 2-10-04)

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a division to be named Division 3. Large Gatherings, which division reads as follows:

#### **DIVISION 3. LARGE GATHERINGS.**

### **Sec. 12-20. Large Crowd Regulation.**

Large gatherings of people within the Town of Pierson, Florida shall comply with following regulations:

- (a) Gatherings of 75 to 150 people shall provide two (2) permanent or portable toilets and have one (1) law enforcement officer present during the entire time of the assembly.
- (b) Gatherings of 150 to 300 people shall provide four (4) permanent or portable toilets and have two (2) law enforcement officers present during the entire time of the gathering.
- (c) The gathering shall not last longer than eight (8) hours.
- (d) The person seeking to conduct a gathering of more than 75 persons must apply for a permit from the Town, which will be issued at a charge adopted by the Town by Resolution.

### **Sec. 12-21. Applicability**

This Ordinance shall not apply to gatherings of Churches, the Little League, the Lions Club, the Rodeo and the Community Center which has adequate toilet facilities and sufficient supervision and do not serve alcoholic beverages.

### **Sec. 12-22. Penalties**

Any person, firm or corporation violating the provisions of this Ordinance shall, upon conviction thereof, for each such offense, be subject to a fine of not to exceed Five Hundred

(\$500.00) Dollars, or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment.

(Ord. No. 93-5, §§ 1-4, 5-11-93; amended by Ord. No. 93-9, §§ 1-4, 11-9-93; amended by Ord. No. 01-06, §§ 1-4, 1-22-02)

Chapter 13

**LICENSES AND BUSINESS REGULATIONS<sup>7\*</sup>**

**Art. I. In General, §§ 13-1–13-20**

**Art. II. Occupational Licenses, §§ 13-21–13-50**

**Art. III. Pool Rooms, Billiard Halls and Amusement Centers § 13-51 – § 13-63**

**Art. IV. Convenience Stores §§ 13-64 – 13-69**

**Art. V. Franchises §§ 13-70 – 13-92**

**Div. 1. Cable Television §§ 13-70 – 13-82**

**Div. 2. Electricity §§ 13-82 – 13-92**

**Art. VI. Recreational Facilities §§ 13-93–13-96**

**ARTICLE I. IN GENERAL**

**13-1–13-20. Reserved.**

**ARTICLE II. OCCUPATIONAL LICENSES**

**Sec. 13-21. Applicability.**

Nothing contained in this article, nor the granting of any license herein provided for, shall be construed as permitting the maintenance or operation of any profession, business or device prohibited by the laws or the public policy of the United States of America and the State of Florida or by the ordinances of the town.

(Ord. No. 54, § 4, 10-1-55)

**Sec. 13-22. Definitions.**

For the purposes of defining “businesses,” “professions,” “tangibles,” “intangibles,” “services,” “manufacturing,” “processing,” “mining,” and any other word used in this article, the town council hereby declares that the definitions be the same as those used by the state in connection with the assessment and collection -of occupational licenses under Chapter 205, Florida Statutes 1953, as amended.

(Ord. No. 54, § 8, 10-1-55)

**Sec. 13-23. License required; issuance.**

No person shall engage in, manage, transact or carry on any business, profession or occupation mentioned in this article within the town until after a license therefor shall have been procured from the town clerk, which license shall be issued to each person upon receipt of the amount hereinafter provided, paid to the town clerk, who shall issue all licenses.

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<sup>7\*</sup>**State law reference** – Local occupational license taxes, F.S. Ch. 205.

(Ord. No. 54, § 1, 10-1-55)

**Sec. 13-24. License year; proration of fee.**

The license year shall begin on the first day of October of each year and end of the thirtieth day of September of the succeeding year, on which later date all licenses shall expire. No license shall be issued for any fractional portion of any year, except as otherwise provided herein, except that any license may be issued after the first day of April to expire the thirtieth day of September upon payment of one-half (1/2) of the amount fixed as the price of such license for one (1) year.

(Ord. No. 54, § 2, 10-1-55)

**State law reference** – Occupational license due dates, F.S. §§ 205.043, 205.05.3.

**Sec. 13-25. Responsibility for payment of license tax.**

The license taxes designated in this article are hereby levied and assessed upon, and shall be paid by persons engaging in or managing, owning, operating or transacting, or acting as an independent agent or solicitor for, the designated classification, business, occupation, profession or devices in the town.

(Ord. No. 54, § 5, 10-1-55)

**Sec. 13-26. Transferability of license.**

All business licenses shall be transferable, with the approval of the mayor, with the business for which they were taken out, when there is a bona fide sale or transfer of the property used and employed in the business as stock in trade, but such transferred license shall not be good for any longer time nor in any other place than that for which it was originally issued. The original license must be surrendered to and filed with the town clerk at the time of application for the transfer and such transferred license, after being approved, shall be of the same force and effect as the original license.

(Ord. No. 54, § 3, 10-1-55)

**Sec. 13-27. License display.**

All persons to whom licenses are issued shall have the licenses conspicuously displayed at their places of business.

**Sec. 13-28. License fees.**

(a) *General license required; when special license required.* For the purposes herein expressed, any person purchasing a license in the general category may be permitted to engage in any business in the general category which his license covers. If, however, his business involves

anything for which a special license is required, he must have that special license in addition to his general license.

That section 13-28(b)(2) of the Code of Ordinances, Town of Pierson, Florida, is hereby amended to read as follows:

(b) *Schedule*. Anyone who maintains a current license to operate a pool hall or billiard saloon shall pay the following license fees due and payable annually, unless otherwise specified herein:

(1) General

Manufacturing, processing and mining .....	\$10.00
Professions .....	\$ 10.00
Sales:	
Of tangibles or merchandise .....	\$ 10.00
Of intangibles .....	\$ 10.00
Services, public .....	\$ 10.00

(2) Special:

All Amusement devices, including but not necessarily limited to the following:

Amusement devices:

Pool tables, per table .....	\$ 15.00
<b>Cross reference</b> – Poolrooms and billiard halls, § 13-51.	
Auction shops (council approval only) .....	\$ 10.00
Bankrupt sales .....	\$ 10.00
Circuses, carnivals, tent shows, sideshows, per day .....	\$ 10.00
Dance halls .....	\$ 25.00
Fortunetellers, clairvoyants .....	\$150.00
Garbage collectors (council approval only) .....	\$ 10.00
Gas plants .....	\$ 25.00
Junk dealers .....	\$ 15.00

Junkyards (council approval only) . . . . .	\$ 15.00
Pawnbrokers . . . . .	\$ 15.00
Peddlers and solicitors (house to house) . . . . .	\$ 10.00
Power plants and electric light company . . . . .	\$ 25.00
Secondhand stores . . . . .	\$ 15.00
Telegraph systems . . . . .	\$ 10.00
Telephone systems . . . . .	\$ 15.00

(Ord. No. 92-3, § 1, 9-8-92, amending Ord. No. 54, § B-28, paragraph (b)(2), 10-1-55)

**Sec. 13-29. Failure to pay tax when due; penalty.**

Any person that shall be delinquent for thirty (30) days in the payment of any license or occupational tax required by this article to be paid, shall pay the amount of the license or occupational tax required to be paid, plus ten (10) percent of the amount of such license or occupational tax, and no license shall be issued more than thirty (30) days after the same shall become due until the amount of such licenses and the penalty herein provided shall have been paid in full.

(Ord. No. 54, § 10, 10-1-55; Ord. No. 54-C, 11-8-62)

**State law reference** – Delinquent penalties, F.S. § 205.053(1).

**Sec. 13-30. Exemptions – Generally.**

All persons exempt by the laws of the State of Florida from payment of the cost of occupational licenses shall be exempt under this article.

(Ord. No. 54, § 11, 10-1-55)

**State law references** – Exemptions; motor vehicles, F.S. § 205.063; farm, grove, etc., exemptions, F.S. § 205.064; exemption for cripples, invalids, aged, and widows with minor dependents, F.S. § 205.162; exemption for disabled veterans, etc., F.S. § 205.171; exemption for charitable, etc., F.S. § 205.192; exemption for certain mobile home setup operators, F.S. § 205.193.

**Sec. 13-31. Same – Agricultural maintenance.**

(a) *Exception.* No person engaged in the occupation of agricultural maintenance and service as more particularly defined hereinafter shall be subject to the provisions of this article.

(b) *Definition.* The term "agricultural maintenance" as used in this section is hereby defined as the occupation of spraying and cultivating of citrus groves; the spraying of ferneries; and the cultivation of farm land. All persons and/or occupations not specifically named are specifically excluded from the operation of this section.

(Ord. No. 54-B, 11-8-62)

**State law reference** – Agricultural exemptions, F.S. § 205.064.

**Sec. 13-32. Violations; penalties.**

Any person that shall carry on, conduct or manage any business, occupation or profession for which a license is required, without first having obtained such license, or who shall refuse or fail to display or exhibit such license as hereinbefore directed upon demand, shall be deemed guilty of the violation of this article and, upon conviction, shall be punished by a fine equal to double the amount required for such license, provided such fine shall not exceed five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days, or both.

(Ord. No. 54, § 12, 10-1-55)

**Secs. 13-33-13-50. Reserved.**

**ARTICLE III. POOL ROOMS, BILLIARD HALLS AND AMUSEMENT CENTERS<sup>8\*</sup>**

**Sec. 13-51. Hours and Conditions of Operation**

That section 13-51 of the Code of Ordinances, Town of Pierson, Florida, is hereby amended to read as follows:

Anyone who maintains a current license to operate a pool room, billiard hall, or amusement center or similar business establishment, as a permitted use, accessory use, or special exception may only engage in such business during the following hours and on the following conditions:

a. Hours of Operation:

Monday through Friday	10:00 A.M. to 9:00 P.M.
Saturday	10:00 A.M. to 10:00 P.M.
Sunday	No Operation Allowed

b. No alcoholic beverages shall be sold or consumed on the premises.

c. Loitering shall not be allowed on the premises.

d. Gambling or betting shall be prohibited.

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<sup>8</sup> \***Cross reference** – Occupational license tax for pool tables, § 13-28(bX2).

e. A violation of any of the foregoing conditions shall constitute grounds for revocation of any such license.

(Ord. No. 20, § 1, 2-9-37; amended by Ord. No. 92-4, § 1, 10-13-92)

**Cross reference** – General penalty, § 1-12.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 13-52, which section reads as follows:

**Sec. 13-52. Title.**

This ordinance shall be known and may be cited as the “Town of Pierson Bingo Ordinance.”

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 13-53, which section reads as follows:

**Sec. 13-53. Regulation of Bingo Activity.**

Section 849.0931, Florida Statutes, was enacted by the State Legislature as an exception to the gambling and lottery laws. It authorizes charitable, civic, community, benevolent, religious or scholastic works and other similar activities, which the organizations have been in existence and active for a period of three years or more to conduct bingo games provided the entire proceeds derived from the conduct of bingo games, less actual business expenses for articles designed for and essential to the operation, conduct, and playing of bingo, are donated by such organizations to such endeavors mentioned above.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 13-54, which section reads as follows:

**Sec. 13-54. Proceeds.**

Section 849.093(2) (a), Florida Statutes, also prohibits the net proceeds from bingo games from being used for any purpose other than charitable, non-profit and veterans' organizations engaged in charitable, civic, community, benevolent, religious or scholastic works and other similar activities.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 13-55, which section reads as follows:

**Sec. 13-55. Sponsors.**

Section 849.0931(2) (b), Florida Statutes, provides that it is the express intent of the Legislature that no charitable, non-profit or veterans' organization serves as a sponsor of a bingo

game conducted by another, but such organization may only be directly involved in the conduct of such a game as provided in the statute.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 13-56, which section reads as follows:

**Sec. 13-56. Authorization.**

Section 849.0931, Florida statutes, contains various other provisions intended to assure that only the groups, associations, and organizations authorized by the statute are involved in the operating of, or receive and/or distribute the proceeds of bingo games, but the present law is inadequate to fully achieve this objective because of a lack of regulatory authority as suggested by the Report of the Twelfth Statewide Grand Jury regarding the operation of community bingo halls in the state of Florida.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 13-57, which section reads as follows:

**Sec. 13-57. Benefactors.**

Section 849.0931, Florida Statutes, contains various other provisions intended to assure that the primary benefactor of the authorized bingo games is actually the charitable, non-profit and veterans' organizations, and not private persons, but the present law has proved too inadequate to fully achieve that objective.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 13-58, which section reads as follows:

**Sec. 13-58. Local Government.**

Section 849.0931, Florida statutes does not contain any language preempting a local government from adopting regulations relating to the conduct of bingo games.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 13-59, which section reads as follows:

**Sec. 13-59. Local regulation.**

The Town of Pierson charter possesses the power pursuant to Article VIII, Section 1(g), Florida Constitution, and Section 166, Florida Statutes, to exercise its police power to promote the health, safety and welfare of the people of the Town of Pierson, and a need exists in the Town of Pierson to provide for local regulation of bingo.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 13-60, which section reads as follows:

### **Sec. 13-60. Scope and applicability.**

The Fifth District Court of Appeal, in its opinion in the case of *F.Y.I. Adventures, Inc. v. city of Ocala*, 22 Fla.L. Weekly D1875 (Fla. 5th DCA, August 1, 1997), has determined that the Florida Legislature did not intend to preempt the "field of bingo play" and that an Ordinance similar to this Ordinance was constitutionally valid. The Town of Pierson has a small population, some of whom play bingo, and many non-profit, charitable and veterans' organizations which rely on legally obtained bingo proceeds. This Ordinance shall apply to the incorporated areas of the Town of Pierson.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 13-61, which section reads as follows:

### **Sec. 13-61. Definitions.**

"Bingo game" shall be defined as set forth at Section 849.0931(1) (a), Florida statutes, as it may be amended or renumbered.

"Person" shall be defined as an individual, partnership, general partner of a partnership, corporation, officer or director of a corporation, subchapter S corporation, officer or director of a subchapter S corporation, limited partnership, general partner of a limited partnership, organization, chief operating officer of an organization, trust, trustee of a trust, foundation, trustee of a foundation, group, chief operating officer of a group, association, chief operating officer of an association, society, chief operating officer of a society, or any combination thereof.

"Structure" shall be defined as set forth at Section 380.031, Florida Statutes, as it may be amended or renumbered.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 13-62, which section reads as follows:

### **Sec. 13-62. Operating hours.**

No structure shall be used for the conduct of bingo games for more than two days per any seven day period. The prohibition shall not extend to or affect the leasing, rental or use of a structure for any purpose other than the conduct of bingo games.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 13-63, which section reads as follows:

### **Sec. 13-63. Leasing.**

No person shall lease, sublease, assign or rent all or part of any structure for the conduct of bingo games, or conduct, or permit the conduct of, bingo games in a structure, more than two days per any seven day period.

(Ord. No. 98-7, § 1-4, 1-28-98)

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding an article to be named Article IV. Convenience Stores, which article reads as follows:

## **ARTICLE IV. CONVENIENCE STORES**

### **Sec. 13-64. Definitions.**

Definition: The term "Convenience store" means any place of business that is engaged in the retail sale of groceries including the sale of prepared food, and gasoline and services, that is regularly open for business at any time between the hours of 9:00 P.M. and 6:00 A.M. The term "convenience store" does not include a store which is solely or primarily a restaurant.

### **Sec. 13-65. Hours of operation.**

If open for business after 9:00 P.M., the convenience store must employ two persons who are continuously on duty on the premises from 9:00 P.M. until closing of 6:00 A.M. whichever occurs first.

### **Sec. 13-66. Effective date.**

The two convenience store employees required by this Ordinance must be employed on or before the effective date of this Ordinance.

### **Sec. 13-67. Required security devices.**

Each convenience store located within the Town of Pierson shall:

1. Be equipped with the following security devices:
  - (a) A silent alarm that notifies local law enforcement or a private security agency that a robbery is taking place.
  - (b) A security camera system capable of retrieving an image to assist in the identification and apprehension of a robber.
  - (c) A drop safe or cash management device that provides minimum access to the facility's cash receipts.
2. Lighted parking lots illuminated at an intensity of 2 foot-candles per square foot with uniformity ratio of no more than 5 to 1 at 18 inches above the surface.
3. Post a conspicuous sign in the convenience store entrance which states that the cash register contains \$50 or less.

4. Maintain window signage so that there is a clear and unobstructed view of the cash register and transaction area.
5. Prohibit window tinting on the windows of the establishment if such tinting reduces exterior or interior viewing during the hours of operation to which this act is applicable.
6. Install height markers at the entrance of the establishment which display height measures from the floor.
7. Establish a cash management policy to limit the amount of available cash on hand between the hours of 9:00 P.M. and 6:00 A.M.

**Sec. 13-68. Training of employees.**

Training employees no later than September 1, 1991, the owner or principal operator of a convenience store shall provide proper robbery deterrence and safety training to at least its employees who work between the hours of 9:00 P.M. and 6:00 A.M. Any proposed program of training shall be submitted in writing to the Attorney General. The Attorney General shall review and approve or disapprove of training programs in writing within 60 days after receipt of a proposal describing the training to be provided.

**Sec. 13-69. Penalties.**

Any owner or Principal Operator who inadvertently fails to comply with the promises of the Ordinance shall be notified, in writing, of the violation by the Town and given 10 days after receipt of the Written Notice to comply. Any Owner or Principal Operator who fails to correct the inadvertently violation within 10 days or who willfully and deliberately violates the requirements of this Ordinance initially or subsequently shall be required to pay to the Town of Pierson a civil fine of \$2,500 for the first violation and \$4,500 for each violation thereafter. Each day that the violation remains uncorrected shall constitute a separate violation

(Ord. No. 91-7, § 1-5, 8-13-91)

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding an article to be named Article V. Franchises, which article reads as follows:

**ARTICLE V. FRANCHISES.**

**DIVISION 1. CABLE TELEVISION.**

**Sec. 13-70. Short Title.**

This Ordinance shall be known and may be cited as Pierson Volusia County Community Antenna Cable Television Franchise Ordinance.

## Sec. 13-71. Definitions.

For the purpose of this Ordinance, the following terms, phrases, words, abbreviations and their derivations shall have the meaning described herein:

- (a) Basic Service. Means the delivery by the Franchisee to television receivers, or any other suitable type of audio-video communication receivers to subscribers in the County as signals of over-the-air television broadcasters and public access channels required by FCC; and all other service at the option of the Company; however, neither pay nor subscription television as defined by the FCC nor lease channels shall be considered part of the basic service.
- (b) Cable Television System. For the purpose of this Ordinance, the term Cable Television System is synonymous with the term community antenna television system and CATV, all of which involve a system of employing antenna, microwave, wire, wave-dash guides, coaxial cable, fiber optics, and other conductors, equipment or facilities, designed, constructed or used for the transmission of audio signals and/or visual images by means of electrical impulses and any other lawful purpose for which Cable television facilities may be employed, including but not limited to transmitting and receiving all other signals including digital, voice and audio-visual, whether or not such signals are encoded or processed for reception.
- (c) Council. Means the Town Council of the Town of Pierson, Florida.
- (d) Town. Means the Town of Pierson, Florida.
- (e) Extended CATV Service. Means pay or other subscription television as defined by FCC.
- (f) FCC. Means Federal Communications Commission.
- (g) Franchisee. Means Florida Cable Television Network being the corporation granted this franchise by the Town Council of the Town of Pierson, Florida and its lawful successors, transferees or assigns.
- (h) Franchise Area. Means and includes the incorporated areas of the Town of Pierson.
- (i) Other CATV Service. Means any communication service other than the basic service or extended CATV service, provided by the Franchisee, using its cable television system, whether directly or as a carrier for its subsidiary affiliate or any person engaged in the communications services, including but not limited to burglar alarm services data or other electronic transmission service facsimile reproduction services, meter reading services and home shopping services.

No construction shall take place within Town right-of-way without obtaining prior written approval of the Town Engineer. Any costs of repair to the road right-of-way or property shall be Franchisee's responsibility and Franchisee shall indemnify the Town for any and all expenses or costs or losses, including all attorney's fees and costs caused by the exercise of this franchise. Should right-of-ways be altered by the Town, Franchisee shall also relocate its improvements accordingly at Franchisee's expense.

All underground cable on Town right-of-ways or property shall have a minimum cover of two feet six inches (2' 6"). Crossings of storm drains shall be under the pipe or structure. A minimum of forty-eight (48) hours' notice shall be given to the Town Engineer prior to construction on Town property. All pavement repairs shall be to Town requirements. All safety measures, barricades, and maintenance of traffic shall be the sole responsibility of Franchisee. The Franchisee shall maintain liability insurance at all times protecting the Town and the Franchisee against any damage or lawsuits. The amount of coverage shall be approved by the Town.

#### **Sec. 13-72. Grant of non-exclusive franchise.**

The Town Council of the Town of Pierson hereby grants to the Franchisee a non-exclusive franchise right, privilege, authority and easement for a period of fifteen (15) years from the effective date hereof unless sooner terminated pursuant to the provisions of this Ordinance, to construct, erect, suspend, install, renew, maintain and otherwise own and operate throughout the incorporated area of the Town of Pierson, Florida in, upon, along, across, above and under the streets, alleys, easements, public ways and public places as now laid out or dedicated and all extensions thereof and additions thereto in the Town of Pierson, a cable television (CATV) and for any other lawful purpose, in conjunction with the operation of said system, in accordance with the laws and regulations of the United States of America, particularly the Federal Communications Commission, State of Florida, and Ordinances and Regulations of the Town of Pierson.

This franchise shall further include the right, privilege, easement and authority to construct, suspend, install, lay, renew, repair, maintain and operate such poles, wires, appliances, and appurtenances for the purpose of the Town of Pierson, Florida all CATV services permitted by this Ordinance. Without limiting the generality of the foregoing, this franchise shall and does include the right, in, over and upon the streets, sidewalks, alleys, easements, public grounds and places in the Town of Pierson, Florida for the purpose of installing, erecting, operating or in other ways acquiring the use of, as by leasing, all poles, lines and equipment necessary to operate a CATV system and the right to make connection to subscribers the right to repair, replace and enlarge and extend said lines, equipment and connections. The rights herein having been duly granted after considering the Franchisee's existing contacts with the community, financial, technical, and other qualifications of the Company, in a full public proceeding which included notice of the consideration of this Ordinance.

**Sec. 13-73. Grant of license pursuant to §166.021, Florida Statutes.**

Pursuant to §166.021, Florida Statutes, which authorizes the Town of Pierson, Florida to grant licenses to construct, maintain, repair, operate and remove lines for the transmission of television signals under, on, over, across and along any city street or highway located within the municipality, the Town hereby grants to the Company a non-exclusive license to enter into, under and upon the easements, road right-of ways and other properties in the incorporated Town areas which are under the jurisdiction and control of the Town for the purpose of installing, operating and maintaining a community television distribution system in said incorporated Town areas, and to construct, maintain, repair operate and remove lines for the transmission of cable television signals under, on, over, across and along Town roads and highways.

The license herein granted by the Town shall be limited to those right-of ways, easements and other properties over which the town has jurisdiction and control located within the incorporated areas of the Town of Pierson, Florida.

The license herein granted shall exist so long as the Company or its successors shall actively engage in the cable television distribution service in the licensed area under the authority granted by this Ordinance.

The Franchisee agrees that it will at all times hold the Town Council of the Town of Pierson and members thereof harmless from the payment of any compensation or damage, including litigation expenses and attorneys' fees resulting from the exercise of the privileges granted in this section of this Franchise Ordinance.

The Franchisee hereby covenants to prevent the creation of any obstructions or conditions which are or may become dangerous to the traveling public as a result of the Company's entry and construction upon the licensed area.

The Franchisee hereby covenants to repair any damage or injury to any road or highway in the licensed area by reason of the exercise of the privileges granted by this document and to repair the road or highway promptly, restoring it to a condition at least equal to that which existed prior to the infliction of damage or injury.

**Sec. 13-74. Compliance with applicable laws and ordinances.**

The Franchisee, in exercise of the rights and privileges granted by this Ordinance, shall comply with all local, state and federal laws, rules, regulations and codes applicable to its business or any of this rights or privileges granted by this Ordinance, including the mandatory rules of the Federal Communications Commission.

**Sec. 13-75. Duration and acceptance of this ordinance.**

This Ordinance shall be considered enacted and the rights granted hereunder shall take effect and be in full force from now through the date of acceptance by the Franchisee as provided herein. The franchise rights granted by this Ordinance shall continue in full force and effect for an

initial period of fifteen (15) years from the date of the acceptance of the terms of this Franchise Ordinance by the Franchisee.

The Franchisee shall forfeit all rights and privileges conferred by this Ordinance, and this Ordinance shall be null and void unless the Company shall, within one hundred twenty (120) days after adoption hereof, file with the Town Clerk of the Town of Pierson its written acceptance of the rights and privileges herein conferred.

**Sec. 13-76. Franchise area.**

This Ordinance shall apply to the entire incorporated area of the Town of Pierson, Florida.

**Sec. 13-77. Franchise fee.**

The Franchisee shall report to the Town Clerk, under oath of its President, or managing agents, the total amount of gross subscriber revenues derived by it in the immediately preceding three (3) months from services rendered with the area covered by this Franchise Ordinance and it shall pay the Town a franchise fee in the amount equal to five percent (5%) of such gross subscriber revenue quarterly. The Franchisee shall maintain its financial records in accordance with generally accepted accounting principles and provide an accounting of its gross subscriber revenue quarterly. A duly authorized agent of the Town shall have the right, power and authority to inspect and audit the current records of gross revenue of the Franchisee relating to its operations connected with this Franchise Agreement. If the franchise enters into a franchise with another governmental entity at a more favorable rates and terms to the Town, those rates and terms shall apply to and be incorporated herein. The franchisee has a duty and obligation to notify the Town of compliance with this requirement.

**Sec. 13-78. Use of tower.**

The Town shall be entitled to the reasonable use, without charge, of any tower for the purpose of attaching and maintaining one or more antennas during the period of this ordinance, along with the necessary cable, for the sole purpose of providing radio/telephone communications to or on behalf of any agency, department or other arm of town government of the Town of Pierson, Florida, including any and all use by or on behalf of The Town of Pierson. The Franchisee shall provide to the Town emergency audio override access on all channels.

**Sec. 13-79. Indemnification.**

The Franchisee shall indemnify and hold harmless the Town Council against any liability claim or damage which they may suffer or incur by reason of the Franchisee's exercise of the privileges granted under this Ordinance, including all costs and attorneys' fees.

**Sec. 13-80. Franchise standards.**

The mandatory provisions of Section 76.31 of the Regulations of the Federal Communications Commission, as now enacted or subsequently amended, are incorporated herein

by reference. In the event any amendment to said Section 76.31 makes necessary the amendment of this Franchise, this Franchise shall be so amended within one (1) year from adoption of this amendment to said Section 76.31, or at renewal time, whichever occurs first.

**Sec. 13-81. Assignment of transfer of rights.**

The Franchisee may assign, transfer or otherwise dispose of its rights and obligations under this Ordinance with the approval of the Town Council after public hearing held for that purpose.

**Sec. 13-82. Rates.**

The rates and charges for the services rendered by this Company under this Ordinance shall at all times be reasonable and subject to reasonable rates.

(Ord. No. 05-08, § 1-12, 02-14-06)

DIVISION 2. ELECTRICITY.

**Sec. 13-83. Adoption of National Electrical Code.**

The Town of Pierson is hereby adopting by reference as though it were copied herein fully the National Electrical Code Edition 1990. The Purpose of this Code is the practical safeguarding of persons and property from hazards arising from the use of electricity.

**Sec. 13-84. Penalties.**

Any violation of this Ordinance shall be punishable by a fine not exceeding \$500.00, or imprisonment for SIXTY (6) DAYS or both such fine and imprisonment.

(Ord. No. 89-9, §§ 1-5, 12-12-89)

**Sec. 13-85. Florida Power Electric franchise.**

That for the period of 30 years from the effective date of this Ordinance, the Town of Pierson, a municipal corporation created and existing pursuant to the laws of the State of Florida, its successors and assigns, (herein referred to as Grantor) does hereby give and grant to Florida Power Corporation, a corporation organized and existing pursuant to the laws of the State of Florida, its successors and assigns (herein referred to as Grantee), the non-exclusive right, privilege and franchise to construct, operate and maintain within the corporate limits of Grantor, all electric utility facilities required by the Grantee to supply electricity to Grantor, its inhabitants and the places of business located within Grantor's corporate limits and other customers and areas now or hereafter supplied, or to be supplied, electricity by Grantee.

**Sec. 13-86. Authority.**

That with respect to the right, privilege and franchise granted to Grantee in Section 1 above, Grantee shall have the non-exclusive right, privilege, franchise, power and authority to use the streets, avenues, alleys, easements, wharves, bridges, public thoroughfares, public grounds and other public places of Grantor as they now exist or may hereafter be constructed, opened, laid out or extended during the term of this franchise.

**Sec. 13-87. Rates.**

That the rates to be charged by the Grantee for electric service within the corporate limits of Grantor during the term of this franchise shall be as provided in the Grantee's tariff's now or hereafter approved by the Florida Public Service Commission, or such other agency of the State of Florida as may have proper jurisdiction over such rates and charges of Grantee under the general laws of the State of Florida.

That section 13-88 of the Code of Ordinances, Town of Pierson, Florida, is hereby amended to read as follows:

**Sec. 13-88. Franchise fee.**

That effective the first day of the second month beginning after the effective date of this franchise and ordinance, Grantor shall be entitled to receive from Grantee a monthly franchise fee which will equal six (6%) percent of Grantee's revenues from the sale of electrical energy, net of customer credits, to residential, commercial and industrial customers plus six (6%) percent of Grantee's revenue from Grantor for public street lighting all within the corporate limits of the Grantor, which amount shall be the total compensation due Grantor for the rights, authority and privileges granted by this Franchise. The franchise fee for each month shall be payable on or before the 15th day of the following month.

(Ord. No. 94-1, § 1-8, 02-22-94, amended by Ord. No. 96-4, § 1, 12-07-95)

**Sec. 13-89. Liability.**

That Grantor shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation, or maintenance by Grantee of its facilities hereunder, and the acceptance of this franchise by Grantee shall be deemed an agreement on the part of the Grantee to indemnify Grantor and hold it harmless against any and all liability, loss, cost, damage or expense which Grantor may incur by reason of the neglect, default, or misconduct of Grantee in the construction, operation or maintenance of its electric utility facilities hereunder.

**Sec. 13-90. Annexation.**

That in the event of the annexation of any territory to the present corporate limits of Grantor, such annexed territory and all portions of the electric system of Grantee located therein

shall become subject to all of the terms and conditions of this franchise and ordinance as of the time such annexation becomes effective. It shall be the responsibility of Grantor to notify Grantee in writing within thirty (30) days after the effective date of every such annexation.

**Sec. 13-91. Amendments.**

That in the event Grantee shall hereafter accept an electric utility franchise ordinance from any municipality providing for the payment of franchise fees in excess of the amount provided for in Section 4 above, then Grantee shall be obligated to accept from Granter: 1) an amendment of Grantor's existing franchise ordinance providing for the payment of the same increased franchise fees for the remaining term of this existing franchise ordinance if Grantee accepts another franchise ordinance providing for the payment of the increased fees within the first fifteen years of the term of Grantor's franchise ordinances or 2) a new franchise ordinance providing for the payment of the same increased franchise fees for a term of thirty years if Grantee accepts another franchise ordinance providing for the payment of the increased fees during the second fifteen years of the term of Grantor's existing franchise ordinance.

**Sec. 13-92. Records.**

Grantor may, at its option, and upon reasonable notice of Grantee examine the books of Grantee as such books relate to the calculation of the franchise payments of the Granter. The examination of the books and records of Grantee by Granter shall be during the regular hours of business of the Grantee and at the General Office of the Grantee.

(Ord. No. 94-1, § 1-8, 02-22-94)

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding an article to be named Article VI. Recreational Activities, which section reads as follows:

ARTICLE VI. RECREATIONAL FACILITIES

**Sec. 13-93. Conduct and use of recreational facilities.**

The Town of Pierson, Florida hereby determines that rules and regulations shall be adopted by the Town Council, by resolution, that govern the usage of and conduct at the municipally owned recreation facilities.

**Sec. 13-94. Penalties.**

That a violation of the rules and regulations adopted by resolution shall be punishable by imprisonment of not more than sixty (60) days and a fine not more than five hundred dollars (\$500.00) or by both such fine and imprisonment.

(Ord. No. 94-4, § 1, 5-10-94)

**Sec. 13-95. Use of little league field.**

The rules for use of the Little League Field shall be as follows:

1. Burnsed Field will be used for official Little League Games and shall not be used as a practice field on the day of Games. If Burnsed Field is used as a Practice Field, the Coaches and Assistant Coaches are responsible for the condition of the Field.
2. Little League Fields are to be used by City and Little League authorized persons only.
3. No children or adults are allowed on fields until their Coach or Assistant Coach authorized admittance to the fields.
4. Nothing to eat or drink inside fields. Food and Beverage are not permitted inside the fields.
5. Coaches and Assistant Coaches are responsible to clean up fields, bleacher areas, and restrooms after all games and practice.
6. Care and storage of all equipment is the responsibility of the Coaches and Assistant Coaches.
7. Coaches and Assistant Coaches will ensure that everything is locked. (Practice and Games)
8. Coaches or Assistant Coaches must stay at the field until all players have left. (Practice and games)
9. Coaches and Assistant Coaches shall turn off all lights after the use of the fields.

**Sec. 13-96. Penalties.**

Any person, firm or corporation violating the provisions of this Ordinance shall, upon conviction thereof, for each such offense, be subject to a fine of not to exceed Five Hundred (\$500.00) Dollars or by imprisonment for not to exceed ninety (90) days, or by both such fine and imprisonment.

(Ord. No. 93-3, § 1, 4-13-93)

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a chapter to be numbered 14, which chapter reads as follows:

Chapter 14

**MUNICIPAL WATER**

Art. I. Municipal Water Services §§ 14-1 – 14-21

Div. 1. Potable Water Service Area, §§14-1 – 14-7

Div. 2. Master Water Ordinance, §§ 14-8 – 14-21

Art. II. Regulation of Water Services, §§ 14-22 – 14-34

Art. III. Rates for Municipal Waterworks System, §§ 14-35 – 14-45

**ART. I. MUNICIPAL WATER SERVICES**

**DIVISION 1. POTABLE WATER SERVICE AREA**

**Sec. 14-1. Title**

This Ordinance shall be known as and may be referred to as the Municipal Potable Water Supply System Extension Policy of the Town of Pierson.

**Sec. 14-2. Establishment of a municipal potable water supply service area.**

The Town Council does hereby establish a Municipal Potable Water Supply Service Area which shall be the same as the Town of Pierson municipal boundary. Said service area shall be deemed to expand or contract with any and all changes of the Town's municipal boundary.

**Sec. 14-3. Service limited to service area.**

The Town shall provide potable water supply service within the Municipal Potable Water Supply Service Area for domestic, municipal and industrial uses to the extent that the provision of such service is financially and technically feasible. Financial and technical feasibility shall be determined solely by the Town Council with consideration of any and all substantial competent evidence available to the Council. The Town shall not provide potable water supply service outside the Municipal Potable Water Supply Service Area except as may otherwise be permitted by this ordinance.

**Sec. 14-4. Municipal potable water supply system improvements plan.**

The Town Council may develop a municipal potable water supply system improvements plan, which may be a component of a general capital improvements plan and program, for the purposes of identifying, prioritizing, and scheduling needed system improvements.

**Sec. 14-5. Conformance of water main extensions with the improvements plan.**

If a municipal potable water system improvements plan has been developed and adopted by the Town Council as provided for in Section 4, above, then no substantial water main extensions shall be permitted except in conformance with such plan. For purposes of this section, a substantial water main extension shall be any construction or installation of a water main extending into a previously unserved area more than 1,000 feet beyond the proposed point of connection to the existing system. Additionally, any series of water main extension occurring within any 1 year period that extend into a previously unserved area more than 1,000 feet beyond the point of connection to the existing system shall be considered a substantial water main extension. This prohibition shall not apply to individual service connections installed at private expense outside a public right-of-way or easement.

**Sec. 14-6. Assumption of costs.**

Where potable water supply service is requested beyond the limits of the current system, the Town Council may require the person requesting such service to pay all costs of extension including the costs of materials, installation, and professional engineering design services. If the Town Council deems that it is in the public interest to provide capacity above what is required by the person requesting such service, the Town shall assume all costs over and above the costs for the basic service required by the requesting person.

**Sec. 14-7. Emergency improvements.**

Nothing in this ordinance shall limit the Town Council's authority to make or cause to be made any emergency improvements, including water main extensions, repairs, or replacements, when the Council deems that such emergency improvements are necessary to avert or lessen a condition that presents an imminent threat to the health, safety, or welfare of any person, or that would cause irreparable or irreversible damage to the environment or any improved property.

(Ord. No. 99-7, §§ 1-7, 5-11-99)

DIVISION 2. MASTER WATER ORDINANCE

**Sec. 14-8. Definitions.**

For the purposes of this Ordinance, the following words and terms shall have the meanings respectively ascribed to them.

- A. Waterworks System – The complete system and any and all of its constituent parts relating to the production, treatment and distribution of potable water. The waterworks system does include, but shall not be limited to, wells, pumps, water transmission mains, water storage tanks, chlorination devices, water distribution mains, valves, hydrants, meters, and backflow prevention devices.
- B. Pierson Plumbing Inspector – The employee or agent of the Town of Pierson authorized by the Town Council to administer the Town's plumbing code.

(Ord. No. 93-2, §§ 1-10, 3-9-93; amended by Ord. No. 98-2, § 1, 2-25-98)

**Sec. 14-9. Connection to the Waterworks System.**

A. The owner of each lot or parcel of land within the Town, which abuts upon a street or other public way containing a potable water distribution main of the Town's waterworks system, and upon which lot or parcel a building containing a plumbing system is to be constructed, shall, within thirty (30) days after the construction of such building, and before occupancy of same, connect such plumbing system to the water distribution main.

B. The owner of each lot or parcel of land within the Town, which abuts upon a street or other public way containing a water distribution main, and upon which lot or parcel a building containing a plumbing system does already exist, shall within ninety (90) days after such distribution main shall become available, connect such plumbing system to the distribution main, and shall disconnect any other source of water.

C. Notwithstanding the provisions of this section, it shall not be necessary for the owner of any fern packing shed and associated office existing prior to January 1, 1998, to connect such fern packing shed and associated office to a water distribution main. For purposes of this section, the term "associated office" shall mean an office either within or apart from the fern packing shed and used solely for the conduct of that fern packing operation.

D. All water connections shall be made in accordance with rules and regulations which shall be adopted from time to time by the Town Council of the Town of Pierson by resolution.

E. The Town Council may waive the requirements of this section to connect to the water distribution main upon a showing by the owner that the application of such requirements would, owing to special conditions relating to the land, structure, building or use involved and not to the owner himself, impose an unnecessary and undue burden.

F. This section shall not be construed to entitle any person to cross the private property of another to make such water connections.

(Ord. No. 93-2, §§ 1-10, 3-9-93; amended by Ord. No. 98-2, § 2, 2-25-98)

**Sec. 14-10. Charge for water service.**

The Town Council shall adopt rules and regulations specifying a charge for providing the water service in such reasonable amount as such Town Council may fix and determine and may require a payment for water availability. The resolution shall specify, but not be limited to deposits, classification and application for services, hook up services, installation requirements, charges for water service, methods of payment, enforcement of payments, suspension of service, metering and reconnection charges.

(Ord. No. 93-2, §§ 1-10, 3-9-93; amended by Ord. No. 98-2, § 3, 2-25-98)

**Sec. 14-11. Interest of deposit.**

Interest earned from security deposits shall be used to reduce the debt by the Town of Pierson, Florida to the United States of America.

(Ord. No. 93-2, §§ 1-10, 3-9-93; amended by Ord. No. 98-2, § 4, 2-25-98)

**Sec. 14-12. Government agencies.**

The State and its departments and agencies, the county and its departments and agencies, and all other governmental entities are hereby exempt and shall not be required to post water security deposits in order to obtain such services from the Town.

(Ord. No. 93-2, §§ 1-10, 3-9-93; amended by Ord. No. 98-2, § 5, 2-25-98)

**Sec. 14-13. Unlawful Connection.**

No person shall be allowed to connect into the waterworks system without the written consent of the Town Council, and then the connection with such system shall only be made under the direction and supervision of a licensed plumber or a representative of the Town designated by the Town Council. Any property owner or plumber who shall make any connection without the approval of the Plumbing Inspector shall, upon conviction be subject to the penalties hereinafter provided.

(Ord. No. 93-2, §§ 1-10, 3-0-93; amended by Ord. No. 98-2, § 6, 2-25-98)

**Sec. 14-14. Connecting old plumbing.**

Whenever it is desirable to connect existing plumbing with the waterworks system, the owner or plumber contemplating doing such work shall notify the Pierson Plumbing Inspector who will inspect said plumbing and notify the owner or plumber what alterations will be necessary to place said plumbing in an acceptable condition for connection with the waterworks system. Any owner or plumber who shall make any connection without the approval of the Plumbing Inspector shall, upon conviction be subject to the penalties hereinafter provided.

(Ord. No. 93-2, §§ 1-10, 3-9-93; amended by Ord. No. 98-2, § 7, 2-25-98)

**Sec. 14-15. Maintenance of plumbing by owner.**

The owner of the property shall be responsible for maintaining all plumbing on such property and the pipe leading and connecting from the waterworks system distribution lines. Any loss of water by the plumbing system of the owner shall be the sole responsibility of the owner.

(Ord. No. 93-2, §§ 1-10, 3-9-93; amended by Ord. No. 98-2, § 8, 2-25-98)

**Sec. 14-16. No service fee.**

No water shall be furnished free of charge to any person, firm, or corporation whatsoever, and the Town of Pierson and each and every agency, department, or instrumentality which uses the waterworks system shall pay therefor at the rates fixed by resolution of the Town.

(Ord. No. 93-2, §§ 1-10, 3-9-93; amended by Ord. No. 98-2, § 9, 2-25-98)

**Sec. 14-17. Metering.**

Each lot or building site shall be considered a separate unit for the payment of the water fees herein established, and separate connections will be required for each of such units. Every connection shall be separately metered. A back-flow valve is required to be installed at the Meter and the Customer is required to pay for the valve and its maintenance.

(Ord. No. 93-2, §§ 1-10, 3-9-93; amended by Ord. No. 98-2, § 10, 2-25-98)

**Sec. 14-18. Unauthorized use of water.**

It shall be unlawful for any person to take or use water from any hydrants, faucets or stopcocks of the waterworks of the Town without authorization from the Town. It shall also be unlawful for any person without authorization from the Town to open any fire hydrant, stopcock or valve, or other fixtures appertaining to the waterworks.

(Ord. No. 93-2, §§ 1-10, 3-0-93; amended by Ord. No. 98-2, § 11, 2-25-98)

**Sec. 14-19. Tampering with or damaging the waterworks system.**

It shall be unlawful for any person to tamper with any meter, or to shut off or let out water from any pipe, or to damage, deface or impair any part or appurtenance of the Town waterworks system or to throw cast, pour or inject anything into any reservoir or storage tank of the waterworks system

(Ord. No. 93-2, §§ 1-10, 3-0-93; amended by Ord. No. 98-2, § 12, 2-25-98)

**Sec. 14-20. Penalties.**

Any person, firm, or corporation violating the provisions of Section 6, or Section 7 of this Ordinance shall, upon conviction thereof, for each such offense, be subject to a fine or not to exceed Five Hundred (\$500.00) Dollars or by imprisonment for not to exceed ninety (90) days, or by both such fine and imprisonment.

(Ord. No. 93-2, §§ 1-11, 4-23-90, amended by Ord. No. 98-2, § 13, 2-25-98)

**Sec. 14-21. Enforcement.**

Enforcement of this Ordinance and the Collection of Delinquent account may be enforced by Judicial action. Any person, firm, partnership, or corporation shall be liable for the payment of reasonable attorney's fees for enforcement of delinquent accounts. Delinquent accounts shall become a lien on the property served by the water system and be enforced according to Judicial Decree.

(Ord. No. 93-2, §§ 1-10, 3-9-93; amended by Ord. No. 98-2, § 14, 2-25-98)

## ART. II. REGULATION OF WATER SERVICES

### **Sec. 14-22. Classification of service.**

- A. Residential: This category applies to service for any dwelling intended for occupancy by one family and shall include all forms of residential development where each dwelling unit is metered and billed independently. Additionally, this category applies to service for non-profit organizations.
- B. Commercial: This category applies to all services not classified as residential or non-profit organizations.

### **Sec. 14-23. Application for service.**

The customer will make application for service in person at the Pierson Town Hall, 106 N. Center Street, Pierson, Florida, and shall make the necessary deposit and hook-up fee as required below.

### **Sec. 14-24. Deposits.**

- A. Residential: The Security Deposit for residential accounts established in the name of the owner of the property shall be seventy-five dollars (\$75.00) and the Security Deposits for residential accounts which are not established in the name of the owner of the property shall be one hundred twenty-five (\$125.00) dollars.
- B. Commercial: For commercial accounts, the Security Deposit shall be two hundred twenty dollars (\$220.00).
- C. The State and its departments and agencies, and the County and its departments and agencies, and all other governmental entities are hereby exempt and shall not be required to post water Security Deposits in order to obtain such services from the Town.

### **Sec. 14-25. Hook-up fees.**

- A. Residential: With three-fourths inch (3/4") meters, the hook-up fee is two hundred twenty dollars (\$220.00), plus cost of bore and jack. With meters larger than

three-fourths inch (3/4”), the hook-up fee is two hundred twenty dollars (\$220.00).

- B. Commercial: With three-fourths inch (3/4”) meters, the hook-up fee is two hundred twenty dollars (\$220.00), plus cost of bore and jack. With meters larger than three-fourths inch (3/4”), the hook-up fee is two hundred twenty dollars (\$220.00).

**Sec. 14-26. Installation requirements.**

The Customer is responsible for installing and maintaining the line extending from the meter to their residence or business. A back-flow valve is required to be installed at the meter and the Customer is required to pay for the valve and its maintenance.

**Sec. 14-27. Charge or rate for water service.**

- A. Residential:

0 - 2,000 gal..	\$15.00
2,000 - 3,000	16.50
3,000 - 4,000	18.50
4,000 - 5,000	21.00
5,000 - 6,000	24.00
6,000 - 7,000	27.50
7,000 - 8,000	31.50
8,000 - 9,000..	36.00
9,000 - 10,000	41.00
over 10,000	add \$5.00 for each 1,000 gallons used

- B. All customers shall pay the minimum monthly service charge whether or not such service is utilized.

- C. Commercial:

0 - 2,000 gal	\$28.00
2,000 - 3,000	29.50
3,000 - 4,000	31.50
4,000 - 5,000	34.00
5,000 - 6,000	37.00
6,000 - 7,000	40.50
7,000 - 8,000	44.50
8,000 - 9,000	48.00
9,000 - 10,000	54.00
over 10,000	add \$5.00 for each 1,000 gallons used

- D. All customers shall pay the minimum monthly water service charge whether or not such service is utilized.

**Sec. 14-28. Payment of fees and bills is required.**

- A. Meters will be read on the 20th day of each month, or the first working day thereafter, and bills rendered thereon will be mailed out the 28th day of each month, or the first working day thereafter. The due date shall be the next following 15th day of the month. Bills shall become delinquent if not paid within thirty (30) days from the due date.

1. Non-payment of any bill within thirty (30) days from its due date will be subject to a penalty in the amount of Ten (10%) percent of said bill plus a penalty of one and one half (1 1/2%) of the unpaid balance monthly until all past due charges have been fully paid.

2. Non-payment within thirty (3) days from the due date will result in the water being shut off and the water shall not be re-connected until all outstanding charges shall have been fully paid, together with a re-connect fee of \$25.00. The customer shall be responsible for payment of a reasonable attorneys' fee to force payment of delinquent water bills. All unpaid charges after six (6) months from the due date shall become a lien on the property secured. Bills may be paid within ninety (90) days with authorization from Town Hall.

**Sec. 14-29. Suspension of service.**

Customers requesting the temporary discontinuance or suspension of municipal water service shall be charged the minimum monthly water service charges.

**Sec. 14-30. Unlawful connection.**

No person shall be allowed to connect into the System without the written consent of the Town Council, and then the connection with such System shall only be made under the direction and supervision of the Town Council. Any property owner or plumber who shall make any connection without such consent of the Town Council shall, upon conviction, be subject to the penalties provided by Ordinance No. 98-2.

**Sec. 14-31. Maintenance of plumbing.**

The owner of the property shall be responsible for the maintenance and proper function of all plumbing located on such property and the pipe leading to and connecting from the waterworks system distribution lines.

**Sec. 14-32. No service fee.**

No water service shall be furnished free of charge to any person, firm or corporation whatsoever, and the Town of Pierson and each and every agency, department or instrumentality which uses the Waterworks System shall pay therefore at the rates described above.

**Sec. 14-33. System to be fully metered with separate connections form each separate unit.**

Each residence or business shall be considered a separate unit for the payment of water fees herein established and separate connections will be required for each of such units. Every connection shall be separately metered.

**Sec. 14-34. Resolution No. 98-3 repealed.**

Resolution 98-3 which heretofore established the rules and regulations pertaining the provision of water service by the Town is hereby repealed.

(Ord. No. 98-14, §§ 1-13, 6-14-98)

**ART. III. RATES FOR MUNICIPAL WATERWORKS SYSTEM**

**Sec. 14-35. Connections with Waterworks System.**

Where the same shall be available, the owner of every lot or parcel of land within the Town of Pierson, Florida, may connect or cause the plumbing of any building or buildings thereon to be connected, with the municipal waterworks system of the Town of Pierson, and use the facilities of such water system. All such connections shall be made in accordance with rules and regulations which shall be adopted from time to time by the town council of the Town of Pierson, which rules and regulations shall provide for a charge for making any such connections in such reasonable amount as such Town Council may fix and determine. Provided, however, that this Ordinance shall not be construed to entitle any person to cross the private property of another to make such water connection during the initial construction of any distribution line of the waterworks system.

**Sec. 14-36. Charge or rate for water service.**

The following rates apply to Town of Pierson water customers, per month.

A. Water Rates:

1. Water Service Charge by Meter Size:

3/4" Single Family Residential and non-profit corporations	\$7.00
3/4" Commercial	\$20.00
1" – 2"	\$30.00
2" – 4"	\$50.00
  
2. Water Consumption Rate:

0 – 2,000 gal.	\$8.00
2,000 – 3,000	\$1.50
3,000 – 4,000	\$2.00
4,000 – 5,000	\$2.50
5,000 – 6,000	\$3.00
6,000 – 7,000	\$3.50
7,000 – 8,000	\$4.00
8,000 – 9,000	\$4.50
9,000 – 10,000	\$5.00
Over 10,000	\$5.00

Per 1,000 gallons

**Sec. 14-37. Deposits.**

All persons obtaining water services from the Town except those initially connected to the system when the Town begins service, shall be required to pay the hookup fee and to deposit the security set forth below:

A. Residential:

1. For residential and non-profit organizations three-fourths inch (3/4") meters, the security deposit shall be Fifty (\$50.00) and the hookup fee of Two Hundred Twenty (\$220.00) Dollars, plus cost of bore and jack.

B. Commercial:

1. For apartments, mobile home parks and commercial accounts the security deposit shall be One Hundred (\$100.00) Dollars, plus a hookup fee of Two Hundred Twenty (\$220.00) Dollars, plus cost of bore and jack.
2. For commercial users such as laundries, bottling companies, etc., having meters in excess of one inch, the security deposit shall be Two Hundred (\$200.00) Dollars plus a hookup fee of Two Hundred Twenty (\$220.00) Dollars, plus cost of bore and jack.

C. Interest earned from security deposits shall be used to reduce the debt of the town of Pierson, Florida to the United States of America.

D. The State and its departments and agencies, the county and its departments and agencies, and all other governmental entities are hereby exempt and shall not be required to post water security deposits in order to obtain such services from the Town.

E. Security deposits for residential accounts which are not established in the name of the owner of the property shall be one and one-half (1 1/2) times the security deposit required in Section 2 above.

**Sec. 14-38. Suspension of service.**

Customers requesting temporary discontinuance or suspension of municipal water service shall be charged the monthly meter availability fee plus the minimum monthly water consumption rate as herein provided.

**Sec. 14-39. Payment of fees and bills required.**

Bills for the monthly charges and fees hereinbefore mentioned shall be submitted by the Town Council and shall be paid by the users monthly. If any monthly bill for water service shall be and remain unpaid on and after ten (10) days from the date of the submission of said bill for such service, a penalty of ten percent of said bill shall be imposed and be added to said bill; and if, said bill shall continue and remain due and unpaid for a period of thirty (30) days from the date of submission of such bill, the water service to the consumer shall be discontinued and shall not be re-connected until all past due charges shall have been fully paid, together with a hook up fee and deposit as provided in Section 3. All unpaid charges shall become a lien on the property secured.

**Sec. 14-40. Unlawful connection.**

No person shall be allowed to connect into the waterworks system without the written consent of the Town Council, and then the connection with such system shall only be made under the direction and supervision of the Town Council. Any property owner or plumber who shall make any connection without such consent of the Town Council shall, upon conviction, be subject to the penalties hereinafter provided.

**Sec. 14-41. Connecting old plumbing.**

Whenever it is desirable to connect existing plumbing with the waterworks system, the owner of plumber contemplating doing such work shall notify the Pierson Plumbing Inspector who will inspect said plumbing and notify the owner or plumber what alterations will be necessary to place said plumbing in an acceptable condition for connection with the waterworks system. Any owner or plumber who shall make any connection without the approval of the Plumbing Inspector shall, upon conviction be subject to the penalties hereinafter provided.

**Sec. 14-42. Maintenance of plumbing.**

The owner of the property shall be responsible for maintaining all plumbing on such property and the pipe leading and connecting from the waterworks system distribution lines.

**Sec. 14-43. No service free.**

No water shall be furnished free of charge to any person, firm or corporation whatsoever, and the Town of Pierson and each and every agency, department or instrumentality which uses the waterworks system shall pay therefor at the rates fixed by this Ordinance.

**Sec. 14-44. System to be fully metered with separate connections for each separate unit.**

Each lot or building site shall be considered a separate unit for the payment of the water fees herein established, and separate connections will be required for each of such units. Every connection shall be separately metered.

**Sec. 14-45. Penalties.**

Any person, firm or corporation violating the provisions of Section 14-40, or Section 14-41 of this Ordinance shall, upon conviction thereof, for each such offense, be subject to a fine of not to exceed Five Hundred (\$500.00) Dollars or by imprisonment for not to exceed ninety (90) days, or both such fine and imprisonment.

(Ord. No. 90-3, §§ 1-11, 4-23-90)

## Chapter 15

### OFFENSES AND MISCELLANEOUS PROVISIONS<sup>9\*</sup>

Art. I. In General, §§ 15-1–15-50

Art. II. Parental Responsibility for Minors, §§ 15-51–15-55

Art. III. Nuisance, §§ 15-56–15-66

Art. IV. Miscellaneous, §§ 15-67–15-70

#### ARTICLE I. IN GENERAL

##### **Sec. 15-1. Adoption of state law misdemeanors.**

(a) It shall be unlawful for any person to commit, within the city, any act which is or shall be recognized by the laws of the state as a misdemeanor, and the commission of such act is hereby forbidden.

(b) Whosoever shall violate the provisions of this section, upon conviction thereof, shall be punished as provided in section 1-12,

**Case law references** – A municipality may enact an ordinance which creates an offense against municipal law for the same act that constitutes an offense against state law. *Jaramillo v. City of Homestead*, 322 So. 2d 496 (Fla. 1975).

A municipality by ordinance may adopt state misdemeanor statutes by specific reference or by general reference, such as that contained in an ordinance making it unlawful to commit, within city limits, any act which is or shall be recognized by the laws of the state as a misdemeanor. *Id.*

An adoption by general reference of a misdemeanor statute permits subsequent amendments, revisions and repeals of the laws by the state legislature to apply to the municipal ordinances. *Id.*

See also *Hecht v. Shaw*, 112 Fla. 762, 151 So. 333 (1933); *McFarland v. Roberts*, 74 So. 2d 8 (Fla. 1954); and *State v. Smith*, 189 So. 2d 846 (Fla. 4th D.C.A. 1966).

**State law references** – Penalty for misdemeanors, F.S., §§ 775.082, 775.083. See also Florida Statutes general index under the headings "Crimes" and "Fines and Penalties" for listings of state law misdemeanors.

##### **Sec. 15-2. Commercial advertising; posting on public property or private property without owner's consent.**

It shall be unlawful to post commercial advertising within or upon any of the public streets of the town or upon any public property within the limits of the town, or upon any privately owned

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<sup>9\*</sup>**Cross reference** – General penalty, § 1-12.

property within the limits of the town, unless the written consent of the owner thereof is first obtained.

(Ord. No. 46, § 1, 6-8-50)

**Cross reference** – Streets and sidewalks, Ch. 18.

### **Sec. 15-3. Disorderly conduct.**

(a) *Prohibited.* It shall be unlawful for any person to disturb or endanger the public peace or decency by any disorderly conduct as hereinafter defined.

(b) *Described.* The following actions are hereby declared to be disorderly conduct:

(1) The use of obscene or abusive language which causes another person mental or emotional distress, or places another person in fear.

(2) The making of any threats of violence to or against any other person.

(3) Any noisy, riotous, disorderly conduct that disturbs the public peace and tranquility of specific individuals in any unreasonable manner.

(4) Engaging in, promoting, encouraging, aiding or abetting any fight, assault, battery, riot, or riotous or disruptive proceeding on any street or public place, or on any private property wherein persons in the vicinity are placed in fear or unduly disturbed in the peaceful use and enjoyment of their property.

(5) The disruption by any manner of any congregation which has assembled in any church or building for religious services.

(6) The operation of machinery of any nature that creates a noise loud enough to disturb the peaceful use and enjoyment of adjacent property.

(a) *Interpretation.* For the purpose of this section, reference may be made to the ordinances of Volusia County and the statutes

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 15-4, which section reads as follows:

### **Sec. 15-4. Unlawful Gun Discharge.**

It shall be unlawful for any person to discharge firearms within the corporate limits of the Town of Pierson, Florida, except for the protection of person or property, unless written authorization is given by the Mayor and a copy of the authorization is filed with the Clerk of the Town of Pierson.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 15-5, which section reads as follows:

### **Sec. 15-5. Unlawful Gun Discharge; Penalties.**

Any person found guilty of violating Section 1 of this ordinance shall, upon conviction, be subject to a fine not to exceed five hundred dollars (\$500.00) and imprisonment for not more than sixty (60) days.

(Ord. No. 94-3, § 1-2, 5-10-94)

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 15-6, which section reads as follows:

### **Sec. 15-6. Residences of sexual predators; legislative findings and intent.**

- (a) The findings set forth in the recitals (WHEREAS clauses) to this Ordinance are hereby adopted as additional legislative findings.
- (b) The Town Council of the Town of Pierson hereby adopts the provisions of Florida Statutes Section 775.21(3)(a), which states as follows:

Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offences, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy.

- (c) The Town Council of the Town of Pierson hereby adopts the provisions of Florida Statutes Section 947.1405(8), which provides, in pertinent part:

It is the finding of the Legislature that the population of offenders released from state prison into the community who meet the conditional release criteria poses the greatest threat to the public safety of the groups of offenders under community supervision.

- (d) The Town Council of the Town of Pierson hereby finds and determines that repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes

the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant and a drain on the resources of society.

- (e) It is the intent of this Ordinance to serve the Towns compelling interest to promote, protect and improve the health, safety, morals, and welfare of the citizens of the Town by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual predators are prohibited from establishing temporary or permanent residences.
- (f) It is the desire of the Town Council of the Town of Pierson that the Volusia County School district carefully adhere to the provisions of Florida Statute Section 947.1405(7).

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 15-7, which section reads as follows:

**Sec. 15-7. Definitions.**

The following terms are defined as follows for the purpose of this Ordinance:

- (a) Permanent residence means a place where a person abides, lodges or resides for a period of fourteen (14) or more consecutive days.
- (b) Temporary residence means a place where a person abides, lodges or resides for a period of fourteen (14) or more day in the aggregate during any calendar year and which is not the persons permanent address, or a place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive says in any month which is not the persons permanent residence.
- (c) Conviction or convicted means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 15-8, which section reads as follows:

**Sec. 15-8. Prohibited residences of sexual predators.**

- (a) It is prohibited and unlawful for any person who has been convicted of a violation of Florida Statute Section 794.011, Section 800.04, Section 827.071 or Section 847.0145, regardless of whether adjudication has been withheld, when the victim of the offense for which the conviction resulted was under sixteen (16) years of age at the time the offense was committed, to establish a permanent residence or temporary residence located within the Town of Pierson when such residence is located within 2,500 feet of any school, day care center, public park or playground regardless of whether the school, day care center,

public park or playground is located within the Town limits of the Town of Pierson, within the city limits of an adjacent city or within the unincorporated area of Volusia County.

- (b) For the purpose of determining the minimum distance separation requirement, distance shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of the school, day care center, public park or playground.
- (c) A person residing within 2,500 feet of any school, day care center, public park or playground does not commit a violation of this Ordinance if any of the following apply:
  - (1) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Florida Statute Section 775.21, 943.0435 or 944.607 prior to the effective date of this Ordinance.
  - (2) The person was a minor when he/she committed the offense and was not convicted as an adult.
  - (3) The person is a minor.
  - (4) The school, day care center, public park or playground was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Florida Statutes Section 775.21, 943.0435 or 944.607.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 15-9, which section reads as follows:

**Sec. 15-9. Penalty.**

Any violation of this ordinance is punishable by imprisonment in the county jail for a maximum of sixty (60) days and a fine of one thousand (\$1,000.00) dollars.

(Ord. No. 05-06, § 1-3, 11-22-05)

**Sec. 15-10 – 15-50. Reserved.**

**ARTICLE II. PARENT RESPONSIBILITY FOR MINORS<sup>10\*</sup>**

**Sec. 15-51. Definitions.**

For the purpose of this article, the following words and terms shall have the meanings respectively ascribed:

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<sup>10\*</sup>State law reference - Civil action against parents for willful destruction or theft of property by minor, F.S. § 741.24,

*Criminal acts* means those acts which violate the criminal laws of the state or the ordinances of the town, including criminal traffic violations.

*Habitual offender* means one who commits two (2) or more criminal acts, or four (4) or more criminal traffic violations within a twelve-month period.

*Minor* means any person under the age of eighteen (18) years.

*Parent* means mother, father, legal guardian or any person having the care or custody of a minor, including adults with whom a minor may be found residing.

(Ord. No. 84-2, § 1, 3-13-4)

Cross reference – Motor vehicles and traffic, Ch. 20.

**Sec. 15-52. Unlawful actions by parents and adults.**

It shall be unlawful for the parent of any minor to fail to exercise reasonable parental control which results in the minor committing any criminal act. It shall be unlawful for any adult to cause or knowingly permit any minor to commit any criminal act. It shall be unlawful for any adult to cause or knowingly permit a minor to become delinquent as delinquency is defined in Chapter 39.01, Florida Statutes, and such definition is hereby incorporated herein by reference.

(Ord. No. 84-2, § 2, 3-13-84)

**Sec. 15-53. Notification of parent or guardian.**

It shall be the duty of the town marshal to immediately notify the parent or guardian any minor that is arrested or detained for the commission of any criminal act within the town. It shall be the duty of the town marshal to advise the parent or legal guardian of such minor of the cause of such arrest or detention, the place of the juvenile's detention, the manner in which the juvenile may be released to such parent or guardian, and the parent's or guardian's responsibilities under this article.

(Ord. No. 84-2, § 3, 3-13-84)

**Sec. 15-54. Records of arrest or detention.**

All records pertaining to the arrest or detention of juveniles shall be handled by the town marshal's office in strict confidentiality and in accordance with all state laws, and such records shall include the notification of the parent, legal guardian or other adult responsible for such children within the purview of this article.

(Ord. No. 84-2, § 4, 3-13-84)

**Sec. 15-55. Parent of habitual offender deemed guilty of violation.**

The parent of a habitual offender may be deemed guilty of violation of this article and shall, upon conviction thereof, be subject to the punishments provided for a second degree misdemeanor under

the laws of the state for the first offense. Upon conviction of a second offense, the parent or legal guardian shall be punished as provided in the laws of Florida for a first degree misdemeanor.

(Ord. No. 84-2, § 5, 3-13-84)

**Cross reference** – Adoption of state law misdemeanors, § 15-1.

**State law reference** – Classification of misdemeanors, F.S. § 775.081.

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding an article to be named Article III, Miscellaneous Provisions, which article reads as follows:

### **ART. III. NUISANCE**

#### **Sec. 15-56. Recitals.**

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

#### **Sec. 15-57. Scope.**

This chapter shall be effective throughout the Town of Pierson.

#### **Sec. 15-58. Purpose.**

The purpose of this chapter is to prevent, prohibit, and provide for abatement of excessive and unnecessary noise and vibration in order to protect the health, safety, and general welfare of the people of Pierson. It is policy of the Town of Pierson to minimize the exposure of citizens to the physiological and psychological dangers associated with excessive and unreasonable noise. The operation or maintenance of any device, instrument, equipment or machinery in violation of this article is declared to be a public nuisance.

#### **Sec. 15-59. Definitions.**

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

- a. *A-weighted sound pressure level* shall mean the sound pressure level, in decibels, as measured on a sound level meter using the A-weight network. The level so read shall be designated as dB(A).
- b. *Ambient sound level or background sound level* shall mean the background sound pressure level at a given location, normally specified as a reference level to study a new intrusive sound source. Ambient sound levels may be measured to provide a reference point for analyzing an intrusive sound to a given environment.
- c. *ANSI* shall mean the American National Standards Institute.

- d. *Construction* shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action, for or on public or private thoroughfares, structures, utilities, or similar property.
- e. *Decibel or dB* shall mean a unit for describing the amplitude of sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals per square meter.
- f. *Demolition* shall mean any dismantling, destructing or razing of structures, utilities, public or private thoroughfares, or similar property.
- g. *Emergency* shall mean any occurrence or circumstance involving actual or imminent physical death or trauma, or property damage, demanding immediate emergency work or service.
- h. *Emergency work* or *emergency service* shall mean any labor performed for the purpose of preventing or alleviating, or attempting to prevent or alleviate, an emergency.
- i. *Equivalent sound pressure level (Leq)* shall mean a sound level descriptor based on the average acoustic intensity over time. Leq is intended as a single number indicator to describe the mean energy or intensity level over a specified period of time during which the sound level fluctuated. Leq is measured in dB and must be A-weighted.
- j. *Leq*, see definition for "equivalent sound pressure level."
- k. *Motor vehicle* shall mean any vehicle defined as "motor vehicle" by F.S. § 320.01(1).
- l. *Multifamily residential dwelling* shall mean a building designed or used exclusively for residential occupancy by two (2) or more families.
- m. *Multifamily residential dwelling unit* shall mean the portion of a multifamily residential dwelling designed or used exclusively for residential occupancy by only one family.
- n. *Noise* shall mean any sound produced in such quantity and for such duration that it annoys, disturbs or may injure a man or woman of normal sensitivities.
- o. *Noise-sensitive zone* shall mean a quiet zone where serenity and quiet are of extraordinary significance, which is open or in session, and which is demarcated by conspicuous signage identifying it as a noise-sensitive or quiet zone. Noise-sensitive zones may include schools, public libraries, churches, hospitals, nursing homes, and other areas defined as such pursuant to a resolution adopted by the board of county commissioners.

- p. *Person* shall mean an individual, association, partnership, or corporation, including any officer, employee, department, agency or instrumentality of the United States, the state or any political subdivision thereof.
- q. *Plainly audible* means any electronically amplified music or sound that can be clearly heard by an officer using his normal hearing faculties not enhanced by any device such as a microphone or hearing aid. Where distance measurements are required by this section to determine whether sound is plainly audible for purposes of this article, measurements shall be taken in accordance with the following requirements:
1. The officer must have a direct line of sight to the relevant location (i.e., the location of the noise, real property line, or motor vehicle), so that the officer can readily identify the distance involved.
  2. The officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound.
- r. *Public right-of-way* shall mean any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by the county.
- s. *Pure tone* shall mean any sound which can be distinctly heard as a single pitch or a set of single pitches.
- t. *Real property line* means either: (i) the imaginary line including its vertical extension that separates one parcel of real property from another; or (ii) the vertical and horizontal boundaries of a dwelling unit that is part of a multifamily dwelling unit such as a condominium, townhouse or apartment building.
- u. *Residential areas* means recorded and unrecorded subdivisions and those areas in which there is a concentration of residential dwelling units on lots or tracts of less than five (5) acres.
- v. *RMS sound pressure* shall mean the square root of the time averaged square of the sound pressure.
- w. *Single-family residential dwelling* shall mean a detached dwelling containing complete housekeeping facilities for only one family, designed for or occupied exclusively by one family for usual domestic purposes, and having no enclosed space or cooking facilities or sanitary facilities in common with any other dwelling.
- x. *Single-family residential dwelling lot* shall mean the parcel of land upon which a single family residential dwelling is located.
- y. *Sound* shall mean an oscillation in pressure, stress, particle displacement, particle velocity or other physical parameter, in a medium (typically air). The description

of sound may include any characteristic of such sound, including duration, intensity, and frequency.

- z. *Sound level* shall mean the sound pressure level obtained by the use of a sound level analyzer using weighting A, B, or C as specified in American National Standards Institute specifications for sound level analyzers (ANSI S1.4-1971), or successor publications. If the weighting employed is not indicated, the A-weighting shall apply.
- aa. *Sound level analyzer* shall mean an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting network used to measure sound pressure levels. The output analyzer reads sound pressure level when properly calibrated. The sound level analyzer shall be of Type 2 or better, as specified in the American National Standards Institute publication entitled "Specifications for Sound-Level Meters," designated as ANSI S1.4-1971 or successor publications.
- bb. *Sound pressure* shall mean the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of sound energy.
- cc. *Sound pressure level* shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micropascals per square meter. The sound pressure level is denoted Lp (or SPL) and is expressed in decibels.
- dd. *Vibration measuring device (VMD)* means a three (3) component vibration measuring device.
- ee. *Vibration* shall mean a periodic motion of the particles of an elastic body or medium in alternatively opposite directions from the position of equilibrium when that equilibrium has been disturbed; the action of vibrating; the state of being vibrated. As applied in this chapter shall mean ground-borne vibration.

**Sec. 15-60. Maximum permissible sound level; land use acoustic categories; times; measurement descriptors; and adjustment for character of sound.**

No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in the table below:

*Table 1: Sound Levels by Receiving Land Use*

Receiving Land Use Category	Time	Sound Level Limit dBA
Residential	7:00 a.m. until 10:00 p.m.	60
	10:00 p.m. until 7:00 a.m.	55

Commercial	7:00 a.m. until 10:00 p.m.	65
	10:00 p.m. until 7:00 a.m.	60
Agriculture	At All Times	75

These levels may not be exceeded for more than 10% of any measurement period, which shall not be less than 10 minutes measured at or beyond the property boundary.

**Sec. 15-61. Measurement of Sound.**

- a. The sound level shall be measured at a distance no closer than the real property line of the parcel or lot from which the sound is emanating.
- b. A measurement period shall not be less than ten (10) minutes, must be continuous, must be taken at the time when any noise source is occurring, and must report the Leq value for the time period.
- c. These levels may not be exceeded for more than 10% of any measurement period.
- d. A measurement shall be recorded so as to secure and ensure an accurate representation of the sound.
- e. A measurement should be taken at approximately five (5) feet above the ground or surface away from any obstructing or reflecting surface.

**Sec. 15-62. Noises prohibited, unnecessary noises, statement of intent.**

- a. No person shall produce, cause to be produced, or allow to be produced, by any means, any sound within any private or public property, including a right-of-way, which sound, when measured exceeds the applicable sound level limits.
- b. Some sounds may be such that they are not measurable by the sound pressure level meter or may not exceed the limits of measurements listed herein, but they may be excessive, unnatural, prolonged, unusual and are a detriment to the public health, comfort, convenience, safety, welfare, and prosperity of the resident of the Town of Pierson.
- c. The following acts, among others are declared to be loud, disturbing, and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive:
  1. The sounding of any horn or signaling device on any automobile, motorcycle, bus, or other vehicle on any street or public place of Pierson, except as a danger warning; the creation by means of any such signaling

device of any unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time.

2. The using, operating or permitting to be played used or operated any radio, television, musical instrument, tape or compact disc player, phonograph, amplifier or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person(s) who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto.
- d. No person making a complaint under this section shall be required to sign a sworn complaint prior to a citation being issued.

### **Sec. 15-63. Exceptions.**

The following activities or sources are exempt from these noise standards:

- a. Activities covered by the following: emergency signaling devices, air-conditioning and air-handling equipment for residential purposes, refuse collection vehicles.
- b. From 7:00 a.m. to 9:00 p.m. construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of the government; providing such equipment is operated in accord with the manufacturer's specifications and with all manufacturer's mufflers and noise reducing equipment in use and in proper operating condition.
- c. The normal sounds of reasonably cared for agricultural or domestic animals, as well as the sounds of necessary farming equipment including diesel powered pumps that are for a bona fide agricultural operation.
- d. Noises resulting from any unauthorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- e. Construction or routine maintenance of public service utilities.
- f. Houses of worship bells or chimes in conjunction with religious services or other sound use in calls to worship.
- g. The emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.
- h. All noises coming from the normal operations of aircraft. This exemption does not apply to scale model aircraft.

- i. Generators that are used to provide power during an outage are exempt provided that the generator is in good condition and operating in accordance with the manufacturer's specifications.
- j. Law enforcement activities, including training.
- k. The supervised public display of fireworks by fair associations, amusements parks, and other organizations or groups of individuals or other lawful use of fireworks.
- l. Scheduled organized athletic contest at a publicly or privately owned or operated facility.

#### **Sec. 15-64. Permits.**

Applications for a permit for relief from maximum allowable noise level limits may be made in writing to the Town Council of the Town of Pierson. Any permit granted by the Town Council must be in writing and shall contain all conditions upon which the permit shall be effective. The Town Council may grant the relief as applied for under the following conditions:

- a. Permits for entertainment events may be granted under the following conditions:
  1. The function must be open to the public (admissions may be charged).
  2. The function must be staged between the hours of 7:00 a.m. and 11 p.m.
- b. Permits for non-entertainment special purposes may be issued under the following conditions:
  1. If the special purpose relates to the operation of a trade or business that the special purpose not be in the ordinary course of business.
  2. If the special purpose be a recurring purpose, that it not recurs more often than four (4) times each calendar year.
  3. Except in emergency situations the permit may be issued only for hours between 7:00 a.m. and 11 p.m.
  4. Permits may be issued for no longer than one week, renewable by further application to the Town Council.
- c. Town Council may prescribe any reasonable conditions or requirements it deem necessary to minimize adverse effects upon the Town or the surrounding neighborhood, including use of mufflers, screens, or other sound attenuating devices.

#### **Sec. 15-65. Variances.**

- a. The Town Council may grant a variance from any provision herein.
- b. Any person seeking a variance shall submit an application with the Town Council containing information which demonstrates that bringing the sound or vibration for which the variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, community, or on other persons. At a minimum, the applicant shall provide the following information:
  1. Identification of applicant;
  2. Applicant's mailing address;
  3. Legal description of property from which the sound or vibration will emanate;
  4. Description of source of sound or vibration;
  5. Description of sound or vibration;
  6. Names and addresses of all abutting property owners; and
  7. Facts and reasons justifying a variance.
- c. The applicant for a variance shall tender an application fee in an amount determined by the Town Council.
- d. The Town Council shall schedule a hearing on the variance application with the Council. The Town Council shall notify the applicant for a variance and all abutting property owners within three hundred (300) feet no less than ten (10) days before the hearing of the time, date, and place of the hearing. If Town Council records show that the variance application stems from a complaint, the Town Council shall also so notify the complainant.
- e. At the hearing, the applicant may submit any relevant evidence or testimony. In deciding whether to grant or deny the application, the Town Council shall balance the hardship which will result to the applicant, the community, and other persons if the variance is not granted, versus the adverse impact on the health, safety, and general welfare of persons if the variance is granted. The Town Council shall grant or deny the variance application no later than ten (10) days after the date of the hearing. In granting or denying a variance application, the Town Council shall state in writing on the application, the reasons for their decision. If the board of adjustment's decision is to grant the application, they shall set forth the terms and conditions of the variance, including the effective date of the variance, the period of the variance, the time of day the variance may be used, the location where the sound or vibration may be created or caused, and the sound or vibration level limits.
- f. No variance may exceed three hundred sixty-five (365) days.

- g. If the Town Council grants the variance application, a written variance shall be issued to the applicant. However, the variance shall not be issued until the time for filing a notice of appeal pursuant to subsection 10 has expired. If a notice of appeal is filed, the variance shall not be issued unless the circuit court upholds the board of adjustment's decision.
- h. The variance shall contain all the terms and conditions of the variance. A copy of the variance shall be retained by the zoning department. This copy shall be available for inspection upon request by the general public.
- i. In the event of noncompliance with any term or condition of the variance, the Town Council shall provide notice of a public hearing as provided in paragraph 4, above, for consideration of the nature of the noncompliance and the possible revocation of the variance, and the right of all interested parties to present evidence at such hearing. If the Town Council determines that the noncompliance has not been eliminated within seven (7) calendar days following receipt of the notice of noncompliance, the Town Council shall revoke the variance, and shall so advise the variance holder by mail.
- j. Any variance applicant or abutting property owner within three hundred (300) feet may appeal a decision of the Town Council on a variance application by submitting a notice of appeal with the clerk of the circuit court within thirty (30) calendar days after the decision is entered. The appeal shall be by certiorari to the circuit court in and for the 7<sup>th</sup> Judicial Circuit, Volusia County, Florida, and shall be limited to a review of the record evidence presented at the public hearing conducted pursuant to paragraph 5, above.
- k. Any variance holder may appeal a decision of the Town Council revoking a variance pursuant to subsection 9 by submitting a notice of appeal to the clerk of the circuit court within thirty (30) calendar days after the revocation. The appeal shall be by certiorari to the circuit court in and for the 7<sup>th</sup> Judicial Circuit, Volusia County, Florida, and shall be limited to a review of the record evidence presented at the public hearing conducted pursuant to paragraph 5, above.

**Sec. 15-66. Penalties.**

- a. A violation of this section shall be punished as provided in Chapter 15 of the Town of Pierson Town Code.
- b. A person who has been issued a citation shall be subject to a civil penalty.
  - 1. For the first violation, a warning to eliminate or abate the violation within a reasonable time.
  - 2. For the second violation, by a civil penalty of five hundred dollars

(\$500.00).

3. For the third and subsequent violations, by a civil penalty of one thousand dollars (\$1,000.00).

(Ord. No. 20-05, §§ 1-11, 7-14-20; amended by Ord. No. 2021-04 §§ 1-11)

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding an article to be named Article IV, Miscellaneous Provisions, which article reads as follows:

#### **ART. IV. MISCELLANEOUS PROVISIONS**

##### **Sec. 15-67. Cemeteries.**

All cemeteries located in the city limits of Pierson shall be closed to all persons between the hours of 8 P.M. and Sunrise Eastern Time.

##### **Sec. 15-68. Signs.**

This closure shall be appropriately posted by signs erected every 200 feet by the Town of Pierson, Florida notifying all persons of the closure.

##### **Sec. 15-69. Hours.**

It shall be unlawful and violation of this Ordinance for any person to enter or remain in a cemetery located within the Town limits of Pierson, Florida between the hours of 8 P.M. and Sunrise Eastern Time.

##### **Sec. 15-70. Penalties.**

The penalty for violating this Ordinance shall be a fine not to exceed \$500 and imprisonment not to exceed 60 days.

(Ord. No. 91-3, § 1-4, 6-14-91)

Chapters 16, 17

**RESERVED**

Chapter 18

**STREETS AND SIDEWALKS<sup>11\*</sup>**

Art. I. In General, §§ 18-1–18-20

Art. II. Property Numbering, §§ 18-21, 18-22

**ARTICLE I. IN GENERAL**

**Sec. 18-1. Closure of streets for parades, celebrations, etc.**

When the town council grants a permit for any public gathering, parade or celebration, it may order any street or portion of street to be cleared of all vehicles during such parade, public gathering or celebration.

(Ord. No. 49, § 15, 6-8-50)

**Sec. 18-2. Throwing, depositing, etc., injurious substances onto streets.**

No person shall throw or deposit onto the streets any nails, wire, scraps, metal, glass, crockery or other substance injurious to the feet of persons or animals or to the tires of vehicles.

(Ord. No. 49, § 36, 6-8-50)

**Secs. 18-3-18-20. Reserved.**

**ARTICLE II. PROPERTY NUMBERING<sup>12±</sup>**

**Sec. 18-21. Duty of property occupier to post address.**

Pursuant to the numbering system of the town whereby each occupied parcel of real property within the town limits has been assigned an address number which is on file in the office of the clerk of the town council, the person, persons, firm or corporation occupying any such parcel of real property within the town whereon there exists a structure used as a residence or business shall post thereon the number of such structure's address as recorded in the town records.

(Ord. No. 7-79, § 1, 7-10-79)

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<sup>11\*</sup>**Cross references** – Public works department, § 2-81 et seq.; consumption of alcoholic beverages on public property, § 4-3; posting advertisements on public property, § 15-2; protection of public property, § 15-6; road surface protection, § 20-21; zoning, App. A.

<sup>12±</sup>**Cross references** – Buildings and building regulations, Ch. 6; zoning, App. A.

**Sec. 18-22. Posting specifications.**

Each address as referred to in section 18-21 above shall be posted in such manner and of sufficient size as to be easily read from the adjacent street right-of-way. Any house or building located on a corner parcel and bounded by two (2) or more public streets shall post the address number facing the street on the side of the building that is customarily the entrance thereto.

(Ord. No. 7-79, § 2, 7-10-79)

That the Code of Ordinances, Town of Pierson, Florida, is hereby amended by adding a chapter to be named Chapter 19 Taxes, which chapter reads as follows:

## Chapter 19

### TAXES

Art. I. Public Utility Taxes, §§ 19-1 – 19-7

Art. II. Homestead Provision, §§ 19-8 – 19-14

#### ARTICLE I. PUBLIC UTILITY TAXES

##### **Sec. 19-1. Rates.**

There is hereby levied a tax upon each purchase of electricity within the corporate limits of the Town of Pierson, Florida in the amount of four percent (4%) of the payments received by the seller of electricity from the purchaser for the purchase of electricity (except as provided in Section 19-6).

##### **Sec. 19-2. Monthly Payment.**

The tax shall, in every case, be paid by the purchaser, for the use of the Town of Pierson, to the seller of said electricity at the time of paying the charge therefore to the seller thereof, but no less often than monthly.

##### **Sec. 19-3. Collection.**

The tax shall be collected by the seller of electricity from the purchaser at the time of payment for such service. The seller shall remit on or before the 15<sup>th</sup> day of each fiscal month, unto the treasurer of Pierson, all such taxes collected during the preceding fiscal month.

##### **Sec. 19-4. Liability of seller.**

Except as provided in Section 166.233 and 166.234, Florida Statutes, the seller shall be liable for taxes that are due and not remitted to the Town of Pierson, and the Town Council of Pierson shall cause to be brought all suits and actions and to take all proceedings in the name of Pierson as may be necessary for the recovery of such Tax; provided, however, the seller shall not be liable for the payment of such tax upon uncollected bills.

##### **Sec. 19-5. Records.**

Each and every seller of electricity shall keep applicable records kept in the ordinary course of business which establish the collection and remittance of taxes due and said records shall be made available during the seller's normal business hours at the official location of the seller's books and records for audit by the duly authorized agents of Pierson.

##### **Sec. 19-6 Exemptions.**

The United States of America, State of Florida, County of Volusia, Town of Pierson, Florida, and public bodies exempted by law or court order, shall be exempted from the payment of the taxes imposed and levied hereby.

**Sec. 19-7. Retroactive application.**

The four percent (4%) rate of this Article shall be effective retroactively to January 1, 1999, thus clarifying that neither seller nor any purchase shall be liable for any tax exceeding the four percent (4%) rate since January 1, 1999, unless otherwise provided by law.

(Ord. No. 2021-01, §§ 1-7).

**DIVISION 2. HOMESTEAD PROVISIONS**

**Sec. 19-8. Senior homestead tax exemption; purpose.**

That the Town Council of the Town of Pierson, Florida hereby adopts this ordinance to be known as the "Senior Homestead Tax Exemption" and establishes the following requirements for claiming and obtaining the exemption. The purpose of the Senior Homestead Exemption shall be to provide an additional ad valorem tax exemption to reduce the burden of taxation for senior residents with limited financial income.

(Ord. No. 99-14, § 1, 11-22-99)

**Sec. 19-9. Senior homestead tax exemption; definitions.**

As used in this ordinance, the term:

(a) "Household" means 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.

(b) "Household income" means the adjusted gross income, as defined in Section 62 of the United States Internal Revenue Code, of all members of a household.

(Ord. No. 99-14, § 1, 11-22-99)

**Sec. 19-10. Increase in additional homestead exemption.**

An additional homestead exemption for persons 65 and older, as authorized in F.S. §196.075, is granted. This exemption applies only to taxes levied by the city. The amount of the additional homestead exemption is \$50,000.00. Any taxpayer claiming this exemption must annually submit to the property appraiser, not later than March 1, a sworn statement of household income on a form prescribed by the state department of revenue. In addition, any taxpayer claiming the exemption must comply with all other requirements set out in F.S. 196.075 and complete all

forms and provide any documentation as required by law by the state department of revenue or the county property appraiser.

The amendment adopted herein shall apply to the 2007 tax roll and shall continue to apply in future years as provided by law.

(Ord. No. 99-14, § 1, 11-22-99, amended by Ord. No. 07-07, § 1, 5-22-07)

**Sec. 19-11. Senior homestead tax exemption; qualifications.**

To be eligible for the Senior Ad Valorem Tax Exemption, each person seeking the exemption shall evidence compliance with the following:

- (a) Possession of the legal or equitable title to real estate that is the permanent residence of the person(s) seeking the exemption,
- (b) Attainment of the age of 65 or older,
- (c) A household income not exceeding \$20,000.00 for the year preceding the application.

(Ord. No. 99-14, § 1, 11-22-99)

**Sec. 19-12. Senior homestead tax exemption; application.**

Each household claiming the exemption shall annually submit to the property appraiser, not later than March 1, a sworn statement of household income on a form prescribed by the Department of Revenue. By June 1, the claimant shall submit to the property appraiser the copies of any federal income tax returns and any wage and earnings statements (W-2 forms) for the prior tax year; and any other documents required pursuant to the rules of the Department of Revenue, for each member of the household together with a verified statement of the taxpayer(s) attesting to the accuracy of the copies.

(Ord. No. 99-14, § 1, 11-22-99)

**Sec. 19-13. Senior homestead tax exemption; adjustments.**

The income limitation shall be adjusted annually in accordance with the Florida Statutes.

(Ord. No. 99-14, § 1, 11-22-99)

**Sec. 19-14. Senior homestead tax exemption; notification for ordinance revisions.**

In the event of an amendment or repeal of this ordinance, the property appraiser shall be notified no later than December 1 of the year prior to the year the revised exemption will take effect.

(Ord. No. 99-14, § 1, 11-22-99)

Chapter 20

**TRAFFIC AND MOTOR VEHICLES<sup>13\*</sup>**

Art. I. In General, §§ 20-1–20-20

Art. II. Operation of Vehicles, §§ 20-21–20-40

Art. III. Stopping, Standing and Parking, §§ 20-41–20-43

**ARTICLE I. IN GENERAL**

**Sec. 20-1. Adoption of Florida Uniform Traffic Control Law.**

There is hereby adopted by reference the Florida Uniform Traffic Control Law, being Chapter 316 of the Florida Statutes, as amended, which law shall be in full force and effect in the city as if fully set forth herein, and shall be considered as part of this chapter.

**Sec. 20-2. Adoption of Florida Uniform Disposition of Traffic Infractions Act.**

There is hereby adopted by reference the Florida Uniform Disposition of Traffic Infractions Act, being Chapter 318 of the Florida Statutes, as amended, which act shall be in full force and effect in the city as if fully set forth herein, and shall be considered as part of this chapter.

**Cross reference** – Adoption of state misdemeanors, § 15-1.

**Sec. 20-3. Additional traffic fine.**

Fines levied for any violation of traffic ordinances occurring within the town, or any state traffic law which the town has adopted by incorporation or reference, are hereby increased by four dollars (\$4.00), in each instance, separately and severally.

(Ord. of 5-14-85, § 1)

**State law reference**-Authority to assess additional penalty of up to four dollars (\$4.00) per violation for purpose of funding a school crossing guard program, F.S. § 318.18(8).

**Sec. 20-4. Obedience to signs, devices, etc.**

The chief of police, under the direction of the town council, shall have authority to regulate the parking, speed and operation of motor vehicles within the corporate limits of the town as circumstance and emergency may require, and it shall be unlawful to violate any traffic sign or device placed or caused to be placed within the town by the chief of police.

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<sup>13\*</sup>**Cross references** – Consumption of alcoholic beverages in vehicles, § 4-3(c); dogs chasing vehicles deemed nuisance, § 5-23(2); duty of person striking animal with vehicle, § 5-24; closure of streets for parades, celebrations, etc., § 18-1; throwing injurious substances onto streets, § 18-2.

**State law references** – Motor vehicles, F.S. § 316.001 et seq.; powers of local authorities, F.S. § 316.008; Florida Uniform Disposition of Traffic Infractions Act, F.S. Ch. 318; disposition of fines, F.S. § 316.660.

(Ord. No. 49, § 41, 6-8-50; Ord. No. 50, § 8, 6-8-50)

**Sec. 20-5. Trains obstructing street crossings.**

It shall be unlawful for any railroad locomotive, engine, car or train of cars to stop in such manner as to block or obstruct any street crossing in the corporate limits of the town so as to delay or hinder ordinary travel across the same for a longer time than ten (10) minutes, and any conductor, engineer or other person in charge of any railroad engine or train who shall violate the provisions of this section, or shall allow the same to be violated, upon conviction thereof, shall be published as provided in section 1-12.

(Ord. No. 31, § 1, 4-11-39)

**Sec. 20-6. Horns, engine noise.**

The blowing of automobile horns, other than for the purpose of safety warnings, and the racing of engines in the streets and alleys are prohibited. (Ord. No. 49, § 32, 6-8-50)

**Cross reference** – Excessive noise deemed disorderly conduct, § 15-3(bX3); (6).

**State law reference** – Motor Vehicle Noise Prevention and Control Act-of 1974, F.S. § 403.415 et seq.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 20-8, which section reads as follows:

**Sec. 20-8. Regulating dump trucks; definitions.**

Town Street: A Street or thoroughfare owned and maintained by the Town of Pierson, Florida

Dump Truck: A motor vehicle designed to carry dirt, debris or material and has more than 6 wheels.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 20-9, which section reads as follows:

**Sec. 20-9. Regulating dump trucks; hauling debris.**

No Dump truck may haul material or debris on the streets of Pierson, Florida without having first obtained from the Town Council a permit for such hauling. Prior to issuing a permit the applicant must demonstrate and provide assurance that damage will not occur to the Town Streets or provide a sufficient bond or Town approved security ensuring the Town against damage.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 20-10, which section reads as follows:

**Sec. 20-10. Regulating dump trucks; penalties.**

Any person, firm or corporation violating the provisions of this Ordinance shall, upon conviction thereof, for each such offense, be subject to a fine of not to exceed Five Hundred (\$500.00) Dollars or by imprisonment for not to exceed ninety (90) days, or by both such fine and imprisonment each trip constitute a separate offense.

(Ord. No. 93-4, § 1-4, 5-11-93)

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 20-11, which section reads as follows:

**Sec. 20-11. Abandoned vehicle ordinance; findings of fact.**

It is hereby found by the Town Council of Pierson that abandoned vehicles, defined for the purposes of this Ordinance as those vehicles that are inoperative or without current State license tags, if required, for a period of sixty (60) days, are a public nuisance for the following reasons:

(A) Such vehicles, if stored in the open on private property, or if abandoned on public rights-of-way, can detract from the quality of the surrounding neighborhoods and diminish the value of the adjacent properties.

(B) Such vehicles, if parked on a public right-of-way, can constitute a safety hazard by virtue of the obstruction to the free flow of traffic and give rise to other traffic hazards.

(C) Where such abandoned vehicles are on private property and stored in other than a garage, a health hazard may arise by virtue of the fact that such a vehicle can become a breeding place for disease-carrying insects and vermin.

(D) Abandoned vehicles as described by this Ordinance constitute an abuse of the environment in that such vehicles are solid waste which pollute the land.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 20-12, which section reads as follows:

**Sec. 20-12. Abandoned vehicle ordinance; inoperative vehicles.**

Within all zoning districts, all vehicles which are inoperative or without current State license tag, if required, for a continuous period of sixty (60) days shall be prohibited on any public right-of-way under any circumstances, or on private property except within a garage or within a junk yard as permitted under the applicable zoning regulations.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 20-13, which section reads as follows:

**Sec. 20-13. Abandoned vehicle ordinance; enforcement.**

(A) Any person, whether as owner, lessee, principal, agent, employee or otherwise, who violates this Ordinance or permits any such violation or fails to comply with any of the requirements hereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the County Jail for a period not to exceed Sixty (60) days, or by both such fine and imprisonment. Each day upon which such violation shall continue shall constitute a separate offense hereunder.

(B) Any Building Inspector, Zoning Enforcement Officer or Zoning Inspector or duly constituted law enforcement officer may assist in the enforcement of this Ordinance and may remove the vehicle and such removal costs shall be the responsibility of the owner of the vehicle or the owner of the property that the vehicle is located on.

(C) It is the intent of the Town Council that the enforcing officer shall use all reasonable means to attempt the abatement of any violation of this Ordinance prior to the commencement of the appropriate legal proceedings.

That the Code of Ordinances, Town of Pierson, Florida is hereby amended by adding a section to be numbered 20-14, which section reads as follows:

**Sec. 20-14. Abandoned vehicle ordinance; jurisdiction.**

Except as otherwise provided herein, this Ordinance shall be cumulative and supplemental to any zoning ordinance or regulation currently in effect.

(Ord. No. 93-7, § 1-5, 8-10-93)

**20-15–20-20. Reserved.**

**ARTICLE II. OPERATION OF VEHICLES<sup>14\*</sup>**

**Sec. 20-21. Road surface protection.**

(a) Rough surface wheels prohibited. No person shall drive, propel, operate or cause to be driven, propelled or operated over any road or graded road within the town any tractor engine, tractor or other vehicle or contrivance having wheels provided with sharpened or roughened surfaces, other than roughened pneumatic rubber tires, unless the rims or tires of the wheels of such tractor engines, tractors or other vehicles or contrivances are provided with suitable filler blocks between the cleats so as to form a smooth surface. This requirement shall not apply to tractor engines, tractors or other vehicles or contrivances if the rims or tires of their wheels are constructed in such manner as to prevent injury to such roads.

(b) Certain vehicles prohibited on hard surfaced roads. It shall be unlawful to operate upon any hard-surfaced road in the town any log cart, tractor, well machine or any steel-tired vehicle

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<sup>14\*</sup>Cross reference – Duty of person striking animal with vehicle, R 5-24.

other than the ordinary farm wagon or buggy, or any other vehicle or machine that is likely to damage a hard-surfaced road except for ordinary wear and tear on such road.

(Ord. of 5-21-47, §§ 2, 3)

**Cross reference** – Streets and sidewalks, Ch. 18.

**Sec. 20-22. Truck routes.**

(a) It shall be the duty of the town council to place at such intersections of the paved and improved roads within the town limits, suitable signs showing the routes that may be designated for truck traveling, plainly showing that certain streets and avenues are not available for such motor vehicles, and showing the routes upon which traffic may travel.

(b) It shall be unlawful for any logging, orange and other freight-carrying truck, trailer or semitrailer to travel over the streets and avenues designated as nonavailable for such traffic, with the exception of trucks of one and one-half (1 1/2) tons official capacity rating, and empty trucks of all capacities.

(Ord. No. 34, §§ 2, 3, 10-8-40)

**Sec. 20-23. Speed limit in school zones.**

When passing schools, vehicles shall not be driven at a greater rate of speed than ten (10) miles per hour.

(Ord. No. 49, § 31, 6-8-50)

**Secs. 20-24-20-40. Reserved.**

**ARTICLE III. STOPPING, STANDING AND PARKING**

**Sec. 20-41. No parking – Outside of painted lines or in violation of signs.**

No vehicle shall be parked on any street in the town when such street is marked by lines showing the proper places for parking, either by the painting of lines upon the street itself or by signs posted along the curb or on signboards placed adjacent to or suspended over such streets, so as to use more than the space shown for parking or so as to straddle any parking lines hereinabove referred to or so as to violate any regulation so posted.

(Ord. No. 50, § 6, 6-8-50)

**Sec. 20-42. Same – In restricted areas.**

No vehicle shall be parked on any of the streets in the town in any area restricted by proper insignia placed in the vicinity of such restricted area showing that such restricted area is not to be utilized for parking of vehicles.

(Ord. No. 50, § 7, 6-8-50)

**Sec. 20-43. Same – On lawns, parkways.**

No vehicle shall be permitted to be parked on lawns or parkways.

(Ord. No. 49, § 13, 6-8-50)

The Code of Ordinances of the Town of Pierson, Florida, is hereby amended by adding a chapter to be numbered 21 – Fair Housing Code, which said chapter reads as follows:

## Chapter 21

### **FAIR HOUSING CODE**

#### **Sec. 21-1. Title.**

Fair Housing Ordinance of the Town of Pierson, Florida.

#### **Sec. 21-2. Declaration of policy.**

It is the policy of the Town of Pierson in keeping with the laws of the United States of America and the spirit of the Constitution of the State of Florida, to promote through fair, orderly and lawful procedure the opportunity for each person so desiring to obtain housing of such person's choice in this jurisdiction without regard to race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap or age, and, to that end, to prohibit discrimination in housing by any person.

#### **Sec. 21-3. Definitions.**

The terms as used herein shall be defined as follows:

- (a) Administrator: That person appointed by the Town Council pursuant to Section 6 hereof.
- (b) Age: Unless the context clearly indicates otherwise, the work age as used herein shall refer exclusively to persons who are 18 years of age or older.
- (c) Discriminatory Housing Practice: An act that is unlawful under Section 4 hereof.
- (d) Family: One or more persons living together as a single housekeeping unit in a dwelling.
- (e) Housing or Housing Accommodation: Any building, structure, or portion thereof, mobile home or trailer, or other facility which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof, mobile home or trailer or other facility.
- (f) Lending Institution: Any bank, insurance company, savings and loan association or any other person or organization regularly engaged in the business of lending money, guaranteeing loans, or sources of credit information, including, but not

limited to credit bureaus.

- (g) Owner: Any person, including, but not limited to a lessee, sublease, assignee, manager, or agent, and also including the Town and its departments or other subunits, having the right of ownership or possession or the authority to sell or lease any housing accommodation.
- (h) Person: One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mortgage companies, joint stock companies, trusts, receivers, unincorporated organizations, or public corporations, including, but not limited to the Town or any department or subunit thereof.
- (i) Real Estate Agent: Any real estate broker, any real estate salesperson, or any other person, employee, agent, or otherwise, engaged in the management or operation of any real property,
- (j) Real Estate Broker or Salesperson: A person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself or herself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these.
- (k) Real Estate Transaction: Includes the sale, purchase, exchange, rental or leases of real property, and any contract pertaining thereto.
- (l) Rent: Includes leases, sublease, assignment and/or rental, including any contract to do any of the foregoing, or otherwise granting for a consideration the right to occupy premises that are not owned by the occupant.
- (m) Respondent: Any person against whom a complaint is filed pursuant to this ordinance.
- (n) Sale: Includes any contract to sell, exchange, or to convey, transfer or assign legal or equitable title to, or a beneficial interest in, real property.

#### **Sec. 21-4. Unlawful housing practices.**

- (1) Unlawful housing practices: Sale or rental and advertising in connection therewith.

Except as provided in Section 5 hereof, it shall be unlawful and a discriminatory housing practice for an owner, or any other person engaging in a real estate transaction, or for a real estate broker, as defined in this ordinance, because of race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap or age:

- (a) To refuse to engage in a real estate transaction with a person or to otherwise make unavailable or deny housing to any person.
- (b) To discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith.
- (c) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person.
- (d) To refuse to negotiate for a real estate transaction with a person.
- (e) To represent to a person that housing is not available for inspection, sale, rental or lease when, in fact, it is so available, or to fail to bring a property listing to such person's attention, or to refuse to permit him or her to inspect the housing.
- (f) To steer any person away from or to any housing.
- (g) To make, print, publish, circulate, post or mail, electronic or otherwise, or cause to be made, printed, published or circulated, any notice, statement, advertisement or sign, or to use a form of application or photograph for a real estate transaction or, except in connection with a written affirmative action plan, to make a record or oral or written inquiry in connection with a prospective real estate transaction, which indicates directly or indirectly an intent to make a limitation, specification, or discrimination with respect thereto.
- (h) To offer, solicit, accept, use or retain a listing of housing with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith.
- (i) To induce or attempt to induce any person to transfer an interest in any housing by representations regarding the existing or potential proximity of housing owned, used or occupied by any person protected by the terms of this ordinance.
- (j) To make any misrepresentations concerning the listing for sale or rental, or the anticipated listing for sale or rental, or the sale or rental of any housing in any area in the Town of Pierson for the purpose of inducing or attempting to induce any such listing or any of the above transactions.

- (k) To retaliate or discriminate in any manner against any person because of his or her opposing a practice declared unlawful by this ordinance, or because he or she has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or conference under this ordinance.
- (l) To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by the provisions of this ordinance, or to obstruct or prevent any person from complying with the provisions of this ordinance, or any conciliation agreement entered into there under.
- (m) By canvassing to compel any unlawful practices prohibited by the provisions of this ordinance.
- (n) Otherwise to deny to, or withhold, any housing accommodations from a person.
- (o) To promote, induce, influence or attempt to promote, induce or influence by the use of postal cards, letters, circulars, telephone, emails, facsimiles, visitation or any other means, directly or indirectly, a property owner, occupant, or tenant to list for sale, sell, remove from, lease, assign, transfer, or otherwise dispose of any housing by referring as a part of a process or pattern of indicating neighborhood unrest, community tension, or fear of racial, color, religious, nationality or ethnic change in any street, block, neighborhood or any other area, to the race, color, religion, neighbors, tenants or other prospective buyers of any housing.
- (p) To place a sign or display any other device either purporting to offer for sale, lease, assignment, transfer or other disposition or tending to lead to the belief that a bona fide offer is being made to sell, lease, assign, transfer or otherwise dispose of any housing that is not in fact available or offered for sale, lease, assignment, transfer or other disposition.

(2) Unlawful housing practices: Financing

It shall be unlawful and a discriminatory housing practice for any lending institution, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing or maintaining housing, or to discriminate against such person in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap or age of such person or of any person associated with such person in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the housing in relation to which such loan or other financial assistance is to be made or given; provided that nothing contained in this subsection shall impair the scope or effectiveness of the exceptions contained in Section 5 of this ordinance.

(3) Unlawful housing practices: Brokerage Services

It shall be unlawful and a discriminatory housing practice to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization or other service, organization, or facility related to the business of selling, or renting housing, or to discriminate against such person in the terms or conditions of such access, membership or participation because of race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap, or age.

**Sec. 21-5. Exemptions and exceptions.**

(1) Nothing contained in Section 4 hereof shall prohibit a religious organization, association, or society, or any nonprofit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting or from advertising the sale, rental or occupancy of housing which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons. Nor shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(2) Nothing in Section 4 hereof, other than subsection (g) of subsection (1) thereof, shall apply to:

- (a) Any single-family house sold or rented by an owner: provided, that such private individual owner does not own more than three such single-family houses at any one time; provided, further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period; provided, further, that it does not own any interest in, nor is there owned or reserved on such owner's behalf, under any express or voluntary agreement, title to or any rights to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time; provided, further, that the owner sells or rents such housing (1) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or of such facilities or services of any person in the business of selling or renting housing, or of any employee or agency of any such broker, agent, salesperson, or person and (2) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of subsection (g) of subsection (1) of Section 4 hereof, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

- (b) Rooms or units in housing containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as such owner's residence, provided that the owner sells or rents such rooms or units (1) without the use in any manner of the sales or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person in the business of selling or renting housing, or of any employee or agency of any such broker, agent salesperson, or person and (2) without the publication, posting or mailing, after notice in violation of subsection (g) of subsection (1) of Section 4 hereof, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer the title.

(3) For the purpose of this subsection a person shall be deemed to be in the business of selling or renting housing if:

- (a) He or she has, within the preceding twelve months, participated as principal, other than in the sale of his or her own personal residence, in providing sales or rental facilities or sales or rental services in three or more transactions involving the sale or rental of any housing or any interest therein; or
- (b) He or she has, within the preceding twelve months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any housing or any interest therein; or
- (c) He or she is the owner of any housing designed or intended for occupancy by, or occupied by, five or more families.

(4) Nothing in Section 4 hereof shall be construed to:

- (a) Bar any person from restricting sales, rentals, leases or occupancy, or from giving preference, to persons of a given age for bona fide housing intended solely for the elderly or bona fide housing intended solely for minors.
- (b) Make it an unlawful act to require that a person have legal capacity to enter into a contract or lease.
- (c) Bar any person from advertising or from refusing to sell or rent any housing which is planned exclusively for, and occupied exclusively by, individuals of one sex, to any individual of the opposite sex.

- (d) Bar any person from selling, renting or advertising any housing which is planned exclusively for, and occupied exclusively by, unmarried individuals to unmarried individuals only.
- (e) Bar any person from advertising or from refusing to sell or rent any housing which is planned exclusively for married couples without children or from segregating families with children to special units of housing.
- (f) Bar any person from refusing a loan or other financial assistance to any person whose life expectancy, according to generally accepted mortality tables, is less than the term for which the loan is requested.

**Sec. 21-6. Administrator authority and responsibilities.**

(1) Council to Appoint. The authority and responsibility for administering this ordinance shall be vested in the Council who shall appoint an administrator.

(2) General Powers and Duties. The administrator shall:

- (a) Receive written complaints as hereinafter provided in Section 7 relative to alleged unlawful acts under this ordinance when a complaint seeks the administrator's good offices to conciliate.
- (b) Upon receiving written complaint, make such investigations as the administrator deems appropriate to ascertain facts and issues.
- (c) Utilize methods of persuasion, conciliation, and mediation or information adjustment of grievances.
- (d) Establish, administer or review programs at the request of the Council and make reports on such programs to the Council.
- (e) Bring to the attention of the Council items that may require Council notice or action to resolve.
- (f) Render to the Council annual written reports of his or her activities under the provisions of this ordinance along with such comments and recommendations as he or she may choose to make.
- (g) Cooperate with and render technical assistance to federal, state, local and other public and private agencies, organizations and institutions which are formulating or carrying on programs to prevent or eliminate the unlawful discriminatory practices covered by the provisions of this ordinance.

(3) Determination of Probable Cause. If after fully processing the complaint in the manner hereafter provided, the administrator determines that there is probable cause to believe that there has been a violation of the provisions of this chapter, and conciliation and/or resolution under this chapter is not achieved, the administrator

shall refer the matter, along with the facts he or she has gathered in the investigations, to the proper county, state or federal authorities for appropriate legal action, with notification thereof to the Town Manager and Town Attorney.

- (4) Promulgation of Forms and Regulations. The administrator shall promulgate, publish and distribute the necessary forms, rules and regulations to implement the provisions of this ordinance.

#### **Sec. 21-7. Complaints.**

- (1) A person who claims that another person has committed a discriminatory housing practice against him or her may report that offense to the administrator by filing an informal complaint within forty-five (45) days after the date of the alleged discriminatory housing practice and not later.
- (2) The administrator shall treat a complaint referred by the Secretary of Housing and Urban Development or the Attorney General of the United States under the Fair Housing Act of 1968, Public Law 90-284, as an informal complaint filed under subsection (1).
- (3) An informal complaint must be in writing, verified or affirmed, on a form to be supplied by the administrator and shall contain the following:
  - (a) Identity and address of the respondent.
  - (b) Date of offense and date of filing the informal complaint.
  - (d) General statement of facts of the offense including the basis of the discrimination (race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap or age).
  - (e) Name and signature of the complainant.
- (4) Each complaint shall be held in confidence by the administrator unless and until the complainant and the respondent(s) consent in writing that it shall be made public.
- (5) Within fifteen (15) days after the filing of the informal complaint, the administrator shall transmit a copy of the same to each respondent named therein by certified mail, return receipt requested. Thereupon, the respondent(s) may file a written, verified informal answer to the informal complaint within twenty (20) days of the date of the receipt of the informal complaint.
- (6) An informal complaint or answer may be amended at any time, and the administrator shall furnish a copy of each amended informal complaint or answer to the respondent(s) complaint, respectively, as promptly as practicable.

- (7) The administrator shall assist complainants or respondents when necessary in the preparation and filing of informal complaints or answers or any amendments thereto.
- (8) The administrator shall advise complainants of their rights and options provided in Section 760.34, Florida Statutes.

**Sec. 21-8. Processing complaints.**

- (1) Within fifteen (15) days after the filing of an informal complaint, the administrator shall make such investigation as is deemed appropriate to ascertain facts and issues. If the administrator shall deem that there are reasonable grounds to believe that a violation has occurred and can be resolved by conciliation, the administrator shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties and such representatives as the parties may choose to assist them. Conciliation conferences shall be informal and nothing said or done in the course of the informal conference with the individuals to resolve the dispute may be public or used as evidence in a subsequent proceeding by either party without the written consent of both the complainant and the respondent(s). The administrator or employee of the administrator who shall make public any information in violation of this provision shall be deemed guilty of a violation of a Town ordinance and shall be subject to penalty as set forth in Section 12.
- (2) If the parties desire to conciliate, the terms of the conciliation shall be reduced to writing in the form approved by the administrator and must be signed and verified by the complainant and respondent(s) and approved by the administrator. The conciliation agreement shall be for conciliation purposes only and shall not constitute an admission by any party that the law has been violated.
- (3) If the administrator deems that there is not probable cause to believe that the alleged discriminatory housing practice has been committed, the administrator shall take no further action with respect to the alleged offense.
- (4) For any matter involving a complaint under this chapter which is not resolved after the parties, in good faith, have attempted conciliation; or if the administrator determines that a violation alleged in the complaint cannot be resolved by conciliation, the administrator shall notify both the complainant and the respondent(s) within thirty (30) days of the failure or the determination, and then shall proceed as provided in Paragraph (3) of Section 6 herein above.

**Sec. 21-9. Additional remedies.**

The procedure prescribed by this chapter does not constitute an administrative prerequisite to another action or remedy available under other law. Further, nothing in this chapter shall be deemed to modify, impair or otherwise affect any right or remedy conferred by the Constitution or laws of the United States or the State of Florida, and the provisions of this chapter shall be in addition to those provided by such other laws.

**Sec. 21-10. Education and public information.**

The administrator may conduct educational and public informational activities, including workshops, that are designed to promote the policy of this chapter.

**Sec. 21-11. Untruthful complaints or testimony.**

It shall be a violation of this ordinance for any person knowingly and willfully to make false or untrue statements, accusations or allegations in a complaint filed hereunder or to give false testimony concerning violations of this ordinance.

**Sec. 21-12. Penalty.**

Any person who is determined under this chapter to have committed a discriminatory housing practice shall be subject, upon conviction, to a fine up to but not exceeding the sum of Five Hundred and no/100 Dollars (\$500.00), or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment.

(Ord. No. 2019-02, § 1).