

Chapter 9 PUBLIC NUISANCES

*Editor's note--Ord. No. 573-79, <sec> 1, adopted Nov. 7, 1979, repealed former Ch. 9 which pertained to fire prevention and was derived from the following:

Ord. No.	Section	Date
46	1--9, 11, 13	9-20-27
220		7-15-58
224	1	6-16-59
275	1--6	7-21-64
491	1	2-16-77

Ord. No. 1774-13, <sec> 1, adopted November 20, 2013 created a new Chapter 9 and reflects the transfer of the provisions for Public Nuisances from Chapter 10 into the new Chapter 9.

ARTICLE I

GENERAL

Section 9-1. Definitions

The following definitions shall apply throughout this Chapter where appropriate.

Commercial structures shall mean any structure other than residential one- or two-family housing units.

Department head or code inspector means any authorized agent or employee of the City whose duty it is to ensure code compliance.

Development review committee means a committee composed of City staff members, including representatives from the departments of Growth Management, Fire, Police, Public Works and Utilities.

Distressed Real Property means any real property within the City of Punta Gorda, Florida which is the subject of an action to foreclose upon a mortgage or similar instrument, or which has been conveyed to a mortgagee by means of a deed in lieu of foreclosure.

Code Enforcement Board means the administrative board established pursuant to the provisions of Chapter 162, Florida Statutes and Chapter 9A, Punta Gorda Code.

Code Compliance Officer means any designated employee or agent of the City of Punta Gorda, Florida whose duty it is to assure compliance with, and to seek enforcement of, violations of the Codes and ordinances enacted by the City. Employees or agents who may be designated by the City Manager as Code Compliance Officers for purposes of this Chapter may include, but are not limited to, code inspectors, law enforcement officers, building inspectors, or fire safety inspectors.

Foreclosure/Foreclose means the legal process by which a parcel, tract, lot or other defined area of real property, placed as security for a real estate loan, is prepared for sale by the mortgagee to satisfy the debt if the borrower/mortgagor defaults. The term shall also include the process by which the City of Punta Gorda, Florida seeks a judicial sale of real property to enforce a lien recorded pursuant to this Chapter 9A.

Junk means any cast-off, damaged, decayed, junked, obsolete, salvage, scrapped, unusable, worn-out or wrecked object, thing or material composed in whole or in part of asphalt, brick, carbon, cement, plastic or other synthetic substance, fiber, glass, metal, paper, plaster, plaster of Paris, rubber, terra cotta, wool, cotton, cloth, canvas, organic matter or other substance, having no substantial market value or requiring reconditioning in order to be used for its original purpose.

Junkyard means any premises from on or which any junk is abandoned, bailed, bartered, bought, brought, bundled, deposited, disassembled, disposed of, exchanged, handled, kept, packed, processed, scattered, shipped, sold, stored or transported, regardless of whether or not such activity is done for profit.

Local Agent means any local individual or local property management company designated by a mortgagee as the local agent responsible for the security and maintenance of vacant distressed real property.

Mortgagee means the creditor, including but not limited to, trustees; service companies; lenders in a mortgage agreement; any agent, servant or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement. For the purposes of this Chapter 9, the term Mortgagee does not apply to governmental agencies.

Owner means owner of record of real property, occupant, lessee, or interested holder in same, as the case may be and for the purposes of this Chapter 9, shall also include every person, entity or service company, who alone or severally with others: (a) has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land; or (b) has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) is a mortgagee in possession of any dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land; or (d) is an agent, trustee or other person appointed by the courts and vested with possession or control of any dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land. For the purposes of this Chapter 9, the term Owner does not apply to governmental agencies.

Person means those persons as defined in Section 1.01, Florida Statutes.

Premises or property means any real property or personal property, or portion thereof, including buildings or structures situated on the real property. For the purposes of this Chapter 9, the terms do not include real property owned or leased by the City of Punta Gorda, Florida.

Unreasonable period of time means ten (10) days or more unless extended in writing by the department head.

Vacant means any building, structure or real property for which the City of Punta Gorda, Florida utilities bills have remained unpaid for more than sixty (60) days or any unimproved real property.

Violator means the person whose acts or omissions cause a violation of this Article and includes the person owning, occupying, or controlling the property on which a Code violation has occurred or remains uncorrected. The term also includes the owner of record of real property, occupant, lessee, or interested holder in same, as the case may be and includes every person, entity or service company, who alone or severally with others: (a) has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land; or (b) has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or (c) is a mortgagee in possession of any dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land; or (d) is an agent, trustee or other person appointed by the courts and vested with possession or control of any dwelling, dwelling unit, mobile dwelling unit, building, structure or parcel of land. The term does not apply to governmental agencies.

Section 9-2. Public Nuisances Described

The following activities or conditions are hereby declared to be public nuisances:

- (a) The keeping, storage, depositing, or accumulation on the premises for an unreasonable period of time of any personal property, including but not limited to abandoned, wrecked, dismantled or inoperative vehicles or watercraft, automotive parts and equipment, watercraft parts and equipment, appliances, furniture, containers, packing material, scrap metal, wood, building materials, junk, rubbish, and debris, which is within the view at ground level of persons on adjacent or nearby real property or the public right-of-way and which constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to nearby property or property values.

Wood and building material being used or to be used for a project of repair or renovation for which a building permit has been obtained may be stored for such period of time as is necessary to expeditiously complete the project. Nothing contained herein shall preclude the use of aerial photographs as evidence in any enforcement proceeding to show the existence of a violation of this Article.

- (b) The keeping, storage, depositing or accumulation of dirt, sand, gravel, concrete or other similar materials, for an unreasonable period of time, which constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to nearby property or property values.
- (c) The operation of a junkyard or automobile dismantling yard, except in zoning districts which allow such use by special exception.
- (d) Any vehicle which is inoperative or unlicensed for a period of ten (10) days is prohibited on public or private property unless within a completely enclosed garage. This subsection does not apply to the Special Purpose (SP) district provided the site has a valid Local Business Tax Receipt which permits the on-site storage of such vehicles.

- (e) Any watercraft which is inoperative or unregistered and appears to be in a state of decay and/or abandonment, as determined by the department head, shall be prohibited on any waterway, shore, private and public property unless within a completely enclosed garage or building. This subsection does not apply to the Special Purpose (SP) district provided the site has a valid Local Business Tax Receipt which permits the on-site storage of such watercraft.
- (f) The placement or deposit of any effluvia, refuse, paint overspray or debris from sanding vessels over the water, or byproducts of decaying animal or vegetable matter, or the directing or routing of any stormwater from roof drains, pool water, water filter/softeners, or other water or fluid or other material in any of the canals, waterways, ditches, storm drains or water reservoirs in the City is considered a nuisance and may be injurious or detrimental to the health, safety, and welfare of the community.
- (g) Any dangerous, unsightly or blighted condition which is detrimental to the health, safety or welfare of the public.
- (h) The placement, deposit, or maintenance of any litter, trash, debris, stagnant water, or a dense wild growth of trees, vines, underbrush, wild growth and weeds and/or grass in excess of twelve (12) inches in height from the ground upon property located within the City and on the sidewalks and parkways abutting thereon, except as may be provided by the City Council.

This paragraph shall not apply to natural growth of vegetation in areas of the City which are undeveloped and unplatted or in subdivisions which are less than fifteen (15) percent developed, to platted lots which are no less than five hundred (500) feet distant from a dwelling or other habitable structure provided, however, that all corner lots and undeveloped acreage abutting corners shall be adequately maintained so as to not obstruct traffic visibility within the triangular space bounded by two (2) intersecting right-of-way twenty-five (25) feet from the intersection. To prevent unnecessary destruction of mangrove habitat in coastal estuarine areas of the City, the growth of any genus of mangrove is hereby excluded from the provisions of this paragraph.

- (i) Any condition in violation of the Punta Gorda Code.
- (j) The creation of litter as the same is defined by Section 403.413, Florida Statutes, "The Florida Litter Law", as the same may, from time to time be amended.

Section 9-3. Causing or Maintaining Public Nuisances Prohibited

It shall be unlawful and a violation of this Chapter for any person to cause or maintain a public nuisance as described in this Chapter.

Section 9-4. Abatement of Public Nuisances

- (a) Any violation of this Chapter may be enforced in accordance with the provisions of Chapter 9A, Punta Gorda Code.

- (b) In addition to the enforcement procedures provided in Chapter 9A, Punta Gorda Code, the City may seek injunctive relief in a court of competent jurisdiction.
- (c) Violations of this Chapter shall also constitute public nuisances as defined in Chapter 823, Florida Statutes and may be enforced pursuant to the provisions thereof.
- (d) The City shall have the authority to enter upon private property to abate violations of the City of Punta Gorda Code when so ordered by the Code Enforcement Board pursuant to the provisions of Chapter 9A, Punta Gorda Code.
- (e) If a Code Compliance Officer finds that litter, trash, debris, stagnant water, or a dense growth of trees, vines, underbrush, wild growth, weeds, or grass in excess of twelve (12) inches in height from the ground exists on any property located within the City, to the extent and in the manner that it constitutes or may reasonably become a menace to life, property, the public health, or the public welfare; creates a fire hazard; or provides a nest and breeding ground for insects, rodents, snakes or other types of pests and vermin, the Code Compliance Officer shall issue a written notice in accordance with Section 9-6 of this Article to the owner of record of such property advising that litter, trash, debris, stagnant water, or a dense growth of trees, vines, underbrush, wild growth, weeds, or grass in excess of twelve (12) inches in height from the ground exists upon the property described in said notice and demand that such owner either cause such condition to be remedied within ten (10) days from the date of the notice (which shall be the date of its mailing or the posting of the property, whichever is later), or authorize in writing the City to have such work done on behalf of the owner at the owner's cost. If the owner authorizes the City to have such work done, the costs of said work shall be charged to the owner and shall become a lien against the property if unpaid within fifteen (15) days from the date of the billing invoice. If no response is received from the property owner within ten (10) days from the date of the notice, the City may cause the violation to be remedied and the costs of said work shall be charged to the owner and shall become a lien against the property if unpaid within fifteen (15) days from the date of the billing invoice. Furthermore, the City may continue to maintain the property without further notice and the cost for such work will become a lien on the property for each occurrence, unless and until the property owner provides written notice to the City Manager of his/her intent to maintain the property. The City may elect to discontinue the maintenance of the subject property at any time and seek compliance by any other lawful means.
- (f) If the City abates a public nuisance in accordance with Paragraph (e) of this Section, in addition to the costs of such abatement, the owner shall pay the City an administrative fee in the amount of fifty dollars (\$50.00) and shall reimburse the City for the cost of preparing and recording a lien against the owner's property. An owner's failure to pay the invoiced costs incurred by the City, including the administrative fee and the cost of preparing and recording a lien against the owner's property, shall constitute a violation of this Article.
- (g) The notice to the owner provided for in Paragraph (e) of this Section shall advise the owner of the specific violations with which the owner is charged, setting out the location of the property on which the violation occurs, describing the nature of the violation, and identifying the provisions of the Punta Gorda Code violated; advise the owner that, within ten (10) days after the date of the mailing of the notice or the posting of the property, whichever is the latest date, the owner must remedy the violation or authorize the City to remedy it at the owner's expense; advise the owner

what the estimated direct costs shall be for the City to remedy the violation; advise the owner that the charge to the owner for the City to remedy the violation shall include an administrative fee in the amount of fifty dollars (\$50.00); advise the owner that, if the owner takes no action and the City remedies the violation or if the owner authorizes the City to remedy the violation and fails to pay the charges within fifteen (15) days after the date of the billing invoice therefor, such charges, along with the cost of preparing and recording a lien, shall become a lien against the property; and advise the owner that such failure to pay shall be deemed a violation of this Article, enforceable pursuant to the provisions of Chapter 9, Punta Gorda Code. If the violation is a growth of vegetation in excess of what is permitted by the Punta Gorda Code on any undeveloped property which is eligible for the City lot-mowing program, the notice shall also advise the owner of the cost of any City lot-mowing program available as a means of avoiding future violations.

- (h) The provisions of this Paragraph are intended to be supplemental and in addition to any proceeding, fine, or other remedy which the City may bring before the City Code Enforcement Board or a court of competent jurisdiction.

Section 9-5. Recovery of Abatement Costs by Means of Special Assessments

- (a) A Special Assessment District is hereby established within the territorial limits of the City of Punta Gorda to authorize the levy and collection of a Special Assessment against any real property which is improved pursuant to the provisions of this Section. Upon receipt of a notice from the Code Enforcement Board of non-compliance with a Code Enforcement Board order to abate a public nuisance found to exist upon private real property, the City Council may direct the City Manager to take all reasonable actions which are deemed necessary to bring the subject property into compliance with the Code Enforcement Board's order. The City's abatement of any public nuisance upon real property within the City and the levy and collection of a Special Assessment to reimburse the City for its abatement actions shall be performed in accordance with the procedures provided in this Section 9-5.
- (b) The City Manager or designee shall verify that the subject property remains out of compliance with the Code Enforcement Board's order and shall attempt to contact the property owner to advise that if the property owner does not immediately bring the subject property into compliance with the Code Enforcement Board's order, the City will take all reasonable actions deemed necessary to bring the property into compliance and that the property owner will be responsible for reimbursing the City for all of its costs in abating the nuisance. The City Manager or his designee shall post the subject property at least 24 hours prior to the commencement of abatement actions with a notice indicating the date that the City will begin its actions to bring the property into compliance with the Code Enforcement Board's order. A copy of said order shall be posted with the notice.
- (c) No sooner than 24 hours prior to the posting of the subject property, the City may commence all reasonable actions necessary to bring the property into compliance with the Code Enforcement Board's order. If the real property is secured by locks or other means, the City shall have the authority to enter said property for purposes of improving the property and any additional costs incurred by the City to gain access to the property or in re-securing the real property after the completion of the nuisance abatement actions shall be considered to be reimbursable expenses.

- (d) Upon completion of the nuisance abatement actions by the City, the City shall mail an invoice to the real property owner, by certified mail, return receipt requested, requesting payment to the City for the costs of abating the nuisance upon the owner's property. For the purposes of this Subsection, the term "costs" shall include the actual cost of abating the nuisance, the cost of serving and publishing notice, the cost of obtaining title information, the cost of lien recordation, the costs of inspections and all other related costs, including, but not limited to administrative charges and fees in effect at the time of mailing the invoice. The invoice shall require full payment of the invoiced charges within thirty (30) days of the invoice date. A copy of the invoice, together with a copy of the Code Enforcement Board order may be mailed to any mortgagee.
- (e) If the property owner fails to pay the invoiced charges within thirty (30) days of the invoice date, the City Manager or designee shall prepare a Resolution designating the name and address of the real property owner, a legal description of the property improved by the City's abatement actions and an itemization of the costs to be assessed against the improved real property. Upon approval of the Resolution by City Council, the costs stated in the Resolution shall be and constitute a municipal Special Assessment against the benefitted real property and shall be and remain a lien against the real property and shall bear interest at a rate of eight percent (8%) per annum from the date the assessment is approved and recorded by the City Council. Such Special Assessment lien shall be coequal with the lien of all state, county, district and municipal taxes and superior in dignity to mortgages and all other liens, irrespective of the date of the recording of the Special Assessment lien, or the date of the recording of any mortgage or any other lien on the real property. The assessment shall be payable at the time and in the manner as stated in the Resolution. To the extent not inconsistent with general or special law, the Special Assessment lien established by Resolution adopted pursuant to this Subsection and unrecorded at the time of filing for record of lis pendens against the subject property, shall nevertheless be enforceable against the subject real property and shall have the priority as specified herein.
- (f) Upon approval of the Special Assessment Resolution by the City Council, the City Manager or designee shall cause to be published in a local newspaper of general circulation a notice directed to the property owner of the real property benefitted by the City's nuisance abatement actions. Said notice shall designate a time and place where complaints will be heard with reference to the Special Assessment and when such Special Assessment will be finally approved and confirmed by the City Council. A copy of such notice shall be mailed to the real property owner and any known mortgagee, by certified mail, return receipt requested. Mailing to the property owner's last known address as the same appears on the records of the Charlotte County Property Appraiser shall be sufficient. Failure to notify any mortgagee or any other person having a secured interest in the benefitted real property shall not invalidate any action under this Subsection. The publication and mailing of notice under this Subsection (f) shall be provided at least ten (10) days prior to any such hearing before the equalizing board.
- (g) At the time and place designated in the notice provided pursuant to Subsection (f) above, the Code Enforcement Board shall meet as an equalizing board to hear and consider any and all complaints as to the amount of the established Special Assessment. The Code Enforcement Board shall adjust and equalize the Special Assessments, when it deems such action is necessary. The Code Enforcement Board

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

Section 9-6. Notices

- (a) All notices required by this Article must be provided to the alleged violator by:
 - (1) Certified mail, and at the option of the City return receipt requested, to the address listed in the Charlotte County Tax Collector's office for tax notices or to the address listed in the Charlotte County Property Appraiser's database. The City may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described in this Section;
 - (2) Hand delivery by the sheriff or other law enforcement officer, Code Compliance Officer, or other person designated by the City;
 - (3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or
 - (4) In the case of commercial premises, leaving the notice with the manager or other person in charge.
- (b) In addition to providing notice as set forth in Subsection (a) above, at the option of the City, notice may be served by publication or posting, as follows:
 - (1) Such notice shall be published once during each week for four (4) consecutive weeks (four publications being sufficient) in a newspaper of general circulation in Charlotte County, Florida. The newspaper shall meet such requirements as are prescribed under Chapter 50, Florida Statutes for legal and other advertisements, as the same may from time to time be amended.
 - (2) Proof of publication shall be made as provided in Sections 50.041 and 50.051, Florida Statutes, as the same may from time to time be amended.

- (3) In lieu of publication, such notice may be posted at least ten (10) days prior to the expiration of any deadline contained in the notice, in at least two (2) locations, one (1) of which shall be the property upon which the violation is alleged to exist and the other of which shall be at the City Hall.
 - (4) Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
 - (5) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or mail as required under Subsection (a), herein.
- (c) Evidence that an attempt has been made to hand deliver or mail notice as provided in Subsection (a), herein, together with proof of publication or posting as provided in Subsection (b), herein, shall be sufficient to show that the notice requirements of this Article have been met, without regard to whether or not the alleged violator actually received such notice.

{Ord. No. 1774-13, <sec> 1, 11-20-2013; Ord. No. 1803-4, <sec> 1, 12-17-2014}

ARTICLE II

MANDATORY LOT MOWING PROGRAM

Section 9-7. The Program

To minimize the potential that vacant lots within the City of Punta Gorda may become a menace to life, property, the public health, or the public welfare, may create a fire hazard, may provide a nest and breeding ground for insects, rodents, snakes or other types of pests and vermin, or otherwise become a public nuisance, the City has established a mandatory lot mowing program, hereinafter referred to as the "Program".

- (a) The City Manager, or designee, is authorized to contract with one or more persons to perform lot mowing under this Program. The Program will mow all lots within the Program a sufficient number of times per year so that no weeds or grass will grow taller than twelve (12) inches in height from the ground.
- (b) Except as otherwise provided herein, all real property in the City of Punta Gorda designated as "Vacant" by the Charlotte County Property Appraiser shall be included in the Program. The City Clerk shall also cause a list of the properties included in the Program to be presented on the City of Punta Gorda's official website.
- (c) Individual property owners may request an annual exemption from the Program upon submission to the City Manager, or designee, an executed annual exemption form as prepared by the City, requesting an exemption from the Program and stating that they intend to insure that their property will be routinely mowed so that the height of any grass or weeds thereon will not exceed twelve (12) inches in height.
- (d) Should a Code Compliance Officer find that a property for which an exemption has been issued has not been mowed and has grass or weeds exceeding twelve (12) inches in height, the Code Compliance Officer may issue a written order to the owner of record of said property directing that the subject property be mowed within five (5) days of receipt of said order. The order shall be mailed by Certified mail to the address listed in the Charlotte County Tax Collector's office for tax notices or to the address listed in the Charlotte County Property Appraiser's database. The Code Compliance Officer may also post the property in at least two (2) locations, one (1) of which shall be the property upon which grass or weeds exceeding twelve (12) inches in height has been observed, and the other of which shall be at the City Hall. Proof of posting shall be by affidavit of the person posting the order, which affidavit shall include a copy of the order posted and the date and places of its posting. Posted orders may run concurrently with, or may follow, an attempt or attempts to provide orders by mail as required under this subsection (d).
- (e) Should the property not be mowed within the time specified in the order, the City may mow the property and the costs of said work shall be charged to the owner and shall become a lien against the property if unpaid within fifteen (15) days from the date of the billing invoice. In addition to the costs of such mowing, the owner shall pay the City an administrative fee in the amount of fifty dollars (\$50.00) and shall reimburse the City for the cost of preparing and recording a lien against the owner's property. An owner's failure to pay the invoiced costs incurred by the City, including the

administrative fee and the cost of preparing and recording a lien against the owner's property, shall constitute a violation of this Article.

- (f) Should it be necessary for the City to issue two (2) written orders to the owner of record for a given property within a two (2) year period, the granted exemption shall be revoked by the City Manager or his designee. Prior to any such revocation, the Code Compliance Officer shall send written notice of the City's intent to revoke the exemption indicating the date of the proposed revocation.
1. The Notice shall be mailed by Certified mail to the address listed in the Charlotte County Tax Collector's office for tax notices or to the address listed in the Charlotte County Property Appraiser's database.
 2. The Code Compliance Officer may also post the property in at least two locations, one of which shall be the property upon which grass or weeds exceeding twelve (12) inches in height has been observed, and the other of which shall be at the City Hall. Proof of posting shall be by affidavit of the person posting the order, which affidavit shall include a copy of the Notice posted and the date and places of its posting. Posted notices may run concurrently with, or may follow, an attempt or attempts to provide notices by mail as required under this subsection (g).
 3. The City shall also remedy the violation upon issuance of Notice.
 4. The property owner shall then have fourteen (14) days from the date of issuance of such notice to request a hearing before the Code Enforcement Board contesting the intended revocation. At said hearing, it should be the property owner's burden to demonstrate good cause why the exemption should not be revoked. If the property owner fails to request a hearing within the time provided, the owner shall be deemed to have waived any right to contest the proposed revocation.
 5. If the property owner fails to contest the proposed revocation, or if the Code Enforcement Board upholds the intent to revoke, the City will include the property in the Program and bill the owner as provided in this Article.
 6. In the event that the Code Enforcement Board finds that the exemption is to remain in effect, the property owner shall be invoiced for the cost of the violation mow which shall become a lien against the property in unpaid within fifteen (15) days from the date of the billing invoice. In addition to the costs of such mowing, the owner shall pay the City an administrative fee in the amount of fifty dollars (\$50.00) and shall reimburse the City for the cost of preparing and recording a lien against the owner's property. An owner's failure to pay the invoiced costs incurred by the City, including the administrative fee and the cost of preparing and recording a lien against the owner's property, shall constitute a violation of this Article.
- (g) Owners of vacant real property included in the Program shall be charged an annual user fee for participation in the program. The City Council shall establish, by Resolution, the amount of the lot mowing user fee to be charged to owners of all properties included in the Program. Said user fee shall be based upon the City's direct

cost of providing the service specified in this Section, plus a proportionate amount to cover the City's administrative costs involved in contracting for and implementing this Program. The established fees and costs may be changed by the City Council at any time by adoption of a subsequent Resolution. The annual user fee shall be assessed per mowing 'unit'; a 'unit' is defined as a 10,000 square feet area or portion thereof.

(h) On June 1st, but no later than June 10th, of each year, the City shall mail or email the annual lot mowing bill to the owner of each property included in the Program. The bill will be for services to be rendered in the upcoming fiscal year October 1-September 30. All bills shall be immediately due and payable and shall become delinquent if not paid by the due date that is printed on the face of the bill.

1. All bills shall include a notice to the owner that the owner may request an annual exemption from the Mandatory Lot Mowing Program upon submission to the City Manager, or designee, the annual exemption form, prepared by the City, requesting an exemption from the Program and stating that they intend to insure that their property will be routinely mowed so that the height of any grass or weeds thereon will not exceed twelve (12) inches in height. The City shall prepare forms which may be utilized by the individual property owners requesting an automatic exemption from the Program.
2. Such requests for an automatic exemption from the program must be postmarked no later than the due date of the June annual bill.
3. Any property that previously had the annual exemption revoked for failure to mow and maintain the property so that the height of any grass or weeds would not exceed twelve (12) inches shall not be offered an option to request an exemption from the Mandatory Lot Mowing Program for any future years.
4. The denial of an application for an exemption shall be subject to the Appeal provisions of Section 9-8 of this Article.

(i) In the alternative, the city shall utilize the special assessment procedures set forth herein, which procedures may be initiated in the year preceding such calendar year in order to utilize the uniform method of collection set forth in Chapter 197, Florida Statutes, as amended and supplemented from time to time.

1. A Special District is hereby established within the territorial limits of the City of Punta Gorda to authorize the levy and collection of a Special Assessment for the Mandatory Lot Mowing Program annual user fee established in Subsection (g) above.
2. Finding a Special Benefit. In creating the City of Punta Gorda Lot Mowing Assessment District, the City Council finds and determines that the special benefits to each vacant property owner in the district--through the sharing of costs of maintenance, as defined in this lot mowing ordinance, resulting in economies of scale in pricing and priority given to maintenance in the district; thereby relieving the property owner of the responsibility of lot mowing maintenance by providing for a functioning, and capably overseen process adhering to City Code; thus protecting the property owner from possibility of lot mowing code violations resulting in fines and penalties which exceed each

property owner's share of the costs of the necessary and expected expenses incurred by the district each year.

- (j) No less than 60 days after the initial mailing of the Mandatory Lot Mowing bills, the Finance Department shall compile a list of properties whose lot mowing user fees have remained unpaid. That list of delinquent fees shall constitute a preliminary delinquent user fee roll.
- (k) The Finance Department shall also send individual notices of the date and time of the hearing to all owners of record of property proposed to be liened at least fourteen (14) days prior to the date of the hearing. Mailing by Certified mail to the address listed in the Charlotte County Tax Collector's office for tax notices or to the address listed in the Charlotte County Property Appraiser's database shall constitute sufficient notice to the property owner, regardless of whether the notice is accepted or actually received.
- (l) Approximately four weeks prior to the hearing, the City Clerk shall publish, once a week for two consecutive weeks in a newspaper of general circulation within the City of Punta Gorda, a notice of the time and place of the hearing when the Code Enforcement Board will meet to hear and consider any objections or defenses to the levy of a lien against the delinquent properties. The date of the meeting so noticed shall be at least fourteen (14) days from the date of publication of the second notice.
- (m) The owner of record of any property proposed to be liened for delinquent lot mowing fees, or any person having an interest therein, may appear at the public hearing and voice any objections to the proposed lien or the amount thereof. Objections may also be submitted in writing either prior to or at the time of the public hearing. At the hearing, the Code Enforcement Board may recommend to City Council a modification or correction of any proposed lien amount, provided that no lien amount may be increased over the amount in the proposed roll.
 - 1. After the hearing, the Code Enforcement Board shall certify the delinquent user fee roll to the City Council. After consideration of the recommendation of the Code Enforcement Board, the City Council shall, by Resolution, approve the levy of delinquent user fee liens, effective as of the date of the adoption of said Resolution. Said liens shall be the same nature and to the same extent as a lien for general municipal taxes falling due in the same year or years said lot mowing user fees were due. Such lien shall be superior in dignity to all other liens, titles and claims, until paid.
- (n) Any person aggrieved by the action of the City Council in imposing delinquent lot mowing user fee liens must commence an action in Circuit Court within 30 days from the date the Resolution is adopted. Unless such action is begun within the 30 day period, all objections of that person to the imposition of the lien shall be deemed to have been waived.
- (o) Owners who have paid a delinquent lot mowing lien in full after recording of the Resolution and roll shall be entitled to a release of lien from the City upon payment of any authorized recording or release of lien fees. The recording of the release of lien and any recording charges imposed by the Clerk of the Circuit Court shall be the responsibility of the property owner.

- (p) Liens for delinquent lot mowing user fees may be foreclosed in the same manner as liens for property taxes or special assessments. Owners of property against whom a foreclosure action is commenced shall be liable for all fees, costs and expenses incurred by the City or its agents, including reasonable attorneys fees and the same may be assessed as a cost in the foreclosure action.
- (q) Any informality or irregularity in the proceedings to impose a lien for delinquent lot mowing fees shall not affect the validity of the same after the Resolution levying the lien has been adopted and no deviation from the procedures prescribed hereunder shall affect the validity of the lien unless it can be clearly shown that the party objecting was materially injured thereby.
- (r) Nothing herein shall prohibit the City from utilizing other means to collect delinquent lot mowing fees including, but not limited to, an action for damages filed in the appropriate court in Charlotte County.

{Ord. No. 1803-14, <sec> 2, 12-17-2014}

Section 9-8. Appeals

Any person aggrieved by any order or notice issued by the City under this Article may file a written Notice of Appeal with the Code Enforcement Board Clerk requesting a hearing before the Code Enforcement Board. Said Notice of Appeal must specify the order or notice sought to be contested and the grounds for the appeal. The Notice of Appeal must be filed with the Clerk within fifteen (15) days from the date of the order or notice being contested. Unless such Notice of Appeal is received by the Code Enforcement Board Clerk within the fifteen (15) day period, all objections of that person to the City's order or notice shall be deemed to have been waived. It shall be the burden of any aggrieved person to demonstrate that the contested order or notice was unreasonable.

{Ord. No. 1774-13, <sec> 1, 11-20-2013}

ARTICLE III

DISTRESSED REAL PROPERTY

Section 9-9. Registration of Distressed Real Property

The City Council hereby finds that there exists a substantial likelihood that distressed real property, as that term is defined by this Chapter, may become a public nuisance if proper attention to said property is not maintained. The provisions of this Article are intended to aid the City in ensuring that proper attention is paid to all distressed properties to prevent public nuisances from being caused or maintained upon such properties. The following provisions shall apply with respect to all distressed real property located within the City of Punta Gorda, Florida.

- (a) All mortgagees who file any civil action to foreclose upon any mortgage, or similar instrument with respect to real property within the City of Punta Gorda, Florida, or who record a deed in lieu of foreclosure with respect to real property within the City of Punta Gorda, Florida, shall register with the City of Punta Gorda, Florida Code Compliance Division in accordance with the procedure provided in this Section within ten (10) days from the date of filing or recording, as the case may be.
- (b) Registrations shall be made upon forms provided by the City of Punta Gorda, Florida Code Compliance Division and shall include the following information: (1) the street address of the distressed real property; (2) the Charlotte County, Florida Property Appraiser's Parcel ID number; (3) the owner of record's name, mailing address and telephone number; (4) the name, address, telephone number and email address of all mortgagees; and (5) the name, address, telephone number (including cell phone number) and email address of all local agents designated by the mortgagee pursuant to this Subsection. Addresses may not be a post office box. All registrations pursuant to this Subsection shall be valid for one (1) year and must be renewed annually.
- (c) An annual registration fee of One Hundred Dollars (\$100.00) shall accompany each registration form. Subsequent annual registrations and fees are due within thirty (30) days of the expiration of the previous registration.
- (d) All mortgagees that have registered a property under this Section must report any change of information contained on the registration form within ten (10) days of the change. This requirement includes, but is not limited to the change in status of a real property from being legally occupied to becoming distressed vacant real property. Within ten (10) days of a real property becoming distressed vacant real property, the mortgagee shall furnish to the City of Punta Gorda, Florida Code Compliance Division all information required to be provided regarding designated local agents. There will be no charge or fee for modifications to registrations.
- (e) Any mortgagee/registrant may provide written proof of sale of a distressed property to a bona fide purchaser for value. Upon receipt of such proof and verification of the same by the City of Punta Gorda, Florida Code Compliance Division, the mortgagee/registrant's obligations under this Section shall terminate with the exception that all mortgagees shall remain liable with respect to any Code Enforcement case pending against the mortgagee until said case is dismissed by the Code Enforcement Board.

(f) All mortgagees of vacant distressed real property within the City of Punta Gorda, Florida shall be required to retain a local individual or local property management company as the local agent responsible for the security and maintenance of said real property. Contact information for all such designated local agents shall be included on the required registration form. Designated local agents shall be available for contact by the City on a 24-hour, 365 day basis and such emergency contact information must be provided on the registration form required by the Subsection. The designated local agent shall be jointly and severally responsible for ensuring that the vacant distressed real property remains in compliance with all applicable provisions of the Punta Gorda Code. The City of Punta Gorda, Florida Code Compliance Division shall forward a copy of all registration forms regarding vacant distressed real property to the City of Punta Gorda Police Department.

(g) It shall be a violation to fail to comply with any requirements of this Section.

{*Ord. No. 1774-13, <sec> 1, 11-20-2013*}

ARTICLE IV

BUILDING MAINTENANCE AND APPEARANCE CODE

Section 9-10. Building Maintenance and Appearance Code; purpose

The purpose of this Article is to promote the public health, safety and welfare, and to avoid the establishment of public nuisances within the City of Punta Gorda. This purpose is achieved by establishing minimum building appearance and maintenance standards for all structures in the City of Punta Gorda. The minimum building appearance and maintenance standards are required in order to prevent or eliminate blight, preserve the economic value of property prevent the spread of blight and promote the general health, safety, and welfare of the citizens of Punta Gorda through the regulation and enforcement of the provisions of this Article. This Article is adopted pursuant to authority granted to the City by Chapter 163, Part III, Florida Statutes.

Section 9-11. Intent

It is the intent of the City that the standards contained in this Article shall be mandatory for all existing structures whether occupied or vacant and all vacant lots in the City and those structures which are scheduled for demolition. Furthermore, it is the intent of the City that these standards be the minimum for compliance with this Article

Section 9-12. Appearance and Maintenance Standards

(a) Building walls.

1. All deteriorated structural or decorative elements or surfaces visible from a public right-of-way or adjacent property shall be repaired or replaced to match as closely as possible the original material and construction of that building
2. Every such part of a structure visible from adjacent properties, a public right-of-way or abutting a street shall be made structurally sound. Rotten or weakened portions shall be removed, repaired or replaced in such a manner as to be compatible with the rest of the structure and to match the original materials and construction techniques.
 - a. All exposed wood shall be stained, sealed or painted.
 - b. Every such part shall be clean of graffiti, litter, dirt or other debris, and where surfaces are painted/stuccoed, once painted/stuccoed, or normally painted or stuccoed, must be maintained and painted/stuccoed so as to be consistent with the rest of the structure and to match the original material and construction techniques.
 - c. The exterior of every such structure visible from adjacent properties, any public right-of-way or abutting a street shall be maintained so as to be free from mold, or dirt, or water stains, or debris, or paint scaling to the

extent said conditions are visible from adjacent properties, any public right-of-way or abutting street.

3. Existing miscellaneous nonfunctional elements on the building fronts, such as but not limited to empty electrical conduit or unused sign brackets, etc., shall be removed and the building surface repaired, repainted, or rebuilt as required to match adjacent surfaces and the original condition.

(b) Windows and exterior fixtures.

1. Every broken or missing window shall be repaired or replaced with glass.
2. All windows must be tight fitting and have sashes of proper size and design. Sashes with rotten wood, or broken joints, or loose mullions shall be replaced.
3. Window openings in upper floors of the front, or side or rear of the building shall not be filled or boarded up or be covered by any other temporary covering. Window panes shall not be painted.
4. Display windows, entrances, signs, lighting, sun protection, awnings, porches, security grills, canopies, etc., shall be maintained and free from mold, or dirt, or water stains, or debris, or paint scaling and shall be made compatible and harmonious with the original scale and character of the structure and with adjacent structures.

(c) Roofs, chimneys and all other rooftop structures shall be repaired and/or be kept free from mold, or dirt, or water stains, or debris.

(d) Trash and noncontiguous parts. There shall be no trash dumpsters on sidewalks or other areas open to the public except on those days when such trash is to be picked up by the City or other authorized agent.

(e) Accessory structures. Any accessory structures attached or unattached to the principal structure shall be kept free from mold, or dirt, or water stains or debris or which are structurally deficient shall be properly repaired or demolished.

(f) Vacant lots. Where a vacant lot exists or is created through demolition, the owner must properly cover all areas not actively used for parking or loading with grass or other ground cover approved for the property pursuant to Chapter 26, Punta Gorda Code. Said grass or other ground cover shall be properly maintained and the property shall be kept free of trash and debris.

1. All demolition permits shall require that all prior improvements to the property be removed, including but not limited to paved areas, light poles and/or bases, electrical boxes, driveway aprons, pools, decks, fences, landscape curbing or debris and/or walls, etc.
2. Any parking area which is permitted to remain pursuant to Chapter 26, Section 16.5(c)(3) after the demolition of the building structures(s) on the property must be maintained without potholes or other obstructions which could have a detrimental effect on the public health, safety or welfare.

3. Wheel stops shall be removed from the vacant parking area unless all parking spaces are properly marked and all parking spaces maintain a wheel stop and walkways are properly marked to ensure public safety.
 4. Light posts and bases must be either operational and maintained, or removed from the property in their entirety.
 5. It shall be unlawful to allow or permit dead trees and/or dead vegetation to remain on any lot or parcel.
 6. Tree stumps must be cut below existing grade or removed upon tree removal by stump grinding or other appropriate method so that any remaining stump is at least two inches below grade. A tree stump hole must be filled with soil or combination of soil and mulch to match existing grade.
 7. If a large area of the property is disturbed and has exposed soils after removal of the dead tree or dead vegetation, sod must be placed over the exposed soils.
 8. If the removal is required to prevent or remedy a code violation, no tree removal permit is necessary for the removal of the dead tree or dead vegetation.
 9. Replacement of dead trees or vegetation is not required for vacant undeveloped land.
- (g) Temporary coverings. No temporary covering of any part of the structure may remain more than fifteen (15) days after notification from the City. An example of a temporary covering is a board covering a broken or missing window, or a tarp covering any portion of a structure.
- (h) Other. All other repairs to a building, as determined during an inspection, as necessary to safeguard the health and safety of possible building occupant shall be made in accordance with applicable sections of the City building code.

(Ord. 1876-17, <sec> 2, 06-07-2017)

Section 9-13. Compliance; Penalties

If a violation of this Section is found by the City Code Compliance Officer, the property owner shall be given reasonable time to correct said violation. If violation is not corrected within a reasonable time as determined by the Code Compliance Officer, notice shall be provided to the property owner to appear before the Code Enforcement Board pursuant to Chapter 9A. Said notice shall be served to the property owner, pursuant to the provisions of Florida State Statutes Chapter 162.

Section 9-14. Applicability of Article; Stop Work Orders

No work, alterations, improvements, rehabilitation, renovation or maintenance shall be undertaken in the City which does not conform with the requirements herein. The Code Compliance officer shall request the Zoning Official or building official to impose a stop work order if the work being done on any structure does not comply with this Article.

Section 9-15. Construction of Article

Nothing herein shall be construed to permit any sign, construction, alteration, rehabilitation, renovation, or maintenance otherwise forbidden, restricted, controlled, or otherwise required by any other law.

Section 9-16. Violations

It shall be unlawful for any person to violate any of the provisions of this Article.

{Ord. No. 1774-13, <sec> 1, 11-20-2013; Ord. 1791-14, <sec> 2, 8/13/2014}