

Chapter 25A ABANDONED PROPERTY, DERELICT VESSELS AND IMPOUNDING OF VEHICLES*

*Editor's note--Ord. No. 738-84, <sec><sec> 1, 2, enacted Feb. 15, 1984, repealed former Ch. 25A, <sec><sec> 25A-1--25A-6, relative to abandoned, wrecked or nonoperating vehicles, and enacted in lieu thereof a new Ch. 25A as herein set out. Former Ch. 25A was derived from Ord. No. 314, <sec><sec> 1--6, adopted June 17, 1969.

Cross reference(s)--Storage of wrecked or damaged vehicles on vacant lots, <sec> 15-22; traffic, Ch. 23.

Sec. 25A-1. Florida Statutes Chapter 705 adopted.

Chapter 705 of the Florida Statutes, now filed in the office of the City Clerk of the City of Punta Gorda, Florida, be and the same is hereby adopted and incorporated as fully as if set forth at length herein, and from the date which this section shall take effect, the provisions therein shall be controlling in the enforcement of abandoned property and notices to owners.

(Ord. No. 738-84, <sec> 2, 2-15-84; Ord. No. 1537-08, <sec> 1, 1-2-08)

Sec. 25A-2. Vessels at Risk of Becoming Derelict.

- (a) To prevent vessels in neglected or deteriorating condition from reaching a likely and foreseeable state of disrepair, a vessel that is at risk of becoming derelict pursuant to subsection (b) may not anchor on, moor on, or occupy the waters within the municipal limits of Punta Gorda.
- (b) An officer of a law enforcement agency specified in Section 327.70, Florida Statutes, may determine that a vessel is at risk of becoming derelict if any of the following conditions exist:
 - (1) The vessel is taking on or has taken on water without an effective means to dewater.
 - (2) Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended period of time.
 - (3) The vessel has broken loose or is in danger of breaking loose from its anchor.
 - (4) The vessel is left or stored aground unattended which is in such a state that would prevent the vessel from getting underway, is listing due to water intrusion, or is sunk or partially sunk.

- (5) The vessel does not have an effective means of propulsion for safe navigation within seventy-two (72) hours after the vessel owner or operator receives telephonic or written notice, which may be provided by facsimile, electronic mail, or other electronic means, stating such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation or having ordered necessary parts for vessel repair.
- (c) A person who anchors or moors a vessel at risk of becoming derelict on the waters within the municipal limits of Punta Gorda or allows such a vessel to occupy such waters commits a noncriminal infraction, punishable as provided in Section 327.73, Florida Statutes. The penalty under this section is in addition to other penalties provided by law.
- (d) This section does not apply to a vessel that is moored to a private dock or wet slip with the consent of the owner for the purpose of receiving repairs.
- (e) Any vessel moored to a private dock which is taking on water without an effective means to dewater, has broken loose or is in danger of breaking loose from the dock, or is listing due to water intrusion, partially sunk or sunk shall be deemed a public nuisance enforceable under Chapter 9 of the Punta Gorda Code.

(Ord. No. 1927-19, <sec> 1, 10-16-2019)

Sec. 25A-3. Derelict Vessels; Relocation or Removal.

- (a) As used in this section, the term:
 - (1) "Derelict vessel" means a vessel, as defined in Section 327.02, Florida Statutes, that is left, stored, or abandoned:
 - a. In a wrecked, junked, or substantially dismantled condition upon any public waters within the municipal limits of Punta Gorda.
 - b. Docked, grounded, or beached upon the property of another without the consent of the owners of the property.
 - (2) "Gross negligence" means conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the safety of the property exposed to such conduct.
 - (3) "Willful misconduct" means conduct evidencing carelessness or negligence of such a degree or to recurrence as to manifest culpability, wrongful intent, or evil design to show an intentional and substantial disregard of the interests of the vessel owner.
- (b) It is unlawful for a person, firm, or corporation to store, leave, or abandon any derelict vessel within the municipal limits of Punta Gorda. In addition to other

remedies available by law, this section shall be enforceable pursuant to the provisions of Chapter 9A, Punta Gorda Code.

- (c) Any law enforcement agency or officer specified in Section 327.70, Florida Statutes is authorized and empowered to relocate, remove, or cause to be relocated or removed a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons in accordance with the City of Punta Gorda Derelict Vessel Investigation and Standard Operating Procedures and administrative hearing process as adopted, and as may be amended from time to time, by resolution of the City Council. The law enforcement agency or officer acting under this subsection to relocate, remove, or cause to be relocated or removed a derelict vessel from public waters shall be held harmless for all damages to the derelict vessel resulting from such relocation or removal unless the damage results from gross negligence or willful misconduct.
- (d) All costs, including costs owed to a third party, incurred by the law enforcement agency in the relocation or removal of a derelict vessel are recoverable against the vessel owner.
- (e) A contractor performing relocation or removal activities at the direction of the law enforcement agency or officer pursuant to this section must be licensed in accordance with applicable United States Coast Guard regulations where required; obtain and carry in full force and effect a policy from a licensed insurance carrier in this state to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions; and be properly equipped to perform the services to be provided.

(Ord. No. 1927-19, <sec> 1, 10-16-2019)

Secs. 25A-4--25A-5. Reserved.

Sec. 25A-6. Impounding of Vehicles.

- (a) The City Manager or his designated representatives are hereby authorized to have removed any vehicle left on any property within the city which reasonably appears to be in violation of this section or is lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with law. In addition, any law enforcement officer may authorize a vehicle to be removed from any street to the nearest rotation wrecker facility in service, municipal compound, or other place of safety, under the circumstances hereinafter enumerated:
 - (1) When any vehicle is left unattended upon any public right-of-way or way of passage open to the general public; or where such vehicle constitutes an obstruction to the regular flow of traffic.
 - (2) When a vehicle upon a street is so disabled as to constitute an obstruction to traffic; or the person(s) in charge of the vehicle are, by reason of physical

injury or intoxication, incapacitated to such an extent as to be unable to provide for its custody and removal.

- (3) When a vehicle is found upon the streets and is not in proper condition to be driven.
 - (4) When a vehicle is parked, stopped, or standing in violation of any city ordinance or the state traffic control law.
 - (5) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.
 - (6) Where such vehicle has been parked or stored on the public right- of-way for a period exceeding twenty-four (24) hours, in other than designated parking areas.
 - (7) When removal is necessary in the interest of public safety because of fire, flood, storm, or other emergency reason, or for the protection of property loss to the vehicle owner.
 - (8) When the vehicle is being or has been used in the commission of a felony and is needed for evidentiary purposes.
 - (9) When the vehicle has been seized as part of a forfeiture procedure pursuant to Chapter 895 Florida Statutes (1987).
- (b) When the driver of a vehicle subject to this section is taken into custody by the police and such vehicle would thereby be left unattended upon the streets, that the police department shall, except when the vehicle is seized under the authority of subsections 25A-6(a)(8) or 25A-6(a)(9), prior to impounding the vehicle, afford the owner or the driver at his/her option, a reasonable opportunity, in light of the circumstances, in which to provide for the removal of the vehicle within a reasonable length of time.

In lieu of impounding the vehicle, in a case where neither the driver nor the owner elects to provide for the removal of the vehicle or in cases where neither the driver nor the owner can provide for the removal of the vehicle within a reasonable length of time, the owner or the driver may elect in writing to allow the vehicle to remain in place, if lawful.

Neither the City nor the individual officer shall be held liable for any damage whatsoever to a vehicle, when the owner of said vehicle or the driver has elected to allow the vehicle not to be removed.

- (c) Prior to impounding any vehicle pursuant to this section, the police officer shall inform the owner or the driver of said vehicle of the various alternatives to impounding, and the officer, upon request, shall provide the owner or the driver with a requisite form upon which he may elect to allow the vehicle to remain in place.

- (d) For purposes of this section, the driver of the vehicle shall be conclusively presumed to be the authorized agent of the owner.
- (e) No vehicle impounded in a compound, as herein provided, shall be released therefrom until the charges for towing such vehicle to the compound and storage charges have been paid. Charges for storage shall be fixed by order of the city manager and charges for towing shall be at the rate ordinarily charged by the towing service utilized to remove the vehicle, but in no event shall it be less than the actual cost plus ten (10) percent of the amount actually paid by the city to the towing service for removing the vehicle.
- (f) Funds received as payment for storage and towing shall be placed in the general fund of the City.
- (g) The provisions of this chapter shall be in addition to, and shall not limit powers of law enforcement officers to authorize the removal of vehicles under state law.
- (h) If any vehicle is impounded, the vehicle may be disposed of as junk if the vehicle is not reasonably repairable, and any sums received from the same of such junk shall be deposited in the general fund of the City.
- (i) If such vehicle so impounded may be reasonably repaired so that the title thereto may be transferred by appropriate authority, the same shall be done through the procedure authorized under the provisions of Chapter 705, Florida Statutes, or under such other procedure as may be authorized by law. From the funds received from any such sale, there shall be deposited in the general fund of the city to assist in defraying expenses of the enforcement of this chapter all necessary expenses incurred with the impounding and sale of such vehicle (and the balance thereof may be claimed by the rightful owner within thirty (30) days from the date of such sale).

(Ord. No. 938-88, <sec> 1, 12-7-88; Ord. No. 951-89, <sec> 1, 4-5-89)

Sec. 25A-7. Shopping carts.

- (a) All merchants providing shopping carts for the use of its customers within the City shall affix thereto a permanent identification tag setting forth the name and address of the merchant.
- (b) All lost or stolen shopping carts which are abandoned or otherwise left on public streets or public property shall be removed by city personnel, tagged with the date of removal and impounded on City property until redeemed, or sold as herein provided.

- (c) Whenever the City shall remove any shopping cart containing identification of ownership, or after a reasonable attempt, ownership has been ascertained, a notice shall be sent by ordinary mail to such merchant advising that if said shopping cart is redeemed within seven (7) days of the date of the notice, the cost of redemption shall be twenty dollars (\$20.00) for each cart, based upon retrieval and administrative costs. Any shopping cart remaining in the custody of the city beyond the seven-day period provided herein shall, in addition to the redemption fee of twenty dollars (\$20.00), be charged a storage fee of fifty cents (\$0.50) per day per cart.
- (d) Any such shopping carts impounded by the City and remaining in its custody for a period of ninety (90) days or more which have not been redeemed as provided herein, shall be considered abandoned property and shall be sold at public auction at a time and place to be fixed by the City.
- (e) For the purposes of this section a "shopping cart" shall be defined as a handdrawn or propelled vehicle or wheeled container, made of metal, wood or other material which is generally provided by merchants for carting or carrying merchandise or foodstuffs to automobiles or other places.
- (f) Upon a redemption or sale, as provided herein, the proceeds shall be deposited in the general funds of the City.

(Ord. No. 1020-91, <sec> 1, 2-6-91)