

## **Chapter 9A. CODE ENFORCEMENT**

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

### **ARTICLE I**

#### **GENERAL**

##### **Section 9A- 1. Title**

This Chapter shall be known as the "City of Punta Gorda Enforcement Code".

##### **Section 9A- 2. Intent**

- (a) It is the intent of this Chapter to promote, protect, and improve the health, safety, and welfare of the citizens of the City of Punta Gorda, Florida by providing for the enforcement of all codes and ordinances in effect in the City of Punta Gorda where a pending or repeated violation continues to exist, through the issuance of enforceable orders, the imposition of administrative fines, and the imposition of noncriminal penalties, in an equitable, expeditious, effective, and inexpensive method of achieving full compliance. The purpose of this Chapter is to help ensure that all persons and properties within the City of Punta Gorda stay in compliance with all codes and ordinances adopted by the City.
- (b) The provisions of this Chapter are intended to be complementary and supplementary to the provisions of Chapter 162, Florida Statutes (2013) as the same may, from time to time be amended, and all other provisions of State law providing for the enforcement of municipal codes and ordinances.

##### **Section 9A- 3. Definitions**

For this Chapter, the following terms shall have the meanings set forth in this Section unless the context clearly indicates otherwise.

*Board* means the City of Punta Gorda Code Enforcement Board.

*Board Attorney* means the member of the Florida Bar appointed by the City Council to be the legal advisor to the Board. The City Attorney may serve as the Board Attorney or as the Prosecutor, but may not serve in both capacities at the same time.

*City* means the City of Punta Gorda, Florida or the City Council thereof, as the context requires.

*Clerk* means the City Clerk of the City of Punta Gorda, Florida, or such other person designated by the City Manager to serve in that capacity on behalf of the Code Enforcement Board.

*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.

*Code* means the Punta Gorda Code, and any ordinance of the City of Punta Gorda, Florida, as the same exist on the effective date of this Chapter, and as the same may be amended from time to time.

*Person* means an individual, association, firm, partnership, corporation, trust, or other legal entity.

*Prosecutor* means the City Attorney representing the City of Punta Gorda in Code Enforcement proceedings before the Board and any appeals taken as a consequence of Board action.

*Repeat Violation* means a violation of a provision of a Code by a person who has previously been found, by the Code Enforcement Board, or any other quasi-judicial process, or any judicial process, to have violated the same Code provision within five years prior to the subject violation, whether or not such violations occur at the same locations.

*Respondent* means the person alleged to have committed a Code violation.

*Violator* means the person whose acts or omissions caused a violation of the Punta Gorda Code 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.

## ARTICLE II

### CODE ENFORCEMENT BOARD

#### **Section 9A- 4. Appointment, Term, Qualifications, Composition, Organization**

- (a) Appointment. The City Council shall appoint a seven-member Code Enforcement Board, and two (2) alternates to serve in the absence of a board member (or two (2) members) at a meeting.
- (b) Composition. Members of the Code Enforcement Board shall be residents of the City of Punta Gorda. Appointments shall be made by the City Council on the basis of experience or interest in the subject matter jurisdiction of the Code Enforcement Board. The membership of the Code Enforcement Board, whenever possible, shall include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.
- (c) Terms; filling of vacancies. All Code Enforcement Board member appointments shall be for a term of three years, except that any initial appointment to fill a vacancy for an unexpired term of office shall be for the remainder of the unexpired term. All appointments after the initial appointment shall be made for a term of three years, appointees to be eligible for two additional terms.

Members who fail to attend three meetings in a twelve month period shall automatically forfeit appointment and the City Council shall promptly fill such vacancy. Any member with extenuating circumstances shall present same to the City Clerk for consideration by City Council. Members are required to notify the City Clerk's Office in advance of the meeting of any absence. Chairmen shall also be subject to the same rule and shall notify the City Clerk's Office of intended absences from scheduled meetings. Members shall serve at the pleasure of the City Council.

- (d) Officers; quorum; compensation. The members of the Code Enforcement Board shall elect a Chairman and Vice-chairman. The presence of four (4) or more members shall constitute a quorum of the Code Enforcement Board. Members shall serve without compensation, but may be reimbursed for such travel, mileage and per diem expenses as may be authorized by the City Council.

*{Ord. No. 1812-15, <sec> 1, 03-04-2015}*

#### **Section 9A- 5. Powers and Duties of the Code Enforcement Board**

The Code Enforcement Board shall have the power to:

- (a) Adopt rules for the conduct of its hearings.
- (b) Subpoena alleged violators and witnesses to hearings. Subpoenas may be served by sheriff's service or by the police department of the City or some other law enforcement officer or other person designated by City Council.
- (c) Subpoena records, surveys, plats and other evidentiary material.
- (d) Take testimony under oath.

- (e) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.
- (f) Issue fines pursuant to Section 9A-8 of this Chapter and include therein all costs incurred in prosecuting the case before the Code Enforcement Board. Such costs shall be included in the lien authorized by this Chapter.
- (g) Reduce or compromise fines upon such terms and conditions as the Code Enforcement Board deems reasonable and just.
- (h) The Code Enforcement Board shall serve as an equalizing board to hear and consider any and all complaints concerning the amount of any special assessment established pursuant to the procedures set forth in Chapter 9, Article I, Section 9-5, Punta Gorda Code, and 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. The Code Enforcement Board shall follow the procedures set forth in Chapter 9, Article I, Section 9-5, Punta Gorda Code.
- (i) Pursuant to Chapter 9, Article II, Section 9-7, Punta Gorda Code, the Code Enforcement Board shall hold a hearing to consider objections by property owners to the City's intent to revoke an exemption under the City's Mandatory Lot Mowing Program. At such hearings, it should be the property owner's burden to demonstrate good cause why the exemption should not be revoked. The Code Enforcement Board shall issue a written order either granting or denying a property owner's request that their exemption should not be revoked.
- (j) Pursuant to Chapter 9, Article II, Section 9-7, Punta Gorda Code, the Code Enforcement Board shall have the duty and responsibility to hold hearings to consider any objections or defenses to the levy of a lien against the delinquent properties under the City's Mandatory Lot Mowing Program. 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 hearings 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 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. After the hearing, the Code Enforcement Board shall certify the delinquent user fee roll to the City Council.
- (k) Pursuant to Chapter 9, Article II, Section 9-8, Punta Gorda Code, the Code Enforcement Board shall hear all appeals by any person aggrieved by any order or notice issued by the City pursuant to the City's Mandatory Lot Mowing Program. It shall be the burden of any aggrieved person to demonstrate that the contested order or notice was unreasonable.
- (l) The Code Enforcement Board shall have such other duties and powers as assigned to it by the City Council pursuant to duly adopted ordinances of the City.

## **Section 9A- 6.        Enforcement Procedure**

- (a) Only a Code Compliance Officer may initiate enforcement proceedings to remedy a violation of any Code.
- (b) Except as provided in subsections (c) and (d) herein, if a violation of any Code is found, the Code Compliance Officer shall issue a Notice of Violation to the violator in accordance with the notice provisions of this Chapter, notifying the violator of the provisions of the Code alleged to have been violated and giving him or her a reasonable time to correct the violation(s). Should the violation(s) continue beyond the time specified for correction, the Code Compliance Officer shall prepare an Affidavit of Violation and provide said Affidavit to the Clerk who shall serve the Affidavit together with a Notice of Mandatory Hearing upon the violator pursuant to the notice provisions of this Chapter. The Notice of Mandatory Hearing shall specify the date and location of the hearing before the Code Enforcement Board. If the violation is corrected and then recurs, or if the violation has been corrected prior to the scheduled Code Enforcement Board hearing, the case may nevertheless be presented for a finding of a violation and the issuance of a "cease and desist" order. The Notice of Violation shall so state.
- (c) If a repeat violation is found, the Code Compliance Officer shall prepare an Affidavit of Violation and provide said Affidavit to the Clerk who shall serve the Affidavit together with a Notice of Mandatory Hearing upon the violator pursuant to the notice provisions of this Chapter. It shall not be necessary to give the violator a reasonable time to correct the repeat violation. The case may be presented to the Code Enforcement Board even if the repeat violation has been corrected. The Notice of Mandatory Hearing shall so state.
- (d) If the Code Compliance Officer has reason to believe a violation or condition causing the violation presents a serious threat to the public health, safety, and welfare, or if the violation is irreparable or irreversible in nature, the Code Compliance Officer shall prepare an Affidavit of Violation and make a reasonable effort to serve said Affidavit upon the violator. The Code Compliance Officer may immediately provide said Affidavit of Violation to the Clerk who shall serve the Notice of Violation together with a Notice of Mandatory Hearing upon the violator pursuant to the notice provisions of this Chapter. The Notice of Mandatory Hearing shall specify the date and location of the hearing before the Code Enforcement Board. If necessary, an emergency hearing before the Code Enforcement Board may be scheduled.
- (e) If the owner of the property that is the subject of an enforcement proceeding before the Code Enforcement Board transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:
  - 1. Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee;

2. Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the owner;
3. Disclose, in writing, to the prospective transferee that the transferee, as the new owner, will be responsible for compliance with the applicable code provisions which are the subject of the pending proceeding, and with any orders issued in the code enforcement proceeding;
4. File a notice with the Code Compliance Officer of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer.

It shall be a violation of this Chapter for the owner of the property that is the subject of an enforcement proceeding before the Code Enforcement Board to fail to comply with the requirements of this subsection. Pursuant to Section 162.06, Florida Statutes, a failure to make the disclosures described in this subsection before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held. The City may proceed against both the owner who was responsible for the violation and the new owner.

#### **Section 9A- 7. Conduct of Hearing**

- (a) The Code Enforcement Board shall meet on a regular schedule as set by the City Council, or at such other times upon request of a Code Compliance Officer. The chairman of the Code Enforcement Board may call a hearing of the Code Enforcement Board, and hearings may also be called by written notice signed by at least three (3) members of the Code Enforcement Board. The City Council shall provide clerical and administrative personnel as may be reasonably required by the Code Enforcement Board for the proper performance of its duties.
- (b) Minutes shall be kept by the Clerk of all hearings of the Code Enforcement Board and all proceedings shall be electronically recorded. It shall not be necessary for the Clerk to prepare a verbatim transcript of the proceedings. All hearings and proceedings shall be open to the public, however, only parties and their witnesses shall have a right to testify.
- (c) Each case before the Code Enforcement Board shall be presented by the Prosecutor or by Code Compliance Officers.
- (d) Upon the request of the Chairman of the Code Enforcement Board, an attorney shall attend a Code Enforcement Board hearing to serve in the capacity as the Board Attorney.
- (e) The Code Enforcement Board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The Code

Enforcement Board shall take testimony from the Code Compliance Officer, the alleged violator, and any witnesses presented by either party. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

- (f) At the commencement of the proceedings, the Respondent shall be asked whether he/she pleads guilty or not guilty. If the Respondent pleads guilty, then the Code Enforcement Board shall only consider evidence and testimony to determine the appropriate action to be taken as a consequence of the admitted violation. If the Respondent pleads not guilty, then the order of presentation shall be as follows:
1. The Code Compliance Officer, with the assistance of the Prosecutor, shall present the City's case-in-chief, including direct testimony of all of the City's witnesses, the opportunity for the Respondent to cross-examine each of the City's witnesses, the re-direct examination of the City's witnesses, and the presentation of all documentary evidence.
  2. Any member of the Code Enforcement Board may, through the Chairman, ask questions of any City witness.
  3. The Respondent shall present his/her case-in-chief, including direct testimony of all of the Respondent's witnesses, the opportunity for the Respondent to cross-examine each of the City's witnesses, the re-direct examination of the City's witnesses, and the presentation of all documentary evidence.
  4. Any member of the Code Enforcement Board may, through the Chairman, ask questions of any of the Respondent's witnesses.
  5. The Code Compliance Officer, with the assistance of the Prosecutor may present any rebuttal, if necessary.
  6. The Respondent may present a closing statement.
  7. The Code Compliance Officer, with the assistance of the Prosecutor may present a closing statement.
- (g) If the Respondent elects to be represented by legal counsel, a Notice of Appearance must be filed with the Clerk by the legal counsel no later than five (5) business days prior to the date of the hearing. If a Notice of Appearance is not timely filed and legal counsel for the Respondent appears at the hearing, the Prosecutor shall be granted a continuance upon request.
- (h) Where all parties to the case agree to continuing the hearing, they shall provide written confirmation of their consent to the Clerk. Upon the Clerk's receipt of written confirmation of consent to the continuance of all parties, the Clerk shall reschedule the hearing for the next regularly scheduled hearing date or the hearing date requested by the parties pursuant to their agreement. If all the parties agree to the continuance, it shall not be necessary to also obtain the approval of the Code Enforcement Board. In those cases where a continuance is sought by one party without the consent of the other party or parties to the case,

the request for continuance shall be presented to the Code Enforcement Board on the date the hearing has been scheduled. After hearing argument from the parties, the Code Enforcement Board shall rule on whether a continuance should be granted, and if so, to what date.

- (i) At the conclusion of the hearing, the Code Enforcement Board shall issue findings of fact, based on competent, substantial evidence of record, and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted by this Chapter. The finding shall be by motion approved by a majority of those members present and voting, except that at least four members must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed.

If the violation is of the type described in Section 9A-6(d) of this Chapter, the Code Enforcement Board shall authorize the City Council to take all necessary actions to correct the violation if the violator fails to do so by the date set by the Code Enforcement Board. The City's cost of repairs to correct the violation may be included along with the fine determined by the Code Enforcement Board, if the violation is not corrected by the time set by the Code Enforcement Board.

If the violation is of the type described in Section 9A-6(d) of this Chapter, and if the City is required to correct the violation before a hearing can be convened before the Code Enforcement Board, the Code Enforcement Board may ratify the actions taken by the City to take all necessary actions to correct the violation, and the City's cost of repairs to correct the violation may be included along with the fine determined by the Code Enforcement Board.

- (j) If the City prevails in prosecuting a case before the Code Enforcement Board, it shall be entitled to recover all costs incurred in prosecuting the case before the Code Enforcement Board, and such costs may be included in the lien authorized by this Chapter. The Code Enforcement Board's order shall include all costs permitted to be recovered under the law.
- (k) A certified copy of the Code Enforcement Board's order may be recorded in the public records of Charlotte County, Florida and if so recorded, shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. A certified copy of the Code Enforcement Board's order may also be recorded in the public records of any county where the violator has any real or personal property. If a recorded order is complied with by the date specified in the order, the Clerk, on behalf of the Code Enforcement Board, shall issue an order acknowledging compliance that shall be recorded in the public records where the initial order was recorded.
- (l) A copy of all orders issued by the Code Enforcement Board shall be filed with the Clerk promptly after issuance and shall be deemed rendered upon the date of said filing. A copy of all such orders shall be personally served on the violator, or on the violator's legal counsel, or by certified mail to the violator within ten (10) days following the date the order is rendered.



**Section 9A- 8. Administrative Fines, Costs of Repair, and Liens**

- (a) When a Code Compliance Officer determines that an order of the Code Enforcement Board has not been complied with by the set time, or upon a finding that a repeat violation has been committed, the Code Compliance Officer shall prepare an Affidavit of Violation and provide said Affidavit to the Clerk who shall serve the Affidavit together with a Notice of Mandatory Penalty Hearing upon the violator pursuant to the notice provisions of this Chapter. The Notice of Mandatory Penalty Hearing shall specify the date and location of the hearing before the Code Enforcement Board.
- (b) At the penalty hearing, upon a finding of non-compliance with an order of the Code Enforcement Board, the Code Enforcement Board may impose a fine for each day of non-compliance with the Board's order. In the event of a repeat violation, the Code Enforcement Board may impose a fine for each day the repeat violation was found to exist.
- (c) If a penalty hearing is held, testimony shall be limited to the issue of compliance with the Code Enforcement Board's initial order. No new evidence as to whether there was a violation in the first instance shall be allowed.
- (d) If the violation is of the type described in Section 9A-6(d) of this Chapter, the Code Enforcement Board shall authorize the City Council to make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this Section. Making such repairs does not create a continuing obligation on the part of the City to make further repairs or to maintain the property and does not create any liability against the City for any damages to the property if such repairs were completed in good faith.
- (e) A fine imposed pursuant to this Chapter shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, shall include all costs allowed to be recovered pursuant to this Chapter.
- (f) If the Code Enforcement Board finds the violation to be irreparable or reversible in nature, it may impose a fine not to exceed \$5,000.00 per violation, in addition to all costs allowed to be recovered pursuant to this Chapter.
- (g) In determining the amount of any fine, the Code Enforcement Board shall consider the following factors: the gravity of the violation, any actions taken by the violator to correct the violation, and any previous violations committed by the violator.
- (h) The Code Enforcement Board shall reserve jurisdiction to reduce any fine it has imposed upon a violator pursuant to this Chapter. Prior to consideration of any such request for a fine reduction, the violator must be in full compliance with any order issued by the Code Enforcement Board.

- (i) A certified copy of the Code Enforcement Board's order may be recorded in the public records of Charlotte County, Florida and any other county wherein the violator owns any real or personal property. Upon recording, the order shall constitute a lien against the land on which the violation occurred and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this State, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes.
- (j) A fine imposed pursuant to this Chapter shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this Chapter, whichever occurs first. A lien arising from a fine imposed pursuant to this Chapter runs in favor of the City. The City may execute a satisfaction or release of lien entered pursuant to this Chapter.
- (k) After three (3) months from the filing of any lien which remains unpaid, the Code Enforcement Board, with the consent of the City, may authorize the City Attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this Chapter may be foreclosed on real property which is a homestead under Article X, Section 4, Florida Constitution. The money judgment provisions of this Chapter shall not apply to real property or personal property which is covered under Article X, Section 4(a), Florida Constitution.
- (l) No lien created under this Chapter shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to this Chapter in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including reasonable attorney's fees that it incurs in the action. The City shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien affected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

{Ord. No. 1855-16, <sec> 1, 08-31-2016}

#### **Section 9A- 9. Notices**

- (a) All notices required by this Chapter 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), at the option of the Code Enforcement Board or the City, notice may be served by publication or posting, as follows:
1. Such notice shall be published once during each week for 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 10 days prior to the Code Enforcement Board hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at the 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 Section have been met, without regard to whether or not the alleged violator actually received such notice.

{Ord. No. 1803-14, <sec> 4, 12-17-2014}

#### **Section 9A- 10. Citations**

- (a) In addition to the enforcement procedures provided in Section 9A-6 of this Chapter, a Code Compliance Officer is authorized to issue a citation to a violator when, based upon personal investigation, the Code Compliance Officer has reasonable cause to believe that the violator has committed a violation of any Code. Citations shall be issued only when the Code Compliance Officer has

determined that the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible, i.e., has already taken place and that it would serve no useful purpose in presenting the case to the Code Enforcement Board to seek compliance.

- (b) A citation issued by a Code Compliance Officer shall be in a form prescribed by the City which, at a minimum, shall contain:
  - 1. The date and time of issuance;
  - 2. The name and address of the person to whom the citation is issued;
  - 3. The date and time the Code violation was committed;
  - 4. The facts constituting the Code violation;
  - 5. The number or section of the Code alleged to be violated;
  - 6. The name and authority of the Code Compliance Officer;
  - 7. The applicable fine to be paid if the violator elects not to contest the citation;
  - 8. The applicable fine which may be assessed should the violator elect to contest the citation and be found by the Code Enforcement Board to have committed the violation;
  - 9. The procedure for paying the applicable fine;
  - 10. The procedure for contesting the citation to the Code Enforcement Board; and
  - 11. A conspicuous statement that if the person fails to pay the fine within the time allowed, or fails to timely contest the citation, he/she shall be deemed to have waived his/her right to contest the citation and that, in such case, will be deemed to be in violation of this Chapter whereupon the Code Enforcement Board may impose a fine against the violator up to the maximum fine.
- (c) Unless otherwise expressly prescribed in the City's Code, the fine for a first offense of a violation to be enforced by means of a citation shall be \$25.00; the fine for a second offense shall be \$100.00; and all additional offenses shall be \$250.00 per offense. Code Compliance Officers shall have the discretion to issue a written warning instead of a citation for a first offense.
- (d) A violator issued a citation shall pay the applicable fine to the City Clerk or shall file a written notification with the Code Compliance Division of the violator's intent to contest the citation within ten (10) days of the issuance of the citation.
- (e) If a violator elects to contest a citation to the Code Enforcement Board, the City shall serve a Mandatory Notice of Hearing Notice upon the violator pursuant to the notice provisions of this Chapter. The Notice of Mandatory Hearing shall specify the date and location of the hearing before the Code Enforcement Board.
- (f) The hearing before the Code Enforcement Board shall be conducted as provided in Section 9A-7 of this Chapter.
- (g) If the violator elects to contest a citation, the violator will be deemed to have waived his/her right to pay the fine assessed on the citation. Upon the finding of

a violation, the Code Enforcement Board may assess the fines and costs provided in Section 9A-8 of this Chapter.

- (h) If the violator fails to pay the fine within the time allowed, or fails to timely contest the citation, he/she shall be deemed to have waived his/her right to contest the citation and that, in such case, will be deemed to be in violation of this Chapter and the Code Enforcement Board may impose a fine against the violator up to the maximum fine.

#### **Section 9A- 11. Appeals**

An aggrieved party, including the City, may appeal a final administrative order of the Code Enforcement Board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Code Enforcement Board. An appeal shall be filed within 30 days of the execution of the order to be appealed.

#### **Section 9A- 12. Alternative Enforcement Remedies**

The provisions of this Chapter are intended to provide an additional or supplemental means of obtaining compliance with the City's Codes. Nothing contained herein shall prohibit the City from enforcing violations of its Codes by any other means authorized by law.

#### **Section 9A- 13. Fines for Citation Purposes**

Except as otherwise provided in the Punta Gorda Code, the following fines shall be imposed if a Code Compliance Officer elects to enforce a Code violation by means of a citation pursuant to this Chapter. Each day a violation exists shall be considered a separate violation.

- (a) PUBLIC WORKS DEPARTMENT.

Description of Violation and Associated Fine

1.	Any object/structure attached to or resting on/or against the seawall is prohibited and shall be removed and seawall repaired; cleats specifically installed in the seawall cap prior to December 19, 1990 are exempt; however, use of cleats to tie a boat, regardless of date of installation, is prohibited		
		First Offense	\$100.00
		Second Offense	\$200.00

2.	Any (non-permittable) alteration to the seawall or structures in the waterways is prohibited and shall be removed and/or repaired		
		First Offense	\$100.00
		Second Offense	\$200.00
3.	Use of any structures for the purpose of securing watercraft within six (6) feet landward of the seawall which cause damage to seawall tie-rods or deadmen or encroach into a drainage easement are prohibited.		
		First Offense	\$100.00
		Second Offense	\$200.00
4.	Improper maintenance/appearance of docks, piers, posts, pilings, bulkheads, boat lifts, etc., which may pose a hazard to safety or constitute visual blight is prohibited and shall be repaired and/or replaced.		
		First Offense	\$100.00
		Second Offense	\$200.00
5.	Any action or condition to impose a substantial hydrostatic force against a seawall such as improper routing of stormwater from roof drains, excessive watering of vegetation, backwashing/overflow drains from ponds, water filter/ softeners or any other device are prohibited and such condition shall be abated.		
		First Offense	\$100.00
		Second Offense	\$200.00
6.	Alterations, connections or additions to the City water, wastewater and stormwater systems, whether in the public right-of-way, on private property or within easement areas without a permit from the appropriate City department are prohibited and shall be abated.		
		First Offense	\$100.00
		Second Offense	\$200.00
7.	Tampering or interference with the City water, wastewater and/or storm water systems whether in the public right-of-way, on private property or within easement areas is prohibited.		
		First Offense	\$500.00
		Second Offense	\$500.00

8.	Damage to the City's public transportation structures such as bridges, guardrails, handrails, sidewalks, street lights, etc., is prohibited.		
		First Offense	\$100.00
		Second Offense	\$200.00
9.	Damage to public or City-owned roadways such as deposits or spillage of substances which can deteriorate the pavement surface and also actions that physically alter the roadway such as holes, depressions, bumps, etc., in the road surface is prohibited		
		First Offense	\$250.00
		Second Offense	\$500.00
10.	Damage to or tampering with any landscaping, irrigation systems, or appurtenances in the public right-of-way, easement area, or City-owned property is prohibited.		
		First Offense	\$100.00
		Second Offense	\$200.00
11.	Alterations or damage to storm drainage systems such as curb and gutter inlets, catch basins, drainage and under drainage piping, headwalls, drainage swales, filters, retention area, etc., are prohibited.		
		First Offense	\$100.00
		Second Offense	\$200.00
12.	Improper maintenance of stormwater facilities.		
		First Offense	\$100.00
		Second Offense	\$200.00
13.	Placement of any object or structure in the public right-of- way or easement areas not permittable by the City engineering department which may pose a safety hazard or interfere with storm drainage or other utilities, to include, but not limited to mailbox supports, basketball assembly supports, curbing, sidewalks, and landscaping is prohibited		
		First Offense	\$100.00
		Second Offense	\$200.00
14.	Damage to or tampering with any traffic regulation, signage, signals or pavement markings is prohibited.		
		First Offense	\$500.00

		Second Offense	\$500.00
15.	Any condition in violation of uses of water during water emergency within and without the City limits.		
		First Offense	\$25.00
		Second Offense	\$50.00
		Third Offense	\$250.00
16.	Placement of any material or structure not permissible per City ordinances or rulings within twenty (20) feet landward of a canal seawall is prohibited and shall be removed.		
		First Offense	\$100.00
		Second Offense	\$200.00

(b) BUILDING DEPARTMENT.

Description of Violation and Associated Fine

1.	Failure to obtain a certificate of competency.	Fine	\$150.00
2.	Hiring of an unlicensed contractor.	Fine	\$150.00
3.	Willful and deliberate disregard or negligent violation of the City's Building Code or other City ordinances regulating building or construction	Fine	\$150.00
4.	Failure to obtain a building permit.	Fine	\$150.00
5.	Proceeding with work after a "stop work order" has been placed.	Fine	\$150.00
6.	Failure to correct violations within a reasonable time period	Fine	\$100.00
7.	Construction during prohibited hours.	First Offense	\$250.00
		Second Offense	\$500.00

(c) ZONING DIVISION.

Description of Violation and Associated Fine

1.	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		
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	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 is prohibited and shall be abated. 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		
		First Offense	\$100.00
		Second Offense	\$200.00
2.	The keeping, storage, depositing or accumulation of dirt, sand, gravel, concrete and 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 is prohibited and shall be abated.		
		First Offense	\$100.00
		Second Offense	\$200.00
3.	The operation of a junk yard or automobile dismantling yard, except in zoning districts which allow such use by special exception is prohibited and shall be abated		
		First Offense	\$100.00
		Second Offense	\$200.00
4.	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 <u>Special Purpose (SP) district provided the site has a valid Local Business Tax Receipt which permits the on-site storage of such vehicles.</u>		
		First Offense	\$100.00
		Second Offense	\$200.00
5.	Any watercraft which is inoperative, unregistered or 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		
		First Offense	\$100.00
		Second Offense	\$200.00
6.	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 for 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 <del>or</del> injurious or detrimental to the health, safety, and welfare of the community.		
		First Offense	\$100.00
		Second Offense	\$200.00
7.	Any dangerous, unsightly or blighted condition which is detrimental to the health, safety or welfare of the public		
		First Offense	\$100.00
		Second Offense	\$200.00
8.	Any condition in violation of the City of Punta Gorda Code not specifically listed herein.		
		First Offense	\$100.00
		Second Offense	\$200.00

(d) FIRE DEPARTMENT.

Description of Violation and Associated Fine

1.	Obstruction of fire hydrant and/or fire department connections.	First Offense	\$100.00
		Second Offense	\$200.00
2.	Parking in a Fire Lane.	First Offense	\$100.00
		Second Offense	\$200.00
3.	Locked or blocked exit.	First Offense	\$100.00
		Second Offense	\$200.00
4.	Failure to maintain exit lights	First Offense	\$100.00
		Second Offense	\$200.00

6.	Failure to maintain emergency lights.	First Offense	\$100.00
		Second Offense	\$200.00
7.	Failure to maintain fire alarm system.	First Offense	\$100.00
		Second Offense	\$200.00
8.	Failure to maintain stand pipe system.	First Offense	\$100.00
		Second Offense	\$200.00
9.	Failure to maintain fire sprinkler system.	First Offense	\$100.00
		Second Offense	\$200.00
10.	Failure to maintain fire extinguisher system.	First Offense	\$100.00
		Second Offense	\$200.00
11.	Failure to maintain portable fire extinguisher.	First Offense	\$100.00
		Second Offense	\$200.00
12.	Improper occupant load in place of assembly.	First Offense	\$100.00
		Second Offense	\$200.00
13.	Any condition in violation of the Life Safety Code, NFPA-101, as may be amended from time to time.	First Offense	\$100.00
		Second Offense	\$200.00

{Ord. No. 1774-13, <sec> 2, 11-20-2013; Ord. No. 1833-15, <sec> 1, 12-02-2015}