

Chapter 15 OFFENSES AND MISCELLANEOUS PROVISIONS

Sec. 15-1. Definitions.

The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this chapter, except where the context otherwise requires:

- (a) Assignment means to make appointment or engagement for prostitution or lewdness or any act in furtherance of such appointment or engagement.
- (b) Concealed weapon means any dirk, metallic knuckles, slingshot, billie, tear gas gun, chemical weapon or device, or any other deadly weapon carried on or about a person in such a manner as to conceal said weapon from the ordinary sight of another person.
- (c) Electric weapon or device means any device which, through the application or use of electrical current, is designed, redesigned, used, or intended to be used for offensive or defensive purposes, the destruction of life, or the infliction of injury.
- (d) Lewdness means any indecent or obscene act.
- (e) Loitering means remaining idle in essentially one location and including the concept of spending time idly; to be dilatory; to linger, to stay; to saunter; to delay; to stand around and shall also include the colloquial expression "hanging around ."
- (f) Merchandise means any personal property, capable of manual delivery, displayed, held, or offered for retail sale by a merchant.
- (g) Merchant means an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise.
- (h) Prostitution means the giving or receiving of the body for sexual intercourse for hire and the giving or receiving of the body for licentious sexual intercourse without hire. However, the term "prostitution" as used in this chapter shall be so construed so as to exclude sexual intercourse between a husband and his wife.
- (i) Public place means any place to which the general public has access and right of resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.
- (j) Retail theft means the taking possession of or carrying away of merchandise, altering or removing a label or price tag, transferring merchandise from one container to another, or removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.

- (k) Slungshot means a small mass of metal, stone, sand, or similar material fixed on a flexible handle, strap, or the like, used as a weapon.
- (l) Tear gas gun, chemical weapon, or device shall apply to all weapons of such nature except those designed to be carried in a woman's handbag or a man's pants or coat pocket or designed as a pocket pencil or pen and containing not more than one-half ounce of chemical.
- (m) Value of merchandise means the sale price of the merchandise at the time it was stolen or otherwise removed depriving the owner of his lawful right to ownership and sale of said item.
- (n) Weapon means any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or any other deadly weapon except a firearm or a common pocketknife.

(Ord. No. 659-82, <sec> 1, 2-3-82)

Editor's note--Section 1 of Ord. No. 659-82, adopted Feb. 3, 1982, amended <sec> 15-1 to read as herein set out. Prior to amendment <sec> 15-1 pertained to loitering and was derived from Ord. No. 571-79, <sec> 3, adopted Nov. 7, 1979.

Sec. 15-2 Reserved.

Editor's note--Section 1 of Ord. No. 571-79, adopted Nov. 7, 1979, repealed former <sec><sec> 15-1--15-14, which pertained to abandoned refrigerators, adultery, assault and battery, curfew, disorderly conduct, disturbing the peace, drunkenness, false pretenses, false weights and measures, gambling, prostitution, larceny, mining, obstructing officers and injuring property, and were derived from Ord. No. 50, <sec> 1, adopted in 1928; Ord. No. 51, <sec> 1, adopted Feb. 7, 1928; Ord. No. 192, <sec> 1, adopted Feb. 16, 1954; Ord. No. 223, <sec><sec> 1--4, adopted March 3, 1959; and Ord. No. 286, <sec> 1, adopted Oct. 5, 1965. Section 3 of Ord. No. 571-79 enacted a new <sec> 15-1 to read as herein set out; Ord. 1203-97 enacted a new <sec> 15-3 to read as herein set out.

Sec. 15-3. Diving and jumping prohibited from City-owned facilities.

- (a) Definitions.
 - (1) "Dive" as used herein shall mean to plunge or fall into water.
 - (2) "Jump" as used herein shall mean to spring free from the ground or other base by the muscular action of feet and legs.

- (b) No person shall dive or jump into any body of water from a City-owned facility.
- (c) The City Manager is hereby authorized to signpost all such areas advising of the prohibitions.
- (d) Any person who is found to have violated this section of the City Code may be assessed a civil penalty as follows:
 - (1) For the first offense \$ 25.00
 - (2) For the second offense \$ 50.00
 - (3) For the third offense \$ 75.00
 - (4) For each subsequent offense \$100.00
- (e) If the person charged with a violation of this section is sixteen (16) years of age or under, his or her parent or guardian shall be notified of the violation of this section, in person or by certified mail, at the address of the parent or guardian. If the minor again violates this section, after notification to the parent or guardian, the parent or guardian shall be charged with a civil infraction for failure to reasonably supervise said minor.

A parent or guardian found to have violated this section of the code may be assessed a civil penalty as follows:

- (1) For the first offense \$ 25.00
- (2) For the second offense \$ 50.00
- (3) For the third offense \$ 75.00
- (4) For each subsequent offense \$100.00

(Ord. No. 1203-97, <sec> 1, 11-5-97)

Secs. 15-4 -- 15-14 Reserved.

Editor's note--See Editor's note Section 15-2

Sec. 15-15. Defacing public or private property.

It shall be unlawful for any person within the City to deface, write upon or mutilate any public or private buildings, fences, or signboards placed on public or private property without the consent of the owner, or any other structure without the consent of the owner, or by the use of any filthy substance defile any house, signboard, fence or other structure, or to wantonly injure or destroy any property.

(Ord. No. 1204-97, <sec> 1, 11-19-97)

Sec. 15-16. Spitting.

It shall be unlawful for any person to expectorate upon the sidewalks or in public

buildings or places within the limits of the City. Public buildings or places under this section shall be construed to mean any buildings or places where persons congregate for worship, business or amusement.

Sec. 15-16.1. State of emergency.

(a) Definitions.

- (1) A riot or unlawful assembly is hereby defined as two (2) or more persons, armed or unarmed, who shall riotously or tumultuously assemble themselves upon any property, private or public, within the City limits of Punta Gorda, Florida.
- (2) A curfew is hereby defined as a temporary prohibition against any persons walking, loitering, standing, bicycling or motoring upon any sidewalk, street, public property, vacant premises or any public places within the City, or some designated part or parts thereof, excepting, however, those persons whose official duties require them to be present during time of an emergency.

(b) Determination of emergency. Whenever it is determined:

- (1) In the judgment of the Mayor, concurred in by the Chief of Police, or his senior police officer, or in the event of their unavailability or inability to act, then
- (2) In the judgment of the City Manager, concurred in by the Chief of Police, or his senior police officer, or in the event of their unavailability or inability to act, then
- (3) In the judgment concurred in by any three (3) members of the City Council, or in the event of their unavailability or inability to act, then
- (4) In the judgment of any member of the City Council, concurred in by any senior police officer, that a state of emergency exists because of an existing or threatened riot, then the official making such determination may, in the interest of public safety and welfare, make all or any of the following orders, effective within the entire area of the City of Punta Gorda, or within such geographical areas as may be designated:
 - a. An order requiring closing of all retail bars, taverns, liquor stores and those parts of any private or public clubs or any other store or place where any alcoholic beverages are sold or dispensed.
 - b. An order requiring closing of all establishments selling firearms or ammunition of any character and those parts of any other business establishments selling or dispensing firearms or ammunition.
 - c. An order establishing a curfew during such hours of the day or night

and affecting such categories of persons as may be designated.

- d. An order requiring the closing of gasoline stations and any other business establishments insofar as the sale, distribution or dispensing of liquid, flammable or combustible products is concerned.
- e. An order requiring closing of business establishments generally.
- f. An order prohibiting the sale or distribution within the City of any products which could be employed in a manner which would constitute a danger to the public safety.
- g. An order to temporarily close any and all streets, alleys, public parks or public ways required to maintain peace.
- h. Any and all such other orders as the nature of any public emergency may require for the protection of lives and property.
 - 1. When emergency orders effective; reduction of orders to writing; publication. Any emergency order issued by any officials of the City of Punta Gorda shall become effective immediately upon issuance and shall be reduced to writing as soon as practicable thereafter. Such orders, upon being reduced to writing, shall state the nature of the emergency, the length of time such orders are to remain in effect, and shall call attention to the penalty for violation thereof. As soon as feasible after issuance, such emergency orders shall be published at least once in a conspicuous manner in a newspaper of general circulation within the City.
 - 2. Officials to take necessary steps for protection of life, property, etc.; special Council meeting. Whenever a determination has been made that a state of emergency exists, the officials of the City making such determination shall forthwith take all necessary steps for the protection of life and property and for the preservation of public peace and safety within the City. Such officials shall forthwith notify the City Clerk (or any authorized deputy), who shall immediately give notice of a special meeting of the City Council. Upon convening, the City Council shall review, and if necessary, revise any emergency orders issued and shall take whatever actions as may be necessary in respect to any such emergency.
 - 3. Penalty for violation. The violation of any provision of this section or any order issued pursuant thereto shall be a misdemeanor, and any person found guilty of violating same shall, upon conviction thereof, be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment for a time not to exceed sixty days, or by both such fine and imprisonment.

(Ord. No. 370, <sec><sec> 1--5, 3-21-72)

Editor's note--Ord. No. 370 did not expressly amend this Code, hence an inclusion of <sec><sec> 1--5 herein as <sec> 15-16.1 was at the discretion of the editors.

State law reference(s)--Emergencies, F.S. <sec> 870.041 et seq.

Sec. 15-17. State misdemeanors.

It shall be unlawful to commit within the limits of the City any act which is or shall be recognized by the laws of the State of Florida as a misdemeanor, and the commission of such act is hereby forbidden.

State law reference(s)--Penalty for misdemeanors, F.S. <sec><sec> 775.082, 775.083. See also Fla. Stats. general index under heading "Fines and Civil Penalties" for listing of state law misdemeanors.

Annotation--Adoption of state law relating to misdemeanors by City upheld, *McFarland v. Roberts*, 74 <sec> 2d 88; adoption of state law misdemeanors by reference includes laws both in existence at the time and those later adopted by the state legislature, *State v. Smith*, 189 <sec> 2d 846.

Sec. 15-18. Retail Gas Pump Security Measures.

- (a) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings set forth herein, except where the context clearly indicates a different meaning:

Gas Pump shall mean a machine or device used to dispense petroleum fuel for sale to the public at retail.

Payment Card shall have the same meaning as defined in §817.625, Florida Statutes, as may hereafter be amended.

Scanning Device shall have the same meaning as defined in §817.625, Florida Statutes, as may hereafter be amended.

- (b) Every owner or operator of a gas pump within the municipal limits of the City of Punta Gorda shall have affixed to or installed onto the exterior of any gas pump, which contains a scanning device, a visible gas pump panel locking device that requires an access key unique to each gas station location to prevent the unauthorized access of customer payment card information. The access key shall be maintained at the gas station at all times. The owner or operator shall be required to provide evidence upon request by the City that the access key is unique to the gas station location. As an alternative to the foregoing security measure, an owner or operator of a gas pump in the City may affix or install onto any gas pump that contains a scanning device one (1) or more of the following security measures in accordance with §575.07(10)(a), Florida Statutes:

- (1) A device or system that will render the gas pump, or the scanning device in the gas pump, inoperable if there is an unauthorized opening of the gas pump panel; or
- (2) A device or system that encrypts the customer payment card information in the scanning device; or
- (3) Another security measure approved pursuant by the Florida Department of Agriculture and Consumer Services.

Owners and operators of gas pumps that choose to install an alternative security measure pursuant to this section shall demonstrate compliance with this section to a City official upon request. Gas pumps that have been found in compliance with Section 15-18 may be appropriately marked by the City for identification purposes.

- (c) A security measure affixed to or installed onto a gas pump pursuant to Subsection (b) shall be maintained by the owner or operator in good working condition at all times.
- (d) Failure to comply with Section 15-18 shall constitute a violation, and shall subject the owner or operator to the code enforcement provisions and procedures provided in Chapter 9A of the Punta Gorda Code, including but not limited to issuance of a citation pursuant to Section 9A-10. Violations of Section 15-18 shall be punishable by a fine of \$250.00 per gas pump. Each day that a violation exists shall constitute a separate and distinct violation.

(Ord. No. 1905-18, <sec> 1, 09-05-2018; Ord. No. 1911-18, <sec> 1, 11-07-2018)

Sec. 15-19. False alarms.

- (a) Definitions. When used in this Section, the following terms shall have meanings described below unless another meaning is clearly evident from the context in which they are used:

Automatic telephone dialing device or digital alarm communicator system means an alarm system which automatically sends a pre-recorded voice message or coded signal over telephone lines, by direct connection or otherwise, indicating the existence of the emergency situation that the alarm system is designed to detect.

False alarm means the activation of an alarm system resulting in the response and arrival of the public safety personnel when a situation requiring a response by the public safety personnel does not exist and:

- (1) is caused by mechanical failure, malfunction, improper maintenance or installation of the alarm system, regardless of whether the alarm user is at fault; or
- (2) is caused by the negligent or intentional activation of the alarm system; or
- (3) is not caused by unlawful entry, attempted unlawful entry or robbery. (A

presumption exists that the alarm was not caused by unlawful activity if the law enforcement officer responding to the alarm finds no evidence of criminal activity, attempted criminal activity or an emergency at the premises): or

- (4) is caused by negligent or intentional misuse of the fire alarm system; or
- (5) is caused by any other activation of a fire alarm system not caused by heat, smoke or fire.

Fee means the assessment of costs imposed pursuant to this Section to defray the expense of responding to a false alarm.

Fire alarm system means a device used to detect the unwanted presence of fire, smoke and/or carbon dioxide, which is automatically actuated, manually actuated or both, and is intended to notify the building occupants to evacuate in the event of a fire or other emergency, report the event to an off-premises location in order to summon emergency services and/or to prepare the structure and associated systems to control the spread of fire and smoke.

Premises means any building, structure or combination of buildings and structures including the cartilage thereof, which is used for residential, commercial or any other purpose.

Responsible party means any person or entity that owns or controls the premises in which an alarm system is installed, including, but not limited to, a person or entity that leases, operates, occupies or manages the premises.

Security alarm system means any mechanical, electrical or radio controlled device which is designed to be used for the detection of any unauthorized entry into a building, structure or facility, or for alerting others of the commission of an unlawful act at or within a building, structure or facility, or both, which emits a sound or transmits a signal or message when activated.

- (b) Responsibility for alarm activation, owner response, alarm malfunction, corrective action and fees.
 - (1) The Responsible Party shall be liable for any false alarms at the premises the Responsible Party owns or controls. In the absence of a specific assignment of responsibility for the alarm, the person or persons occupying or controlling the premises on which the alarm is located at the time of the false alarm will be held liable.
 - (2) Prior to the installation or use of any security or fire alarm system, the owner, manager or person responsible for the premises shall furnish to the appropriate security alarm system or fire alarm system monitoring company information as to the full names, addresses and telephone numbers of at least two (2) people who can be reached at all times and who are authorized to enter the premises and deactivate an alarm system. In addition to any other fees that may be charged under this Section, if an alarm has no automatic reset feature and no Responsible Party appears and turns off any such alarm within one hour after being notified by the public safety

personnel to do so, then the Responsible Party of the premises may be charged a fee of twenty-five dollars (\$25.00) for each such occurrence.

- (3) Each false alarm for which the public safety personnel make a separate response is subject to a separate fee assessment.
 - (4) No person shall be held liable under this Section for any false alarm transmitted under a reasonable mistake of fact that a crime was being or had been committed.
 - (5) No person shall be held liable under this Section for any false alarm transmitted as a result of an unpreventable event caused exclusively by forces of nature.
- (c) Fees for multiple alarm malfunctions or for false alarms. For each public safety department response to any false alarm, the City shall charge and collect from the Responsible Party, fees as follows:
- (1) For Police Department, or law enforcement response.
 - a. For response to a premise at which no other false alarm has occurred within the preceding twelve (12) month period, hereinafter referred to as a "first response", no fee shall be charged. For each succeeding response to a premises within twelve (12) months after a first response the following fees shall apply:

Within a Twelve (12) Month Time Period	False Alarm Fee
First or Second Response	No Charge
Third or Fourth Response	\$50.00
Fifth, Sixth or Seventh Response	\$100.00
Eighth or Ninth Response	\$250.00
Each Response after the Ninth Response	\$500.00
 - b. If such forth false alarm or any other such succeeding false alarm within a twelve month period of the first false alarm is a result of failure to take necessary corrective action, the Police Department may order the disconnection of such alarm system and it shall be unlawful to reconnect such alarm system until such corrective action is taken and confirmed by the Police Department, provided that no such disconnection shall be ordered for any premises required by law to have a security alarm system in operation. If any alarm system is required to be disconnected, the Responsible Party of the premises shall arrange for an alternate means of security for the premises until such alarm system is reconnected. Neither the City of Punta Gorda, nor the City of Punta Gorda Police Department shall be liable for the failure of the Responsible Party of a premise to provide adequate security for a premise with a disconnected alarm system.

(2) For Fire Department response.

- a. For response to a premise at which no other false alarm has occurred within the preceding twelve (12) month period, hereinafter referred to as a "first response", no fee shall be charged. However, the Responsible Party for such fire alarm system shall, within ten (10) days of notice by the City, provide a written report to the Fire Department as appropriate on forms prescribed by the department, setting forth the cause of such false alarm, corrective action taken, whether such alarm has been inspected by an authorized serviceman, and such other information as may reasonably be required to determine the cause of such false alarm and the corrective action necessary. For each succeeding response to premises within twelve (12) months after a first response, a written report shall be required as for the first response and the following fees shall apply:

Within a Twelve (12) Month Time Period	False Alarm Fee
First or Second Response	No Charge
Third or Fourth Response	\$50.00
Fifth, Sixth or Seventh Response	\$100.00
Eighth or Ninth Response	\$250.00
Each Response after the Ninth Response	\$500.00

- (3) All fees assessed in the carrying out of this Section shall be assessed to the Responsible Party and considered a debt owed by the Responsible Party, payable to the City of Punta Gorda, Florida. The City Manager or representative designated by the City Manager shall, in writing, direct a notice to the Responsible Party by U.S. certified mail/return receipt requested, postage prepaid, advising the amount of the fee owing and the number of responses within the specified time period. In the event the Responsible Party cannot be immediately identified or the Notice is not accepted by the Responsible Party, such notice shall be directed to the owner of the property on which the alarm system is located, at the last known address as shown by the records of the tax assessor of Charlotte County. Each fee shall be paid within fifteen (15) calendar days from the date of the receipt of the written notification of the fee. The fees are separate and apart from any fines that may be assessed for a violation of this Section. Failure to pay any fee assessed pursuant to the provisions of this Section shall constitute a violation of this Section.
- (4) Penalty for Violations. For the purpose of this Section, the occurrence of a false alarm does not constitute a violation of this Section. Violations of any provision of this Section shall be punishable as any other violation of the Punta Gorda Code. Any person, firm, corporation or agent who violates any provision of this Section shall be deemed guilty of a noncriminal infraction, and the City of Punta Gorda Code Enforcement Board shall have jurisdiction to hear and decide cases when a violation is alleged. The Code Enforcement Board, after a hearing, shall make a determination as to whether a violation has been committed and may impose a civil penalty not to exceed \$250 per day for a first violation or \$500 per day for a repeat violation pursuant to

Section 9A-10, Punta Gorda Code, plus administrative costs. Such fines and costs shall be paid in addition to the false alarm fee provided in this Section.

(d) Contesting a False Alarm or Fee Assessment.

- (1) The Responsible Party may request a hearing within fifteen (15) calendar days of the date of receipt of any notice of false alarm or fee assessment to contest the validity of any notice of false alarm or fee assessment. Such an appeal shall be heard by the City of Punta Gorda Building Board at its next regularly scheduled meeting. The Building Board shall have the discretion to consider mitigating circumstances including but not limited to electrical power failure interruption of the system timing feature, time changes and forces beyond the control of the Responsible Party. The Building Board, after a hearing, shall make a determination as to whether the false alarm or fee assessment is valid in whole or in part, and if valid, shall require the responsible party to pay the fee assessment within ten (10) days from receipt of the Board's order and may impose administrative costs. Should the contest of a false alarm or fee assessment be granted in whole or in part, the Board shall order whatever remedy it deems appropriate. Failure to pay any fee assessed pursuant to the provisions of this Section shall constitute a violation of this Section.

(e) Appeals.

The Board Clerk is hereby directed to deliver a copy of the Board's Order by Certified Mail to the violator. Said Order shall include notice that any aggrieved party, including the City, may seek review of the Boards' Order by filing a direct appeal in the Circuit Court of the Twentieth Judicial Circuit in and for Charlotte County, Florida, for a review of the record upon which the Order is based, in accordance with the procedure and within the time provided in the Florida Rules of Appellate Procedure for the review of rulings of any local government board. The appeal shall be on the record and not a hearing de novo.

(Ord. No. 934-88, <sec><sec> 1--4, 11-2-88; Ord. No. 1011-90, <sec> 1, 10-17-90; Ord. No. 1680-11, <sec> 2, 5-18-11; Ord. No. 1701-12, <sec> 1, 2-15-12)

Sec. 15-20. Reserved.

Editor's note--Former <sec> 15-20, which pertained to damaging or destroying mangroves and derived from Ord. No. 597-80, <sec> 1, adopted May 7, 1980, has been deleted, at the instruction of the City, as superseded by the provisions of Ord. No. 962-8 9, adopted July 7, 1989, included herein as <sec> 26-8(18).

Sec. 15-21. Reserved.

Note--See editor's note to <sec> 15-19.

Sec. 15-22. Vehicles, wrecked or damaged, storage on vacant lots.

It shall be unlawful for any person to store any wrecked or damaged motor vehicle on any vacant lot in the City for a period longer than thirty (30) days.

Cross reference(s)--Abandoned property, Ch. 25A.

Sec. 15-23. Reserved.

Editor's note--Section 1 of Ord. No. 571-79, adopted Nov. 7, 1979, repealed former <sec> 15-23 which pertained to the carrying of concealed weapons and was derived unchanged from the original codification.

Sec. 15-24. Discharging of firearms.

It shall be unlawful for any person, except such as may be authorized by law, to discharge any firearm including air rifles and air pistols (commonly known as BB guns) within the limits of the City.

Cross reference(s)--Discharging firearms in public, penalty, <sec> 15-39.

State law reference(s)--Discharging firearms in public, F.S. <sec> 790.15.

Sec. 15-25. Wells and cisterns open and accessible to children prohibited.

It shall be unlawful for any person to keep within the corporate limits of the City any open wells or cisterns accessible to children.

(Ord. No. 192, <sec> 1, 2-16-54)

State law reference(s)--Regulation of wells, F.S. <sec> 373.303 et seq.

Sec. 15-26. Unlawful fence construction materials.

It shall be unlawful to employ, in the construction of any fence or wall in the City, materials which by their decayed, deformed, rusted or motley condition are either unsafe or which may have a tendency to cause degradation to the appearance and/or value of neighboring properties. The City's director of building and zoning shall refuse the issuance of building permits for the construction of structures employing the use of any such materials and shall require the removal of any such structures which have been unlawfully erected. The zoning board of adjustment shall hear any appeals from the director's decisions and its decisions shall be final.

(Ord. No. 576-79, <sec> 1, 11-21-79)

Cross reference(s)--Fences, walls and hedges, <sec> 26-8(15).

Sec. 15-27. Fees for use of municipal tennis courts, parks, picnic shelters, Bay Front Center and Municipal Mobile Home Park Community Hall.

The City Council may establish reasonable fees by resolution duly adopted for use of municipal tennis courts, parks, picnic shelters, Bay Front Center and Municipal Mobile Home Park Community Hall.

(Ord. No. 606-80, <sec> 1, 10-15-80; Ord. No. 848-81, <sec> 1, 10-7-81; Ord. No. 727-83, <sec> 1, 10-19-83)

Sec. 15-28. Boats fleeing or attempting to elude law enforcement officer; penalty.

It is unlawful for the operator of any boat plying the waterways within the City of Punta Gorda, Florida, having knowledge that he has been directed to stop such vessel by a duly authorized law enforcement officer, willfully to refuse to stop or fail to stop in compliance with such directive or, having stopped in knowing compliance with such a directive, willfully to flee in an attempt to elude such officer.

Any person violating this section is guilty of a misdemeanor of the first degree, punishable as provided in Florida Statutes, sections 775.082, 775.083 or 775.084.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-29. Assault; penalty.

An assault is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.

Whoever commits an assault in the City of Punta Gorda, Florida, shall be guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes, sections 775.082, 775.083, or 775.084.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-30. False reports of commission of crimes; penalty.

Whoever in the City of Punta Gorda, Florida, willfully imparts, conveys or causes to be imparted or conveyed to any law enforcement officer false information or reports concerning the alleged commission of any crime under the laws of the State of Florida, knowing such information or report to be false, in that no such crime had actually been committed, shall upon conviction thereof be guilty of a misdemeanor of the first degree, punishable as provided in Florida Statutes, sections 775.082 or 775.083.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-31. Breach of peace; disorderly conduct; penalty.

Whoever in the City of Punta Gorda, Florida, commits such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engages in brawling or fighting, or engages in such a conduct as to constitute a breach of the peace or disorderly conduct, shall be guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes, sections 775.082 or 775.083.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-32. Loitering; cruising; penalty.

(a) Definitions:

- (1) Loitering shall mean remaining idle in essentially one location and shall include the concept of spending time idly, to be dilatory, to linger, to stay, to saunter, to delay, to stand around, and shall also include the colloquial expression "hanging around."
- (2) Motor vehicle loitering is the repetitious and repeated driving of the same motor vehicle along certain public streets for the purpose of securing or dealing in illegal drugs, engaging in the solicitation of prostitution or homosexual activity, and shall also include the colloquial expression of "cruising" for the same.
- (3) Public place shall mean any place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.
- (4) "Cruising prohibited" street is any portion of a public street, designated as such by signage, which is affected by traffic congestion or illegal activity caused or made possible in whole or in part by the repeated driving of the same motor vehicles along the street.

(b) Loitering acts prohibited. It shall be unlawful for any person to loiter, loaf, wander, cruise in a motor vehicle, stand or remain idle either alone and/or in consort with others in a public place in such manner so as to:

- (1) Obstruct or hinder the movement of traffic on any public street, public highway, public sidewalk, or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.
- (2) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or

interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress therein, thereon, and thereto.

- (3) Between the hours of 9:00 p.m. and 5:00 a.m., no motor vehicle shall be operated so as to loiter as defined by this section by passing along a "cruising prohibited" street four (4) times or more. The prohibition of motor vehicle loitering shall not apply to:
- a. Any publicly owned vehicle of any County, City, district or state agency.
 - b. Any vehicle licensed for public transportation.
 - c. Any vehicle used for commercial purposes while on business.
 - d. Any vehicle or persons authorized by a law enforcement agency.
 - e. Any person actually seeking a bona fide street address for lawful purposes.

When any person causes or commits any of the conditions enumerated in this section, any law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this section.

- (c) Authority of police department to designate "cruising prohibited" streets. The Chief of Police, or his designee, is authorized to declare a portion of a street to be a "cruising prohibited" street and shall cause signs to be posted, notifying motorists of that designation and that the repeated passage of a motor vehicle on said street is a violation. A portion of a street may be designated as such when two (2) or more of the following conditions exist:
- (1) Excessive traffic congestion during certain hours.
 - (2) More than six (6) arrests in a one-year period along the street.
 - (3) Street patterns tend to encourage cruising on the street.
 - (4) Interference to through traffic is being caused by the repeated driving of relatively few vehicles over the street.
- (d) Penalty. Any person who violates any of the provisions of this section shall be subject to a fine of not less than twenty-five dollars (\$25.00) and not exceeding two hundred fifty dollars (\$250.00). Any such violation shall constitute a separate offense.

(Ord. No. 659-82, <sec> 2, 2-3-82; Ord. No. 928-88, <sec> 1, 9-7-88)

Sec. 15-33. Exposure of sexual organs; penalty.

It shall be unlawful in the City of Punta Gorda, Florida for any person to expose or exhibit his sexual organs in any public place or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner, or to expose or exhibit his person in such place, or to go or be naked in such place. Provided however this section shall not be construed to prohibit the exposure of such organs or the person in any place provided or set apart for that purpose.

Any person convicted for a violation hereof shall be guilty of a misdemeanor of the first degree, punishable as provided in Florida Statutes, sections 775.082 or 775.083.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-34. Unauthorized temporary use of motor vehicle, aircraft, boat, or boat motor; penalty.

Any person in the City of Punta Gorda, Florida, who temporarily uses any motor vehicle, aircraft, boat, or boat motor without the authority of the owner or his representative, or who shall knowingly be a party to such unauthorized use, shall, upon conviction, be guilty of a misdemeanor of the first degree, punishable as provided in Florida Statutes, sections 775.082 or 775.084.

Nothing in this section shall be construed to apply to any case in which the taking of property of another is with intent to steal the same or in which the taking is under a claim of right or with the presumed consent of the owner or other person having the legal control, care, or custody of the same.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-35. Trespass on property other than structure or conveyance; penalty.

Whoever in the City of Punta Gorda, Florida, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance as to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation as described in Florida Statutes, Section 810.011, commits the offense of trespass on property other than a structure or conveyance.

Except as provided in this section, trespass on property other than a structure is a misdemeanor of the first degree, punishable as provided in Florida Statutes, sections 775.082 or 775.083.

If the offender defies an order to leave, personally communicated to him by the owner of the premises or an authorized person, or if the offender willfully opens any door, fence, or gate or does any act which exposes animals, crops, or other property to waste, destruction, or freedom, or trespasses on property other than a structure or

conveyance, he is guilty of a misdemeanor in the first degree, punishable as provided in Florida Statutes, sections 775.082, 775.083 or 775.084.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-36. Trespass in structure or conveyance; penalty.

Whoever, in the City of Punta Gorda, Florida without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance, or, having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so, commits the offense of trespass in a structure or conveyance.

Except as otherwise provided in this section, trespass in a structure or conveyance is a misdemeanor of the second degree, punishable as provided in Florida Statutes, sections 775.082, 775.083 or 775.084.

If there is a human being in the structure or conveyance at the time the offender trespassed, attempted to trespass, or was in the structure or conveyance, the trespass in a structure or conveyance is a misdemeanor of the first degree, punishable as provided in Florida Statutes, sections 775.082, 775.083 or 775.084.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-37. Carrying concealed weapons, penalty; officer to arrest without warrant and upon probable cause.

Whoever in the City of Punta Gorda, Florida, shall carry a concealed weapon or electric weapon or device on or about his person shall be guilty of a misdemeanor of the first degree, punishable as provided in Florida Statutes, sections 775.082 or 775. 083.

The carrying of a concealed weapon is hereby declared a breach of the peace, and any officer authorized to make arrests under the laws of the State of Florida may make arrests within the City without warrant of persons violating the provisions of this section when said officer has reasonable grounds or probable cause to believe that the offense of carrying a concealed weapon is being committed.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-38. Improper exhibition of dangerous weapons or firearms; penalty.

If any person in the City of Punta Gorda, Florida, having or carrying any dirk, sword, sword cane, firearm, electric weapon or device, or other weapon shall, in the presence of one or more persons, exhibit the same in a rude, careless, angry, or threatening manner, not in necessary self defense, the person so offending shall be guilty of a misdemeanor of the first degree, punishable as provided in Florida Statutes, sections

775.082, 775.083 or 775.084.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-39. Discharging firearm in public; penalty.

Any person in the City of Punta Gorda, Florida, who knowingly discharges a firearm in any public place or on the right-of-way of any paved public road, highway, or street or whosoever knowingly discharges any firearm over the right-of-way of any paved public road, highway, or street or over any occupied premises is guilty of a misdemeanor of the first degree, punishable as provided in Florida Statutes, sections 775.082 or 775.083.

This section does not apply to a person lawfully defending his life or property or performing official duties requiring the discharge of a firearm or to a person discharging a firearm on public roads or properties expressly approved for hunting by the Game and Fresh Water Fish Commission or Division of Forestry.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Cross reference(s)--Discharging of firearms in the City, <sec> 15-24.

Sec. 15-40. Retail theft; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties.

Upon a second or subsequent conviction for petit theft involving merchandise taken from a merchant in the City of Punta Gorda, Florida, the offender shall be punished as provided in Florida Statutes, Section 812.014(2)(c), except that the Court shall impose a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00). However, in lieu of such fine, the court may require the offender to perform public services, designated by the court. In no event shall any such offender be required to perform less than the number of hours of public service necessary to satisfy the fine assessed by the court, as provided by this subsection, at the minimum wage prevailing in the state at the time of sentencing.

A peace officer, a merchant, or a merchant's employee who has probable cause to believe that merchandise has been unlawfully taken by a person and that he can recover it by taking the person into custody may, for the purpose of attempting to effect such recovery and for prosecution, take the person into custody and detain him in a reasonable manner for a reasonable length of time. Such taking into custody and detention by a peace officer, merchant or merchant's employee, if done in compliance with all the requirements of this subsection, shall not render such police officer, merchant or merchant's employee criminally or civilly liable for false arrest, false imprisonment, or unlawful detention. In the event a merchant or a merchant's employee takes the person into custody, a peace officer shall be called to the scene immediately after the person has been taken into custody.

Any peace officer may arrest, either on or off the premises and without warrant, any person he has probable cause to believe has committed theft of merchandise in retail or wholesale establishments.

A merchant or a merchant's employee who takes a person into custody, as provided in this section or who causes an arrest, as provided in this section of a person for theft of merchandise shall not be criminally or civilly liable for false arrest or false imprisonment when the merchant or merchant's employee has probable cause to believe that the person committed theft of merchandise.

An individual who resists the reasonable effort of a peace officer, merchant, or merchant's employee to recover merchandise which the peace officer, merchant, or merchant's employee had probable cause to believe the individual had concealed or removed from its place of display or elsewhere and is subsequently found to be guilty of theft of the subject merchandise shall be guilty of a misdemeanor of the first degree, punishable as provided in Florida Statutes, sections 775.082, 775.083, or 775.084, unless the individual did not know, or have reason to know, that the person seeking to recover the merchandise was a peace officer, merchant, or merchant's employee.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-41. Prohibiting prostitution, etc., evidence; penalties.

It shall be unlawful in the City of Punta Gorda, Florida, to:

- (a) Keep, set up, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution.
- (b) Offer, or to offer or agree to secure, another for the purpose of prostitution, or for any other lewd or indecent act.
- (c) Receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose.
- (d) Direct, take or transport, or to offer or agree to take or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.
- (e) Offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.
- (f) Solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation with himself or herself.
- (g) Reside in, enter, or remain in, any place, structure or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or

assignment.

In the trial of any persons charged with the violation of any of the provisions of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in said charge, and of the person or persons who reside in, operate, or frequent the same, and of the defendant, shall be admissible in support of the charge.

Any person who shall violate any provision of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes, sections 775.082 or 775.083.

(Ord. No. 659-82, <sec> 1, 2-3-82; Ord. No. 669-82, <sec> 1, 4-22-82)

Sec. 15-42. Trespass upon grounds or facilities of public schools; penalties; arrest.

(a) Any person who:

- (1) Is not a student, officer, or employee of a public school in the City of Punta Gorda, Florida;
- (2) Does not have legitimate business on said campus; or
- (3) Is not a parent, guardian, or person who has legal custody of a student enrolled at said school; or
- (4) Is a student currently under suspension or expulsion; or
- (5) Is an employee who is not required by his employment by said school to be on the campus or any other facility owned, operated, or controlled by the governing board of said school and who enters or remains upon the campus or any other facility owned by said school, and thereon commits any act which disrupts the orderly conduct of the activities of such campus or facility, commits a trespass upon the grounds of a public school facility and is guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes, sections 775.082, 775.083, or 775.084.

(b) Any person who:

- (1) Is not a student, officer, or employee of a public school, in the City of Punta Gorda, Florida;
- (2) Does not have legitimate business on the campus; or
- (3) Is not a parent, guardian, or person who has legal custody of a student enrolled at said school; or
- (4) Is a student currently under suspension or expulsion; or

- (5) Is an employee who is not required by his employment by said school to be on the campus or any other facility owned, operated, or controlled by the governing board of said school, and who enters or remains upon the campus or other facility of said school after the chief administrative officer of said school, or any employee thereof designated by him to maintain order on such campus or facility, has directed such person to leave such campus or facility or not to enter upon the same, shall be guilty of the offense of trespass upon the grounds of a public school facility and is guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes, sections 775.082, 775.083, or 775.084.

Any peace officer may arrest either on or off the premises and without warrant any person he has probable cause for believing has committed the offense of trespass upon the grounds of a public school facility. Such arrest shall not render the peace officer criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-43. Insulting instructional personnel; disturbing school functions; penalty.

Any person not subject to the rules and regulations of a school in the City of Punta Gorda, Florida, who creates a disturbance on the property or grounds of said school, who commits any act that interrupts the orderly conduct of said school or any activity thereof shall be guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes, sections 775.082, 775.083 or 775.084.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15.44. Obtaining food or lodging with intent to defraud; penalty.

- (a) Any person in the City of Punta Gorda, Florida, who obtains food, lodging, or other accommodations having a value of less than one hundred dollars (\$100.00) at any public food service establishment, or at any public lodging establishment on a transient basis, with intent to defraud the operator thereof, is guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes, sections 775.082, 775.083, or 775.084; if such food, lodging, or other accommodations have a value of one hundred dollars (\$100.00) or more, such person is guilty of a felony of the third degree, punishable as provided in Florida Statutes, sections 775.082, 775.083, or 775.084.
- (b) This section does not apply where there has been an agreement in writing for delay in payments. This section shall not be used to circumvent the procedural requirements of the Florida Residential Landlord and Tenant Act.
- (c) In prosecutions under this section, a proof that lodging, food, or other

accommodations were obtained by false pretense; by false or fictitious show of baggage or other property; by absconding without paying or offering to pay for such food, lodging, or accommodations; or by surreptitiously removing or attempting to remove baggage shall constitute prima facie evidence of fraudulent intent. If the operator of the establishment has probable cause to believe, and does believe, that any person has obtained food, lodging, or other accommodations at such establishment with intent to defraud the operator thereof, the failure to make payment upon demand therefor, there being no dispute as to the amount owed, shall constitute prima facie evidence of fraudulent intent in such prosecutions.

- (d) Any law enforcement officer or operator of a public lodging establishment or public food service establishment who has probable cause to believe and does believe:
- (1) That any person has obtained food, lodging, or other accommodations at such establishment with intent to defraud the operator thereof; or
 - (2) That any person has illegally taken personal property belonging to such establishment from the premises, may take such person into custody on the premises and detain him for such reasonable period of time as is necessary to take him before the nearest magistrate.

(Ord. No. 659-82, <sec> 2, 2-3-82)

Sec. 15-45. Door-to-Door Selling, Soliciting and Canvassing.

- (a) Definitions. The following words and phrases, when used in this Section shall have the meanings respectively ascribed to them:

Door-to-Door Selling, Soliciting, Hawking or Peddling. For purposes of this Section, the term "door-to-door selling, soliciting, hawking or peddling" shall mean any attempt to make personal contact with a resident or occupant at his/her residence without prior specific invitation or appointment from the resident for the purpose of:

- (1) selling, leasing, renting or soliciting orders for any consumer goods, wares, merchandise, books, magazines, personal property of any nature whatsoever, home improvements or services;
- (2) attempting to obtain a donation for any patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal or other charitable purpose; or
- (3) distributing a handbill, door hanger, or flyer for any purpose other than for bona fide religious or political purposes.

The term shall not include telephone, mail or email solicitation, nor shall the term "Canvassing" as that term is defined herein.

Canvassing. For the purposes of this Section, the term “canvassing” shall mean any attempt to make personal contact with a resident or occupant at his/her residence without prior specific invitation or appointment from the resident, for the purpose of:

- (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, political or social issue or political candidate, even if incidental to such purpose the canvasser accepts a donation of money; or
 - (2) distributing a handbill, door hanger or flyer for bona fide religious or political purposes.
- (b) Prohibition Against Door-to-Door Selling, Soliciting, Hawking or Peddling. It shall be unlawful for any person to conduct any door-to-door selling, soliciting, hawking or peddling within in any residentially zoned district of the City of Punta Gorda, Florida.
- (c) Prohibition Against Door-to-Door Canvassing. It shall be unlawful for any person to conduct any door-to-door canvassing within any residentially zoned district of the City of Punta Gorda, Florida, where the owner or occupant has placed on such residence, in a conspicuous place upon or near the main entrance to the residence, a weatherproof card, not less than three (3) inches by four (4) inches in size bearing the words “No Soliciting”. The letters on such cards shall be not less than two-thirds (2/3) of an inch in height.
- (d) It shall also be unlawful for any person to conduct door-to-door canvassing between the hours of 7:00 p.m. and 9:00 a.m.
- (e) Nothing contained in this Section shall be construed to limit the actions of any government employee or agent from conducting their official duties.
- (f) Enforcement. Violations of this Section shall be by means of citations issued for non-criminal infractions. Such citations may be issued by any City Police Officer and any Code Enforcement Officer of the City and shall be in such form as may be adopted for such use by the Chief of the Punta Gorda Police Department. The citation given to any violator shall specify the violation and the applicable civil penalty, and shall notify the violator:
- (1) That the civil penalty must be paid at the Office of the City Clerk no later than ten (10) days after the date the citation is issued unless the violation is appealed to the Code Enforcement Board, giving the address of the City Clerk’s Office.
 - (2) That any appeal must be filed with the Code Enforcement Board Clerk, within ten (10) days after the date the citation is issued, in the City’s Code Compliance Division, giving the address of the City’s Code Compliance Division; and
 - (3) That, if found guilty of the violation by the Code Enforcement Board on an

appeal, the violator shall pay the assessed civil penalty as well as the cost of the appeal in the amount of Fifty Dollars (\$50.00).

(g) Appeal. Any person who elects to contest a citation may appear before the City of Punta Gorda Code Enforcement Board to present evidence, provided a hearing is requested in writing, through the Code Enforcement Board Clerk in the City's Code Compliance Division, within ten (10) days after the date of the citation. The Code Enforcement Board, after a hearing, shall make a determination as to whether a violation has been committed and, upon a finding that the violator is guilty, shall impose the applicable civil penalty along with the cost of the appeal in the amount of Fifty Dollars (\$50.00). Any person who receives a citation for a violation of any provision of this Section and neither pays the civil penalty nor files a written appeal of the citation within ten (10) days after the date of the citation shall be deemed to have violated such provisions, with said violation being punishable as provided in Section 1-6 of this Code.

(h) Penalties. Any person who violates any provision of this Section shall be assessed a civil penalty as follows:

- (1) For the first offense after written warning.....\$100.00
- (2) For the second offense.....\$200.00
- (3) For each subsequent offense.....\$300.00

(Ord. No. 1630-10, <sec> 3, 3-17-10)

Sec. 15-46. Peddling/Soliciting on City Streets Prohibited.

It shall be unlawful for any person to obstruct the use of any public streets by standing or approaching motor vehicles thereon or by endangering the safe movement of vehicles or pedestrians traveling thereon for the purpose of peddling/soliciting.

(Ord. No. 1630-10, <sec> 4, 3-17-10)

Sec. 15-47. Control of Synthetic Drugs and Drug Paraphernalia.

(a) Definitions. For purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Bath Salts shall mean any granular, powdered, stick, or block material which has been treated, or otherwise enhanced with a synthetic chemical or synthetic chemical compound that enables the material, or the smoke emitted from its burning, to mimic or simulate the effects of a narcotic or other controlled substance when inhaled, ingested, or otherwise introduced into the human body. Any material described above shall be considered a synthetic drug regardless of the labeling posted on the packaging for the material and regardless of whether the labeling states that its contents are "not for human consumption", "not for smoking", or contains some other similar statement. The fact that a material, packaged and advertised as a cleaning agent, food additive, therapeutic bath crystals, plant food, insect repellent potpourri,

incense, etc., has been soaked, sprayed, or otherwise enhanced with a synthetic chemical or synthetic chemical compound which has no legitimate relation to the advertised use of the product may be considered in determining whether the product is considered a synthetic drug. This term specifically does not include any material containing synthetic chemicals or chemical compounds which: (1) require a prescription; (2) are approved by the United States Food and Drug Administration; and (3) are dispensed in accordance with Florida and federal law. Street names for these products include, but are not limited to: Bliss, Blue Silk, Cloud Nine, Drone, Energy-I, Ivory Wave, Lunar Wave, Meow Meow, Ocean Burst, Pure Ivory, Purple Wave, Red Dove, Snow Leopard, Stardust, Vanilla Sky, White Dove, White Knight, White Lightening, Blizzard, Bonzai Grow, Charge Plus, Charlie, Euphoria, Hurricane, Lunar Wave, Ocean, Pixie Dust, Posh, Scarface, Lovely Dovey, Aura, MDPV, MDPK, MTV, Maddie, Hurricane Charlie, Black Rob, Super Coke, PV, Peeve, Meph, Drone, and MCAT.

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.

Drug paraphernalia means, other than devices to ingest or inject prescription drugs, any object used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, or other illicit drugs or controlled substances into the human body, including but not limited to: metal, wooden, acrylic, glass, stone, plastic or ceramic pipes (with or without screens, permanent screens, hashish heads or punctured metal bowls); water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips, miniature cocaine spoons and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongos; ice pipes or chillers. In determining whether an object is drug paraphernalia, a code enforcement board or court may consider any of the factors enumerated in Section 893.146, Florida Statutes ("Determination of paraphernalia").

Illicit synthetic drugs shall include bath salts and synthetic cannabinoids, as defined in this Section and any substances defined or listed in Schedule I, II, III, or IV of Section 893.03, Florida Statutes, as amended. The term shall also include and substances added to said Schedules by Emergency Rule of the Florida Attorney General.

Minor means a person under 18 years of age.

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

Premises means any part of the building(s) located on a lot or parcel of land utilized in whole or part for the commercial or retail sale of illicit synthetic drugs or commercial sale and display of drug paraphernalia.

Synthetic Cannabinoids shall mean any herbal or plant material which has been soaked, sprayed, or otherwise enhanced with a synthetic chemical or synthetic chemical compound that enables the herbal or plant material, or the smoke emitted from its burning, to mimic or simulate the effects of a controlled substance when

inhaled, ingested, or otherwise introduced into the human body. Any herbal or plant material described above shall be considered a synthetic cannabinoid regardless of the labeling posted on the packaging for the material and regardless of whether the labeling states that its contents are "not for human consumption", "not for smoking", or contains some other similar statement. The fact that a herbal or plant material, packaged and advertised as a food additive, plant food, insect repellent, potpourri, incense, etc., has been soaked, sprayed, or otherwise enhanced with a synthetic chemical or synthetic chemical compound which has no legitimate relation to the advertised use of the product may be considered in determining whether the product is considered a synthetic cannabinoid. This term specifically does not include any herbal or plant material containing synthetic chemicals or chemical compounds which: (1) require a prescription; (2) are approved by the United States Food and Drug Administration; and (3) are dispensed in accordance with Florida and federal law. Street names for these products include, but are not limited to: Bliss, Black Mamba, Bombay Blue, Fake Weed, Genie, Spice, Zohai, K2, K3, Smoke, Pot-Pourri, Buzz, Spice 99, Voodoo, Pulse, Hush, Mystery, Earthquake, Stinger, Ocean Blue, Serenity, Chronic Spice, Spice Gold, Spice Silver, Skunk, Mr. Nice Guy, Mr. Happy, K3 Legal, Sence, Smoke, Chill X, Earth Impact, Galaxy Gold, Space Truckin, Solar Flare, Moon Rocks, Aroma, Scope, Sky High, Atomic, G-20, Guerrilla Warfare, Makes Scents, g-13, Tiger Shark, California Dreams, Dank, Bullet, Mind Trip, Voodoo Child, Jazz, Nightlights, Matrix, Hypnotip, AK47, Maui Wowie, Cloud 9, Daylights, Joker, Dead Man Walking, Brain Storm, Soul Sence, Kush, Kush Mania, Dragons Fire, Lucid, Mad Hatter, Scooby Snax, D-ZL, OMG, Demon, Barely In, Pineapple Express, and Hayze.

(b) Possession, provision, sale or distribution of illicit synthetic drugs prohibited.

It is unlawful for any person to possess, provide, sell or distribute any illicit synthetic drug as defined in this Section.

(c) Determination of a product as an illicit synthetic drug.

(1) In determining whether a product is prohibited by this Section, statements on package labeling such as "not for human consumption" may be disregarded when other relevant factors (viewed alone or in totality) indicate that the product is intended to be consumed or ingested by humans, or is a product regulated by this Section.

(2) Other relevant factors that may be used to determine whether a product or sale is prohibited by this Section include, but are not limited to:

- a. verbal or written representations at the point of sale regarding the purpose, methods, use, or effect of the product;
- b. aspects of the packaging or labeling that suggest the user will achieve a "high," euphoria, relaxation, mood enhancement, or that the product has other effects on the body;
- c. the cost of the product is disproportionately higher than other products, such as incense or potpourri, marketed for the same use;

- d. the product contains a warning label stating or suggesting that the product is in compliance with state laws regulating controlled substances;
- e. the product's name or packaging uses images or slang referencing an illicit street drug or portraying the use of an illicit street drug;
- f. illicit or underground methods of sale or delivery are employed by the seller or provider; and
- g. the product resembles an illicit street drug such as cocaine, methamphetamine, or marijuana.

(d) Exemptions.

The provisions of this Section do not apply to any product that is specifically excepted by, or regulated within, the Florida Comprehensive Drug Abuse Prevention and Control Act (Ch. 893, Florida Statutes) or the Federal Controlled Substances Act (21 USC - 81 et seq.); is a food product, drug, dietary supplement, cosmetic, or other substance regulated by the Food and Drug Administration (FDA) and in compliance with that agency's requirements; is regulated by and in compliance with the labeling requirements of the Federal Trade Commission; is regulated by and in compliance with the Federal Fair Packaging and Labeling Act; is regulated by and in compliance with the Federal Food, Drug, and Cosmetic Act; is regulated by and in compliance with the regulations of the Florida Department of Agriculture and Consumer Services; or is a tobacco product regulated by and in compliance with the regulations governing the tobacco industry enforced by the Florida Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco. For the purposes of this section, products that are not subject to regulation by the act or agencies listed above are not exempt unless the product is specifically exempt from regulation; mere "non-regulation" by these acts without a specific regulatory exemption will not render a product exempt under this section.

(e) Sale of certain products for human consumption prohibited.

It is unlawful for any person to possess, provide, sell or distribute a product for human consumption when the product is labeled "not for human consumption" or contains similar warnings.

(f) Restrictions on businesses that sell or display drug paraphernalia; signage required; unaccompanied minors prohibited.

- (1) No person in control of the premises of any place of business selling or displaying drug paraphernalia shall allow or permit any person under the age of 18 to enter or remain on the premises unless the minor person is accompanied by one of his or her parents or by his or her legal guardian.
- (2) Such premises must prominently display a sign approved by the code enforcement official posted at the entrance to the premises, stating that drug paraphernalia is located within the premises, and prohibiting persons under 18 from entering the establishment without their parent or guardian.

(3) These restrictions do not apply to premises that:

- a. prohibit the entry of persons under the age of 18; or
- b. premises where the sale and display of drug paraphernalia is located in a separate room from which persons under 18 are excluded without a parent or guardian, and provided that a sign approved by the Code Enforcement Official is posted at the entrance to the room, stating that drug paraphernalia is located within the room, and prohibiting persons under 18 from entering the room without their parent or guardian. The room must contain a door, which is to remain closed except when in active use to enter or exit the room. The door shall contain a window of a minimum size of 18 inches by 18 inches, located at a minimum height of five feet from the floor. This window shall remain unobstructed to allow code enforcement officials and persons in charge of the premises to view persons inside the room without the necessity of entry into the room. This provision is not intended to require permission, or special authority or a search warrant for code enforcement officials to enter the room.

(g) Sale or provision of drug paraphernalia to minors prohibited; possession by minors prohibited.

No person shall sell or provide drug paraphernalia to any person under the age of 18. No person under the age of 18 shall possess drug paraphernalia.

(1) Defenses. A person who violates the provisions of this section shall have a defense to any civil action for violation of these provisions if, at the time of the violation the violator checked one of the following forms of identification with respect to the minor: a driver's license or an identification card issued by the State of Florida or another state of the United States, a passport, or a United States Uniformed Services identification card and said identification showed that the person was over the age of 18 years.

(h) Enforcement.

This Section may be enforced by any code enforcement official. For the purposes of enforcing the provisions of this Section, all law enforcement officers having jurisdiction in the incorporated areas of Punta Gorda, Florida, are hereby designated as Code Compliance Officers. However, said designation as Code Compliance Officer shall not affect any law enforcement officer's ability to make a misdemeanor arrest for violations of this Section. Any products found in violation of this Section may be seized and held by the enforcing agency for testing and as evidence to be used in any further proceeding.

(i) Violations and penalties.

- (1) It shall be unlawful for any person to violate any of the terms, provisions or directions of this Section. Each day of any such violation shall constitute a separate and distinct offense.
- (2) Violations of any provision of this Section shall be subject to the following penalties: First violation - \$250.00 fine per violation and Second violation and all subsequent violations - \$500.00 fine per violation.
- (3) Violations may be taken before the Code Enforcement Board for enforcement in accordance with Chapter 9A, Article II, Punta Gorda Code, and if the violation is proven a fine shall be assessed against the violator in accordance with the fines set forth in this Section.
- (4) Due to the dangerous medical and health effects illicit synthetic drugs prohibited by this Section can have on the user of the product, for the purposes of enforcement of this Section, each package containing an illicit synthetic drug shall be considered a separate code violation. All violations of this Section shall be considered a serious threat to the public health, safety, and welfare of the citizens of Punta Gorda and any code enforcement official is hereby authorized to issue a notice of violation upon discovering a violation of this Section.
- (5) In any order of the Code Enforcement Board finding a violation of this Section, the Code Enforcement Board shall also order the violator(s) to pay any laboratory analysis and expert testimony costs incurred by the City in the enforcement of this Section.
- (6) Any person who knowingly violates any provision of this Section may also be punished in the same manner as a misdemeanor as provided by general law.
- (7) Punta Gorda may also enforce the provisions of this Section by an action in equity, including injunctive or declaratory relief, in the appropriate court of competent jurisdiction.

(j) Conflict with State Law.

Nothing in this Section is intended to conflict with the provisions of the Florida Constitution or any Florida Statute. In the event of a direct and express conflict between this Section and either the Florida Constitution or the Florida Statutes, then the provisions of the Florida Constitution or Florida Statutes, as applicable, shall control.

(Ord. No. 1780-14, <sec> 1, 02-19-14)

Sec. 15-48. Control of Access to City-owned, Controlled and Leased Property.

- (a) Consistent with decisions of the U.S. Supreme Court, public access to areas within enclosed facilities owned, controlled, and leased by the City of Punta Gorda may be restricted depending upon whether such areas are classified as "designated public forum", "limited designated public forum", or "nonpublic forum". How areas within enclosed facilities owned, controlled, and leased by the City of Punta Gorda are classified is based upon their intended use. For example, there are certain areas which are intended primarily for the use of City employees in the conduct of their business; there are certain areas which, while primarily intended for the use of City employees in the conduct of their business, may from time to time be utilized for the convening of public meetings; there are certain limited areas which may be open to the public while engaging in legitimate business with City officers or employees; and there may be certain areas which are primarily intended for the convening of public meetings.
- (b) The City Manager is hereby authorized to manage public access to enclosed City-owned, controlled, and leased property. In the performance of such responsibilities, the City Manager shall have the authority to identify which areas are to be considered designated public forum, limited designated public forum, or nonpublic forum.
- (c) Upon the classification of areas within enclosed City-owned, controlled, and leased property, the City Manager is hereby authorized, subject to the availability of appropriated funds, to employ whatever means he deems necessary and appropriate to separate designated public forums from nonpublic forums, including, but not limited to the use of physical barriers and signage. The City Manager shall also have the authority to develop and implement procedures to regulate and control public access within City-owned, controlled, and leased property to provide for the security and privacy of public visitors; to provide for the security and privacy of City employees and officers; and to minimize potential disruptions to the work of City government. Any person who engages in conduct that causes disruptions to the work of City government shall be deemed to no longer be present within the City-owned, controlled, or lease property on legitimate public business.
- (d) The City Council Chambers and conference rooms in the City Hall and City Hall Annex are hereby declared to be nonpublic forums unless or until a public meeting is convened in such areas pursuant to public notice. All City employee work areas within City Hall and the City Hall Annex which are designated by appropriate signage as work areas shall be considered as nonpublic forums. Members of the public are prohibited from entering City employee work areas without being escorted by a City employee. All other areas of the City Hall and City Hall Annex are hereby designated as limited public forums and only persons who are present to engage in legitimate public business with City officers or employees shall be authorized. It shall be a violation of this Ordinance to be within a nonpublic forum or a limited public forum without

authorization. Unauthorized persons found by the City Manager or his designee to be within a nonpublic forum or a limit public forum and who refuse to leave the premises upon request, shall be considered a trespasser. Law Enforcement, at its option, at the request of the City may issue a trespass warning notice for this conduct.

- (e) Except within the City Council Chambers, conference rooms, and other locations in which a public meeting is being conducted pursuant to a public notice, it shall be unlawful and a violation of this Ordinance, to record video and/or sound within City-owned, controlled, and leased property, without the consent of all persons whose voice or image is being recorded. This prohibition shall not apply to any law enforcement activities. In addition to being a violation of this Ordinance, if anyone who is observed to be recording video and/or sound within City-owned, controlled, or leased property, without the consent of all persons whose voice or image is being recorded, and such person refuses to cease activity after being advised that such activity is prohibited under this Ordinance, such refusal shall be considered to be a disruption to the work of City government. Therefore, such persons shall be deemed to no longer be present within the City-owned, controlled, or leased property on legitimate public business. The City Manager and his designees are hereby authorized on behalf of the City of Punta Gorda, Florida to request any person who refuses to cease the unconsented video and/or sound recording to immediately leave the premises. Any person who refuses to cease the unconsented to video and/or sound recording, and refuses to immediately leave the premises following the request of the City Manager or his designee, shall be considered as a trespasser. Law Enforcement, at its option, at the request of the City may issue a trespass warning notice for this conduct.

- (f) The City Manager and his designees may have cause to remove any person they determine:
 - (1) Acts in any manner which violates or is reasonably suspected to violate any federal, state or local law, ordinance, rule or regulation; or
 - (2) Acts in any manner which violates any City rules or policy, including but not limited to the Facility Rules; or any directive on any sign or notice at the public property.

The City Manager and his designees are hereby authorized on behalf of the City of Punta Gorda, Florida to warn persons of this prohibited activity and request such activity to cease. Law Enforcement, at its option, at the request of the City may issue a trespass warning notice for these violations of conduct.

- (g) The City Manager and his designees are hereby authorized on behalf of the City of Punta Gorda, Florida to warn persons who have entered into or remain in areas where they are not authorized to be, and to request such persons to depart. The City Manager, and his designees, are hereby authorized to call upon Law Enforcement to treat as trespassers any persons who refuse to depart after such a request has been made. Law Enforcement, at its option, may

enforce any person's refusal to depart by means of Section 810.08 and 810.09, Florida Statutes or issue a trespass warning notice.

(Ord. No. 1872-17, <sec> 1, 05-03-2017)