

**CITY OF NORTH PORT
COMMISSION AGENDA ITEM**

Item No. 6A
(City Clerk's Use Only)

MEETING TYPE:		Meeting Date:	February 11, 2013
Regular	<input checked="" type="checkbox"/>	Department:	Neighborhood Development Services
Fire Rescue District	<input type="checkbox"/>	Prepared by:	Barbara Raney
Road & Drainage District	<input type="checkbox"/>	Date Prepared:	January 29, 2013
Solid Waste District	<input type="checkbox"/>	Department Director's Initials:	<i>SW</i> Date: 1/29/13
Other:	<input type="checkbox"/>	City Manager's Initials:	<i>JR</i> Date: 1/31/13

- Exhibits:** 1. Ordinance No. 2012-27 Excessive Growth, Dead Trees
2. Minutes of July 24, 2012 Commission Budget Workshop
3. Minutes of August 9, 2012 Commission Budget Workshop

SUBJECT: Second Reading Provisions of the Code regarding responsibility for impinging growth and dead trees.

RECOMMENDED ACTION: Final approval of Ordinance No. 2012-27

BACKGROUND INFORMATION: This ordinance provides for the elimination of tree trimming services for impinging growth and removal of dead trees on private property and by default makes it the property owner's responsibility for tree maintenance on their respective property. Commission discussed impinging growth at two workshops (July 24 and August 9, 2012). SLA-258, which was approved with the FY 2013 budget, reduced Property Standards' Contracted Services budget \$25,000 from the previous year.

Discussion with Commission began at the July 24, 2012 meeting when using City staff and funds to cut trees on private property was brought up for discussion. The consensus was to remove \$25,000 from the Neighborhood Development Services (NDS) budget. The August 9, 2012 Budget Workshop provided a review of the Service Level Adjustment 258 eliminating tree trimming services for impinging growth on private property and removed \$25,000 from the NDS budget. The direction of Commission was to no longer fund cutting impinging growth on private property. Staff recommends approval of Ordinance 2012-27. This action would be consistent with our surrounding jurisdictions including Charlotte and Sarasota Counties.

Further discussion was held during the November 26, 2012 Commission meeting and direction from Commission was for staff to review Section 42-21(c) addressing dead trees. The proposed change is to eliminate language in its entirety with the exception of impinging growth in City rights-of-way. There will be no language in the code dealing with dead or dangerous trees on private property. Removal of dead trees will be the requirement of the property owner and corrective action would require civil action.

Commission also directed staff to review and revise Section 42-21(a) to clarify restrictions of excessive growth of grass or lawn areas. The proposed language allows for a property owner to permit a cleared area on a lot to grow back to the normal natural state unless it was sodded or seeded. There could be the scenario where someone could have cleared an area for a garden and decided not to replant; the existing language would not permit the area to grow back to the natural state. Another consideration would be an owner with combined properties or an owner in the estates

cleared the lot in fear of fire or rodents, selling the property to someone that loved wildlife that dwell in the natural environment, and the new owner being restricted from allowing the land to return to the natural state. These are a few of the considerations for the proposed language to only regulate grass areas in excess of 12" in height. Staff recommends the proposed language remains in North Port Code, Chapter 42.

This ordinance has been reviewed and approved as to form and content by the City Attorney.

FINANCIAL IMPACT: (if applicable) None

Property Standard's Contracted Service was reduced by \$25,000 when SLA-258 was approved with the FY 2013 Budget.

PROCUREMENT: (if applicable)

Amendment Assignments New Contract Renewal Contract Other

Vendor Information:

Contract Amount: \$

Contingency: \$

Total Contract Amount: \$

ORDINANCE NO. 2012-27

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING NORTH PORT CODE CHAPTER 42, NUISANCES; AMENDING SECTION 42-21, EXCESSIVE GROWTHS; DEAD TREES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City desires to clarify certain provisions of the North Port Code relating to excessive growths; dead trees; and

WHEREAS, the City desires to clarify certain provisions of the North Port Code relating to responsibility, the following changes to North Port Code are necessary.

Deleted words are indicated by the deleted text being ~~stricken through~~; added words are indicated by the added text being underlined.

SECTION 1 – AMENDING CHAPTER 42, NUISANCES, SECTION 42-21, AS FOLLOWS:

Excessive growths; dead trees.

- (a) It shall be unlawful for any owner ~~of an occupied or an unoccupied lot~~ to permit the excessive growth of cultivated or uncultivated sodded or seeded grass areas, weeds or underbrush in excess of 12 inches in height on an improved or developed lot, upon said lot. ~~Shrubs, trees, bushes or any other natural or cultivated species of foliage found and/or planted upon said lot and used for landscaping purposes shall be permitted to grow to its natural height provided, however, that such growth shall not become a fire or safety hazard to the neighboring premises, nor shall such growth be permitted to grow beyond the legal confines of said lot so as to impinge upon the neighboring property and premises or upon a public right-of-way such as sidewalks and/or streets.~~

~~(b) Within the meaning and intent of included lots, as defined in section 42-20 of this article, it shall be unlawful for any owner of an undeveloped lot to permit excessive growth of weeds, grass or underbrush in excess of 12 inches in height and/or to permit the growth of trees, shrubs or any other indigenous plant(s) to grow beyond the legal confines of said lot so as to impinge upon the neighboring property or premises or upon a public right-of-way, such as sidewalks and/or roads.~~

It shall be unlawful for any owner of a developed or undeveloped lot to permit the excessive growth of shrubs, trees, bushes or any other natural or cultivated species of foliage beyond the legal confines of said lot so as to impinge upon a public right-of-way such as sidewalks and/or streets.

~~(c) It shall be the responsibility of the owner of occupied, unoccupied and undeveloped lots, as defined herein, to remove or cause to be removed any and all dead trees on said lots.~~

SECTION 2 – CONFLICTS

2.01 In the event of any conflict between the provisions of this Ordinance and any other ordinance, resolution, or portions thereof, the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 3 - EFFECTIVE DATE

3.01 The provisions of this Ordinance shall become effective immediately upon passage.

Read in public session this _____ day of _____, 2013.

PASSED AND ADOPTED on the second and final reading in public session this _____ day of _____, 2013.

CITY OF NORTH PORT, FLORIDA

LINDA YATES

MAYOR

ATTEST:

HELEN RAIMBEAU, MMC

CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

ROBERT K. ROBINSON,

CITY ATTORNEY