

ORDINANCE NO. 10-57

FILED FOR RECORD
R. B. SHORE

2010 AUG 31 AM 11:57

CLERK OF COURT
COUNTY OF MANATEE
AN ORDINANCE OF MANATEE COUNTY, FLORIDA, RELATING
TO ABATEMENT OF CRIMINAL NUISANCES; REPEALING
DIVISION 4 OF ARTICLE VI OF CHAPTER 2-2 OF THE MANATEE
COUNTY CODE OF ORDINANCES, ENTITLED NUISANCE
ABATEMENT BOARD; CREATING CHAPTER 2-33 OF THE
MANATEE COUNTY CODE OF ORDINANCES TO PROVIDE FOR
ABATEMENT OF CRIMINAL NUISANCES; PROVIDING INTENT;
PROVIDING DEFINITIONS; PROVIDING FOR CRIMINAL
NUISANCE ABATEMENT BOARD; PROVIDING FOR HEARINGS;
PROVIDING FOR PENALTIES; PROVIDING SUPPLEMENTAL
PROVISIONS; PROVIDING FOR REVIEW; PROVIDING FOR
PROCEDURES; REPEALING CONFLICTING ORDINANCES;
PROVIDING FOR SEVERABILITY; AND PROVIDING AN
EFFECTIVE DATE.

CLERK OF COURT
TALLAHASSEE, FLORIDA

2010 AUG 16 AM 10:29

FILED

WHEREAS, Section 893.138, Florida Statutes (2009), authorizes the creation of administrative boards with authority to hear complaints and to impose administrative fines and other non-criminal penalties regarding criminal nuisances; and

WHEREAS, pursuant to Section 893.138, Florida Statutes (1995), the Board of County Commissioners of Manatee County, Florida, enacted Ordinance No. 96-21, codified as Division 4 of Article VI of Chapter 2-2 of the Manatee County Code of Ordinances, which created the Manatee County Nuisance Abatement Board; and

WHEREAS, the Florida Legislature has amended Section 893.138, Florida Statutes, and Florida courts have decided cases involving nuisance abatement boards in other jurisdictions since the adoption of Manatee County Ordinance No. 96-21; and

WHEREAS, the Board of County Commissioners of Manatee County has determined that it is in the best interest of the County to repeal Division 4 of Article VI of Chapter 2-2 of the Manatee County Code of Ordinances relating to the Nuisance Abatement Board and to enact a new Chapter 2-33 of the Manatee County Code of Ordinances providing for abatement of criminal nuisances and creating a new criminal nuisance abatement board.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. Division 4 of Article VI of Chapter 2-2 of the Manatee County Code of Ordinances, entitled Nuisance Abatement Board, is hereby repealed.

Section 2. Chapter 2-33 of the Manatee County Code of Ordinances is hereby created to read as follows:

Chapter 2-33. Abatement of Criminal Nuisances.

Sec. 2-33-1. Intent.

It is the intent of this chapter to promote, protect, and improve the health, safety, and welfare of the citizens of Manatee County, Florida, by providing for the creation of an administrative board with authority to impose administrative fines and other non-criminal penalties in order to provide an equitable, expeditious, effective, and inexpensive method of enforcing ordinances in the unincorporated area of Manatee County under circumstances when a pending or repeated violation of a criminal nuisance continues to exist.

Sec. 2-33-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

Board shall mean the Manatee County criminal nuisance abatement board.

Controlled substance shall mean any substance named or described in Schedules I through V of Section 893.03, Florida Statutes, and any substance sold in lieu of a controlled substance in violation of Section 817.563, Florida Statutes, or any imitation controlled substance defined in Section 817.564, Florida Statutes.

County shall mean Manatee County, Florida.

County administrator shall mean the county administrator of Manatee County or the county administrator's designee.

County attorney shall mean the county attorney of Manatee County or a deputy county attorney assigned by the county attorney.

Criminal nuisance shall mean any place or premises that has been used:

- (1) On more than two (2) occasions within a six (6)-month period, as the site of a violation of Section 796.07, Florida Statutes;
- (2) On more than two (2) occasions within a six (6)-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (3) On one (1) occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one (1) occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (4) By a criminal gang for the purpose of conducting criminal gang activity as defined by Section 874.03, Florida Statutes; or
- (5) On more than two (2) occasions within a six (6)-month period, as the site of a violation of Section 812.019, Florida Statutes, relating to dealing in stolen property.

Recurring criminal nuisance shall mean any single or multiple occurrence of the same criminal public nuisance at the same place or premises during the one (1)-year effective term of an order entered by the board.

Sheriff shall mean the sheriff of Manatee County or a deputy sheriff designated by the sheriff.

Sec. 2-33-3. Criminal nuisance abatement board.

(a) There is hereby created a criminal nuisance abatement board as an administrative board to hear complaints regarding criminal nuisances on places or premises located in the unincorporated area of the county.

(b) The board shall consist of five (5) members appointed by the board of county commissioners for two (2)-year terms. Members of the board shall be residents of the county.

(c) The initial appointments to the board shall be as follows: two (2) members appointed for a term of one (1) year each, and three (3) members appointed for a term of two (2) years each. Thereafter, any appointment shall be made for a term of two (2) years.

(d) A member may be reappointed upon approval of the board of county commissioners.

(e) An appointment to fill any vacancy on the board shall be for the remainder of the unexpired term of office. If any member fails to attend two (2) of three (3) successive meetings without cause or without prior notice to the board, the board of county commissioners may declare the member's office vacant and shall promptly fill such vacancy.

(f) The members of the board shall serve without compensation at the pleasure of the board of county commissioners. Any member of the board may be suspended and removed with or without cause by a majority vote of the board of county commissioners.

(g) The members of the board shall elect a chair and a vice-chair, who shall be voting members, from among the members of the board. The presence of three (3) or more members shall constitute a quorum of the board.

(h) The county attorney shall serve as legal counsel to the board.

Sec. 2-33-4. Hearings.

(a) Upon the occurrence of any activity defined as a criminal nuisance, the sheriff shall furnish a written notice to the owner of the place or premises, informing the owner of such activity and the consequences if such activity is not eliminated. Should the activity continue to occur or be repeated at the same place or premises, any employee, officer, or resident of the county may file a complaint with the county administrator. The county administrator shall review the complaint

together with sworn supporting statements and other documents. If the county administrator determines that the activity defined as a criminal nuisance has been eliminated, the complaint may be dismissed. If the county administrator has reasonable cause to believe such activity continues to exist or has been repeated at the place or premises, the county administrator shall refer the complaint to the board for a hearing.

(b) In the event the owner does not eliminate the activity defined as a criminal nuisance, the board, through the county administrator, may schedule a hearing. A copy of the complaint and written notice of the hearing shall be provided to the owner of the place or premises at his or her last known address not less than three (3) days prior to the hearing. The notice shall be provided by certified mail, return receipt requested, or by hand delivery by the sheriff or other law enforcement officer.

(c) Upon request of the county administrator, or at such other times as may be necessary, the chair or vice-chair of the board may call a hearing of the board. The board at any hearing may set a future hearing date. Minutes shall be kept of all hearings of the board, and all hearings and proceedings shall be open to the public in accordance with the Government in the Sunshine Law, Chapter 286, Florida Statutes. The county administrator shall provide clerical and administrative personnel as may be reasonably required by the board for the proper performance of its duties.

(d) The clerk of the circuit court shall serve as clerk to the board as it serves as clerk to the board of county commissioners. The clerk shall keep minutes of all board proceedings and shall be the custodian of the official records of the board. All records of the board shall be public records in accordance with the Public Records Law, Chapter 119, Florida Statutes.

(e) A hearing on a complaint may be held if the owner of the place or premises complained against is absent, provided notice of the hearing has been given to such owner in

accordance with subsection (b) of this section.

(f) Each case before the board shall be presented by the complainant or by a member of the county administrative staff. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. The burden of proof at the hearing shall be on the complainant or the county administrative staff to establish that a criminal nuisance exists by competent and substantial evidence sufficient to meet the clear and convincing standard of proof.

(g) The owner of the place or premises shall have an opportunity, in person and/or through legal counsel, to present testimony and evidence in his or her defense, to cross examine witnesses, and to submit rebuttal testimony and evidence. The board may consider any evidence, including evidence of the general reputation of the place or premises.

(h) The board may continue a hearing in order to receive additional testimony and/or evidence or for any other reason the board determines appropriate before ruling on the complaint. If the board does not find that the allegations of the complaint have been proven, the board shall enter an order dismissing the complaint.

(i) At the conclusion of the hearing and based on the evidence received, the board may declare the place or premises to be a criminal nuisance. The order shall be by motion approved by a majority of those members present and voting, except that at least three (3) members of the board must vote in order for the action to be official. The order shall be reduced to writing and shall be signed by the chair or vice-chair of the board. The order shall be provided to the owner by U.S. mail or hand delivery.

Sec. 2-33-5. Penalties.

(a) If the board declares a place or premises to be a criminal nuisance, the board may enter an order requiring the owner of such place or premises to adopt such procedures as may be

appropriate under the circumstances to abate any such criminal nuisance or it may enter an order immediately prohibiting:

- (1) The maintaining of the criminal nuisance;
- (2) The operating or maintaining of the place or premises, including the closure of the place or premises or any part thereof, provided that the activities which constitute the criminal nuisance meet the standard of being inextricably intertwined with the operation of the place or premises as set forth in the case of Keshbro, Inc., vs. City of Miami, 801 So.2d 864 (Fla. 2001); or
- (3) The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such criminal nuisance.

(b) Before the board can order the closure of a place or premises under subsection (a) of this section, the board must make a factual finding that closure is the only effective option in eradicating the criminal nuisance, such finding to be supported by a written order setting forth the factual bases for such determination, and:

- (1) That the owner did not abate the criminal nuisance after being ordered by the board to do so;
- (2) That the owner did not substantially comply with an appropriate order entered by the board; and
- (3) That the owner continued to maintain an ongoing criminal nuisance.

(c) The order may require the county administrator to post a sign in a prominent location on any county right-of-way adjacent to the place or premises designating such place or premises to be a criminal nuisance.

(d) An order entered by the board shall expire after one (1) year or at such earlier time as stated in the order. The board may retain continuing jurisdiction for a period of one (1) year over

any place or premises that has been or is declared to be a criminal nuisance.

(e) An order entered by the board may be enforced pursuant to the procedures contained in Section 120.69, Florida Statutes. This provision does not subject the county or the board to any other provision of Chapter 120, Florida Statutes.

(f) The board may request that the board of county commissioners bring a complaint under Section 60.05, Florida Statutes, seeking temporary and permanent injunctive relief against any criminal nuisance.

(g) This chapter does not restrict the right of any person to proceed under Section 60.05, Florida Statutes, against any public nuisance.

Sec. 2-33-6. Supplemental provisions.

(a) The board may impose a fine not to exceed \$250 per day for each day a criminal nuisance exists at the place or premises, or a fine not to exceed \$500 per day for a recurring criminal nuisance. The board may order the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on criminal nuisances. The total fines imposed by the board pursuant to the authority of this chapter shall not exceed \$15,000.

(b) Orders on criminal nuisances shall be recorded in the public records of Manatee County, Florida, so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order. Recorded orders on criminal nuisances shall become liens against the real property that is the subject of the order. The board of county commissioners may authorize the foreclosure of property subject to such liens and the recovery of all costs, including reasonable attorney fees, associated with the recording of the orders and foreclosure of the liens.

(c) No lien created pursuant to the provisions of this chapter may be foreclosed on real property which is a homestead under Section 4, Article X of the State Constitution.

(d) Where the county seeks to bring an administrative action, based on a stolen property criminal nuisance, against a property owner operating an establishment where multiple tenants, on one (1) site, conduct their own retail business, the property owner shall not be subject to a lien against his or her property or the prohibition of operation provision if the property owner evicts the business declared to be a criminal nuisance within ninety (90) days after notification by registered mail to the property owner of a second stolen property conviction of the tenant.

(e) Nothing contained within this chapter prohibits the county from proceeding against a criminal nuisance by any other means, including, but not limited to, filing a complaint for a violation of Section 823.01, Florida Statutes.

Sec. 2-33-7. Review.

An aggrieved party, including the county, may seek review of a final administrative order of the board in circuit court. Such review shall be by petition for writ of certiorari filed within thirty (30) days from the date of execution of the order or other remedies as provided by law.

Sec. 2-33-8. Procedures.

Rules of procedure for the conduct of hearings and the operation of the board shall be adopted by resolution of the board of county commissioners. In the event of any conflict between rules established in this chapter and rules adopted by resolution, the rules established this chapter shall control.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance, including but not limited to Ordinance No. 96-21, are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the

provisions of this ordinance are declared severable.

Section 5. This ordinance shall become effective upon filing with the Department of State.

APPROVED AND ENACTED by the Board of County Commissioners of Manatee County, Florida, with a quorum present and voting, on the 10th day of August, 2010.



BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: [Signature]
Chairman

ATTEST: R. B. SHORE
Clerk of the Circuit Court

By: [Signature]



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 12 day of

August, 20 10

R.B. SHORE
Clerk of Circuit Court

By: [Signature] D.C.



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

DAWN K. ROBERTS
Interim Secretary of State

August 17, 2010

Honorable R. B. "Chips" Shore
Clerk of Circuit Court
Manatee County
Post Office Box 25400
Bradenton, Florida 34206

FILED FOR RECORD
R. B. SHORE

2010 AUG 31 AM 11:57

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

Attention: Ms. Robin Liberty, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated August 12, 2010 and certified copy of Manatee County Ordinance No. 10-57, which was filed in this office on August 16, 2010.

As requested, one date stamped copy is being returned for your records.

Sincerely,

Liz Cloud
Program Administrator

LC/srd
Enclosure

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dliis.dos.state.fl.us>

COMMUNITY DEVELOPMENT
850.245.6600 • FAX: 850.245.6643

STATE LIBRARY OF FLORIDA
850.245.6600 • FAX: 850.245.6744

STATE ARCHIVES OF FLORIDA
850.245.6700 • FAX: 850.488.4894

LEGISLATIVE LIBRARY SERVICE
850.488.2812 • FAX: 850.488.9879

RECORDS MANAGEMENT SERVICES
850.245.6750 • FAX: 850.245.6795

ADMINISTRATIVE CODE AND WEEKLY
850.245.6270 • FAX: 850.245.6282

From: Robin Liberty
Sent: Tuesday, August 31, 2010 12:47 PM
To: Millie Blevins; 'debbie.bassett@mymanatee.org'
Subject: Ordinance 10-57: Nuisance Abatement Board

Attachments: 10-057.pdf

Good Afternoon,

ATTACHED is Ordinance 10-57, adopted by the BCC on 8/10/10, and filed with Secretary of State.

Thank you.

Robin Liberty
Clerk of Circuit Court
Board Records Dept.
(941) 749-1800, Ext. 4178
FAX: (941) 741-4089
robin.liberty@manateeclerk.com

From: Robin Liberty

Sent: Tuesday, August 31, 2010 12:54 PM

To: 'ords@municode.com'

Subject: Manatee County - ORDINANCE 10-57: NUISANCE ABATEMENT BOARD

Attachments: 10-057.pdf

Good Afternoon,

ATTACHED is Ordinance 10-57, adopted by the Manatee County Board of County Commissioners on August 10, 2010, and filed with the Secretary of State on August 16, 2010.

Please return to me acknowledgement upon receipt and filing with your office.

Thank you.

Robin Liberty

Clerk of Circuit Court

Board Records Dept.

(941) 749-1800, Ext. 4178

FAX: (941) 741-4089

robin.liberty@manateeclerk.com

From: Ords Admin [ords@municode.com]
Sent: Tuesday, August 31, 2010 1:56 PM
To: Robin Liberty
Subject: RE: Manatee County, FL - ORDINANCE 10-57: - Acct.#12202

We have received your files. Thank you for your submission.

Respectfully,

Ords. Admin.
ords@municode.com
1-800-262-2633
(850) 576-3172 ext. 235
Fax No. (850) 575-8852
P.O. Box 2235
1700 Capital Circle, S.W.
Tallahassee, FL 32317-2235

Please send all documents in WORD format to ords@municode.com.

From: Robin Liberty [mailto:robin.liberty@ManateeClerk.com]
Sent: Tuesday, August 31, 2010 12:54 PM
To: Ords Admin
Subject: Manatee County - ORDINANCE 10-57: NUISANCE ABATEMENT BOARD

Good Afternoon,

ATTACHED is Ordinance 10-57, adopted by the Manatee County Board of County Commissioners on August 10, 2010, and filed with the Secretary of State on August 16, 2010.

Please return to me acknowledgement upon receipt and filing with your office.

Thank you.

Robin Liberty
Clerk of Circuit Court
Board Records Dept.
(941) 749-1800, Ext. 4178
FAX: (941) 741-4089
robin.liberty@manateeclerk.com

Florida has a very broad Public Records Law. This agency is a public entity and is subject to Chapter 119 of the Florida Statutes, concerning public records. E-mail communications are covered under such laws & therefore e-mail sent or received on this entity's computer system, including your e-mail address, may be disclosed to the public or media upon request.

ORDINANCE NO. 10-57

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, RELATING TO ABATEMENT OF CRIMINAL NUISANCES; REPEALING DIVISION 4 OF ARTICLE VI OF CHAPTER 2-2 OF THE MANATEE COUNTY CODE OF ORDINANCES, ENTITLED NUISANCE ABATEMENT BOARD; CREATING CHAPTER 2-33 OF THE MANATEE COUNTY CODE OF ORDINANCES TO PROVIDE FOR ABATEMENT OF CRIMINAL NUISANCES; PROVIDING INTENT; PROVIDING DEFINITIONS; PROVIDING FOR CRIMINAL NUISANCE ABATEMENT BOARD; PROVIDING FOR HEARINGS; PROVIDING FOR PENALTIES; PROVIDING SUPPLEMENTAL PROVISIONS; PROVIDING FOR REVIEW; PROVIDING FOR PROCEDURES; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 893.138, Florida Statutes (2009), authorizes the creation of administrative boards with authority to hear complaints and to impose administrative fines and other non-criminal penalties regarding criminal nuisances; and

WHEREAS, pursuant to Section 893.138, Florida Statutes (1995), the Board of County Commissioners of Manatee County, Florida, enacted Ordinance No. 96-21, codified as Division 4 of Article VI of Chapter 2-2 of the Manatee County Code of Ordinances, which created the Manatee County Nuisance Abatement Board; and

WHEREAS, the Florida Legislature has amended Section 893.138, Florida Statutes, and Florida courts have decided cases involving nuisance abatement boards in other jurisdictions since the adoption of Manatee County Ordinance No. 96-21; and

WHEREAS, the Board of County Commissioners of Manatee County has determined that it is in the best interest of the County to repeal Division 4 of Article VI of Chapter 2-2 of the Manatee County Code of Ordinances relating to the Nuisance Abatement Board and to enact a new Chapter 2-33 of the Manatee County Code of Ordinances providing for abatement of criminal nuisances and creating a new criminal nuisance abatement board.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

ORDINANCE NO. 10-57

Section 1. Division 4 of Article VI of Chapter 2-2 of the Manatee County Code of Ordinances, entitled Nuisance Abatement Board, is hereby repealed.

Section 2. Chapter 2-33 of the Manatee County Code of Ordinances is hereby created to read as follows:

Chapter 2-33. Abatement of Criminal Nuisances.

Sec. 2-33-1. Intent.

It is the intent of this chapter to promote, protect, and improve the health, safety, and welfare of the citizens of Manatee County, Florida, by providing for the creation of an administrative board with authority to impose administrative fines and other non-criminal penalties in order to provide an equitable, expeditious, effective, and inexpensive method of enforcing ordinances in the unincorporated area of Manatee County under circumstances when a pending or repeated violation of a criminal nuisance continues to exist.

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The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

Board shall mean the Manatee County criminal nuisance abatement board.

Controlled substance shall mean any substance named or described in Schedules I through V of Section 893.03, Florida Statutes, and any substance sold in lieu of a controlled substance in violation of Section 817.563, Florida Statutes, or any imitation controlled substance defined in Section 817.564, Florida Statutes.

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- (1) On more than two (2) occasions within a six (6)-month period, as the site of a violation of Section 796.07, Florida Statutes;
- (2) On more than two (2) occasions within a six (6)-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (3) On one (1) occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one (1) occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (4) By a criminal gang for the purpose of conducting criminal gang activity as defined by Section 874.03, Florida Statutes; or
- (5) On more than two (2) occasions within a six (6)-month period, as the site of a violation of Section 812.019, Florida Statutes, relating to dealing in stolen property.

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Sheriff shall mean the sheriff of Manatee County or a deputy sheriff designated by the sheriff.

Sec. 2-33-3. Criminal nuisance abatement board.

(a) There is hereby created a criminal nuisance abatement board as an administrative board to hear complaints regarding criminal nuisances on places or premises located in the unincorporated area of the county.

ORDINANCE NO. 10-57

(b) The board shall consist of five (5) members appointed by the board of county commissioners for two (2)-year terms. Members of the board shall be residents of the county.

(c) The initial appointments to the board shall be as follows: two (2) members appointed for a term of one (1) year each, and three (3) members appointed for a term of two (2) years each. Thereafter, any appointment shall be made for a term of two (2) years.

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(e) An appointment to fill any vacancy on the board shall be for the remainder of the unexpired term of office. If any member fails to attend two (2) of three (3) successive meetings without cause or without prior notice to the board, the board of county commissioners may declare the member's office vacant and shall promptly fill such vacancy.

(f) The members of the board shall serve without compensation at the pleasure of the board of county commissioners. Any member of the board may be suspended and removed with or without cause by a majority vote of the board of county commissioners.

(g) The members of the board shall elect a chair and a vice-chair, who shall be voting members, from among the members of the board. The presence of three (3) or more members shall constitute a quorum of the board.

(h) The county attorney shall serve as legal counsel to the board.

Sec. 2-33-4. Hearings.

(a) Upon the occurrence of any activity defined as a criminal nuisance, the sheriff shall furnish a written notice to the owner of the place or premises, informing the owner of such activity and the consequences if such activity is not eliminated. Should the activity continue to occur or be repeated at the same place or premises, any employee, officer, or resident of the county may file a complaint with the county administrator. The county administrator shall review the complaint

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together with sworn supporting statements and other documents. If the county administrator determines that the activity defined as a criminal nuisance has been eliminated, the complaint may be dismissed. If the county administrator has reasonable cause to believe such activity continues to exist or has been repeated at the place or premises, the county administrator shall refer the complaint to the board for a hearing.

(b) In the event the owner does not eliminate the activity defined as a criminal nuisance, the board, through the county administrator, may schedule a hearing. A copy of the complaint and written notice of the hearing shall be provided to the owner of the place or premises at his or her last known address not less than three (3) days prior to the hearing. The notice shall be provided by certified mail, return receipt requested, or by hand delivery by the sheriff or other law enforcement officer.

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(d) The clerk of the circuit court shall serve as clerk to the board as it serves as clerk to the board of county commissioners. The clerk shall keep minutes of all board proceedings and shall be the custodian of the official records of the board. All records of the board shall be public records in accordance with the Public Records Law, Chapter 119, Florida Statutes.

(e) A hearing on a complaint may be held if the owner of the place or premises complained against is absent, provided notice of the hearing has been given to such owner in

accordance with subsection (b) of this section.

(f) Each case before the board shall be presented by the complainant or by a member of the county administrative staff. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. The burden of proof at the hearing shall be on the complainant or the county administrative staff to establish that a criminal nuisance exists by competent and substantial evidence sufficient to meet the clear and convincing standard of proof.

(g) The owner of the place or premises shall have an opportunity, in person and/or through legal counsel, to present testimony and evidence in his or her defense, to cross examine witnesses, and to submit rebuttal testimony and evidence. The board may consider any evidence, including evidence of the general reputation of the place or premises.

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(a) If the board declares a place or premises to be a criminal nuisance, the board may enter an order requiring the owner of such place or premises to adopt such procedures as may be

appropriate under the circumstances to abate any such criminal nuisance or it may enter an order immediately prohibiting:

- (1) The maintaining of the criminal nuisance;
- (2) The operating or maintaining of the place or premises, including the closure of the place or premises or any part thereof, provided that the activities which constitute the criminal nuisance meet the standard of being inextricably intertwined with the operation of the place or premises as set forth in the case of Keshbro, Inc., vs. City of Miami, 801 So.2d 864 (Fla. 2001); or
- (3) The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such criminal nuisance.

(b) Before the board can order the closure of a place or premises under subsection (a) of this section, the board must make a factual finding that closure is the only effective option in eradicating the criminal nuisance, such finding to be supported by a written order setting forth the factual bases for such determination, and:

- (1) That the owner did not abate the criminal nuisance after being ordered by the board to do so;
- (2) That the owner did not substantially comply with an appropriate order entered by the board; and
- (3) That the owner continued to maintain an ongoing criminal nuisance.

(c) The order may require the county administrator to post a sign in a prominent location on any county right-of-way adjacent to the place or premises designating such place or premises to be a criminal nuisance.

(d) An order entered by the board shall expire after one (1) year or at such earlier time as stated in the order. The board may retain continuing jurisdiction for a period of one (1) year over

any place or premises that has been or is declared to be a criminal nuisance.

(e) An order entered by the board may be enforced pursuant to the procedures contained in Section 120.69, Florida Statutes. This provision does not subject the county or the board to any other provision of Chapter 120, Florida Statutes.

(f) The board may request that the board of county commissioners bring a complaint under Section 60.05, Florida Statutes, seeking temporary and permanent injunctive relief against any criminal nuisance.

(g) This chapter does not restrict the right of any person to proceed under Section 60.05, Florida Statutes, against any public nuisance.

Sec. 2-33-6. Supplemental provisions.

(a) The board may impose a fine not to exceed \$250 per day for each day a criminal nuisance exists at the place or premises, or a fine not to exceed \$500 per day for a recurring criminal nuisance. The board may order the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on criminal nuisances. The total fines imposed by the board pursuant to the authority of this chapter shall not exceed \$15,000.

(b) Orders on criminal nuisances shall be recorded in the public records of Manatee County, Florida, so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order. Recorded orders on criminal nuisances shall become liens against the real property that is the subject of the order. The board of county commissioners may authorize the foreclosure of property subject to such liens and the recovery of all costs, including reasonable attorney fees, associated with the recording of the orders and foreclosure of the liens.

(c) No lien created pursuant to the provisions of this chapter may be foreclosed on real property which is a homestead under Section 4, Article X of the State Constitution.

ORDINANCE NO. 10-57

(d) Where the county seeks to bring an administrative action, based on a stolen property criminal nuisance, against a property owner operating an establishment where multiple tenants, on one (1) site, conduct their own retail business, the property owner shall not be subject to a lien against his or her property or the prohibition of operation provision if the property owner evicts the business declared to be a criminal nuisance within ninety (90) days after notification by registered mail to the property owner of a second stolen property conviction of the tenant.

(e) Nothing contained within this chapter prohibits the county from proceeding against a criminal nuisance by any other means, including, but not limited to, filing a complaint for a violation of Section 823.01, Florida Statutes.

Sec. 2-33-7. Review.

An aggrieved party, including the county, may seek review of a final administrative order of the board in circuit court. Such review shall be by petition for writ of certiorari filed within thirty (30) days from the date of execution of the order or other remedies as provided by law.

Sec. 2-33-8. Procedures.

Rules of procedure for the conduct of hearings and the operation of the board shall be adopted by resolution of the board of county commissioners. In the event of any conflict between rules established in this chapter and rules adopted by resolution, the rules established this chapter shall control.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance, including but not limited to Ordinance No. 96-21, are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the

provisions of this ordinance are declared severable.

Section 5. This ordinance shall become effective upon filing with the Department of State.

APPROVED AND ENACTED by the Board of County Commissioners of Manatee County, Florida, with a quorum present and voting, on the 10th day of August, 2010.

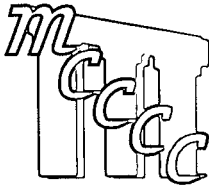


BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: 
Chairman

ATTEST: R. B. SHORE
Clerk of the Circuit Court

By: 



Manatee County

Clerk of the Circuit Court and Comptroller

R.B. "Chips" Shore

P.O. Box 25400 • Bradenton, Florida 34206 • (941) 749-1800 • FAX (941) 741-4082 • www.manateeclerk.com

August 12, 2010

Florida Department of State
Attn: Liz Cloud
Administrative Code Unit
R. A. Gray Building, Room 101
500 S. Bronough Street
Tallahassee, Florida 32399-0250

Dear Ms. Cloud:

Enclosed are two certified copies of **Ordinance 10-57**, adopted by the Board of County Commissioners, Manatee County, Florida, in open session on August 10, 2010.

Please stamp each copy with the date filed by the Office of the Secretary of State, retain one copy for your file, and return one to my office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robin Liberty'.

R. B. Shore
By Robin Liberty, D.C.

RBS:RLL
Enclosures (2)
cc: Board Records

"Pride in Service with a Vision to the Future"

Clerk of Circuit and County Court - Clerk of Board of County Commissioners - County Comptroller, Auditor and Recorder

**FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM**

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (904)-488-8427 or Suncom 278-8427.

COUNTY: (MANATEE)

COUNTY ORDINANCE (10-57)

(e.g., 93-001)

PRIMARY KEYFIELD

DESCRIPTOR: (NUISANCES/HAZARDS)

SECONDARY KEYFIELD

DESCRIPTOR: (BOARDS/COMMITTEES)

OTHER KEYFIELD

DESCRIPTOR: ()

ORDINANCE DESCRIPTION: (CREATION OF NUISANCE BOARD)

(25 characters maximum including spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT #1: () **AMENDMENT #2:** ()

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: (96-21); **REPEAL #3:** (); **REPEAL #5:** ()
REPEAL #2: (); **REPEAL #4:** (); **REPEAL #6:** ()
REPEAL #7: ()

(Others repealed; list all that apply):

(FOR OFFICE USE ONLY):

COUNTY CODE NUMBER: ()

KEYFIELD 1 CODE: () **KEYFIELD 2 CODE:** ()

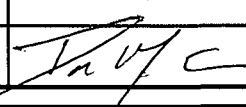
KEYFIELD 3 CODE: ()

Rev. 6/29/93

MANATEE COUNTY GOVERNMENT

AGENDA MEMORANDUM

37

SUBJECT	Ordinance No. 10-57 Relating to Abatement of Criminal Nuisances	TYPE AGENDA ITEM	Public Hearing Presentation Upon Request
DATE REQUESTED	August 10, 2010	DATE SUBMITTED/REVISED	August 5, 2010
BRIEFINGS? Who?	None	CONSEQUENCES IF DEFERRED	N/A
DEPARTMENT/DIVISION	Neighborhood Services Department/ Nuisance Abatement Division	AUTHORIZED BY TITLE	Cheri Coryea, Director, Neighborhood Services Department
CONTACT PERSON TELEPHONE/EXTENSION	Ann Marie Harper, Manager, Nuisance Abatement Division, Ext. 3088	PRESENTER/TITLE TELEPHONE/EXTENSION	Maureen S. Sikora, Deputy County Attorney, Ext. 3750
ADMINISTRATIVE APPROVAL			

ACTION DESIRED INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED	APPROVED IN OPEN SESSION AUG 10 2010
Motion to approve Ordinance No. 10-57.	

ENABLING/REGULATING AUTHORITY Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, Florida Statutes	BOARD OF COUNTY COMMISSIONERS MANATEE COUNTY, FLORIDA
Section 893.138, Florida Statutes	

BACKGROUND/DISCUSSION
<p>Attached is a copy of Ordinance No. 10-57 relating to abatement of criminal nuisances. This ordinance repeals the existing provisions regarding the Nuisance Abatement Board from the Manatee County Code of Ordinances and creates a new chapter in the Code of Ordinances providing for a Criminal Nuisance Abatement Board. Revisions have been made to the powers and responsibilities of the board based on amendments to Florida Statutes and court cases involving nuisance abatement boards in other jurisdictions.</p> <p>Among the modifications made by Ordinance No. 10-57 from the existing Code of Ordinances are the following:</p> <ul style="list-style-type: none"> • A new section has been created to provide definitions. • Definitions have been added for controlled substance and recurring criminal nuisance. • The definition of criminal nuisance has been amended to include violations of Florida Statutes relating to dealing in stolen property. • The membership of the criminal nuisance abatement board has been reduced from seven (7) members to five (5) members, and the quorum of the board has been reduced from four (4) members to three (3) members. • Language has been inserted to provide for reappointment of criminal nuisance abatement board members, appointments to fill vacancies, officers of the board, and voting by such officers. • The section of the Code of Ordinances pertaining to cross-designation of the nuisance abatement board as a code enforcement board has been deleted to avoid issues of dual officeholding by board members. • The sections of the Code of Ordinances empowering the nuisance abatement board to subpoena violators, witnesses and evidence have been eliminated based on cases that held a local governing body had no legal authority to grant subpoena powers to a non-elected board. • Language has been inserted providing that the county attorney shall serve as legal counsel to the criminal nuisance abatement board. • The process for reviewing complaints, investigating criminal nuisances and initiating cases has been substantially revised in accordance with recommendations from the Manatee County Sheriff's Office. • The contents of the notice of hearing and the order of presentation for cases have been deleted from the Code of Ordinances and will be included in rules of procedure for the criminal nuisance abatement board. • Authority has been added for the criminal nuisance abatement board to continue a hearing or dismiss a complaint. • Standards have been established requiring factual findings and criteria for the criminal nuisance abatement board to order closure of a place or premises based on the holding by the Florida Supreme Court in the case of <u>Keshbro, Inc. v. City of Miami</u>. • Authority has been added for the criminal nuisance abatement board to order the county to post a sign on adjacent county right-of-way designating a place or premises as a criminal nuisance to ensure consistency of signage and to avoid potential trespass claims. • A new section has been created to provide supplemental provisions authorizing the criminal nuisance abatement board to impose fines not to exceed \$250 per day for a criminal nuisance or \$500 per day for a recurring criminal nuisance, up to a total amount of \$15,000, to order payment of reasonable costs and attorneys fees, and to record orders in the public records which become liens against real property.

- Language has been inserted authorizing the board of county commissioners to foreclose on property which is the subject of liens for criminal nuisance abatement orders and to recover costs and attorneys fees.
- Limitations have been established with respect to foreclosure of liens on real property which is a homestead and administrative actions based on a stolen property criminal nuisance against property with multiple tenants conducting their own retail business.
- The section pertaining to review has been amended to insert other remedies as provided by law.

In addition to the County Attorney's Office, the ordinance has been reviewed by County staff in the Neighborhood Services Department, Manatee County Sheriff's Office and Clerk of the Circuit Court as well as representatives from the South County Community Redevelopment Area Advisory Board, Federation of Manatee County Community Associations and Manatee County landlords association. Comments and revisions proposed by these individuals have been incorporated into the ordinance whenever possible.

COUNTY ATTORNEY REVIEW	
Check appropriate box	
<input type="checkbox"/>	REVIEWED Written Comments: <input type="checkbox"/> Attached <input type="checkbox"/> Available from Attorney (Attorney's initials: _____)
<input type="checkbox"/>	NOT REVIEWED (No apparent legal issues.)
<input type="checkbox"/>	NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)
<input checked="" type="checkbox"/>	OTHER Agenda Memorandum and Ordinance prepared by Attorney (MSS)

ATTACHMENTS: (List in order as attached)		INSTRUCTIONS TO BOARD RECORDS:	
1. Ordinance No. 10-57 2. Notice of Public Hearing for Ordinance No. 10-57 3. Proof of Publication for Ordinance No. 10-57		Return stamped copy of this Agenda Memorandum and copy of signed Ordinance No. 10-57 to County Attorney's Office. <i>Proof - copy of State 8/12/10 RUC</i>	
COST:	None	SOURCE (ACCT # & NAME):	N/A
COMMENTS:	None	AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)	N/A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, pursuant to Section 125.66(2)(a), Florida Statutes, that the Board of County Commissioners of Manatee County, Florida, will conduct a public hearing on August 10, 2010, at 9:00 a.m., or as soon thereafter as possible, in the Commission Chambers, located on the first floor of the Manatee County Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, to consider the following ordinance:

ORDINANCE NO. 10-57

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, RELATING TO ABATEMENT OF CRIMINAL NUISANCES; REPEALING DIVISION 4 OF ARTICLE VI OF CHAPTER 2-2 OF THE MANATEE COUNTY CODE OF ORDINANCES, ENTITLED NUISANCE ABATEMENT BOARD; CREATING CHAPTER 2-33 OF THE MANATEE COUNTY CODE OF ORDINANCES TO PROVIDE FOR ABATEMENT OF CRIMINAL NUISANCES; PROVIDING INTENT; PROVIDING DEFINITIONS; PROVIDING FOR CRIMINAL NUISANCE ABATEMENT BOARD; PROVIDING FOR HEARINGS; PROVIDING FOR PENALTIES; PROVIDING SUPPLEMENTAL PROVISIONS; PROVIDING FOR REVIEW; PROVIDING FOR PROCEDURES; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Copies of the proposed ordinance may be inspected by the public during normal business hours in the Office of the Manatee County Attorney, 1112 Manatee Avenue West, Suite 969, Bradenton, Florida 34205. A reasonable charge may be made for the provision of copies.

Interested parties are advised that they may appear at the meeting and be heard with respect to the proposed ordinance.

The Board of County Commissioners of Manatee County does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Board's functions, including one's access to, participation in, employment with, or treatment in its programs or activities. Anyone requiring reasonable accommodation for this meeting as provided for in the Americans with Disabilities Act should contact Kaycee Ellis at (941) 742-5800; TDD ONLY (941) 742-5802 and wait 60 seconds; FAX (941) 745-3790.

Pursuant to Section 286.0105, Florida Statutes, if any person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the meeting or hearing, he or she will need a record of the proceedings and, for such purposes, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes any testimony and evidence upon which the appeal is to be based.

DATE TO BE PUBLISHED: **Friday, July 30, 2010**

BRADENTON HERALD

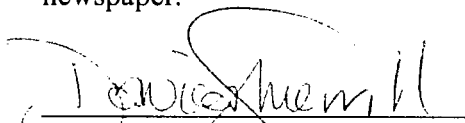
WWW.BRADENTON.COM
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Bradenton, FL 34206-0921
102 Manatee Avenue West
Bradenton, FL 34205-8894
Ph: 941-745-7066
Fax: 941-708-7758

Bradenton Herald
Published Daily
Bradenton, Manatee County, Florida

STATE OF FLORIDA
COUNTY OF MANATEE

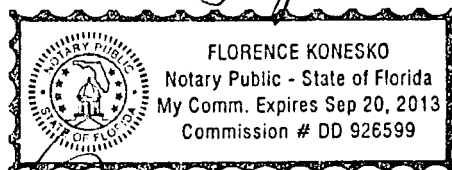
Before the undersigned authority personally appeared Danica Sherrill, who, on oath, says that she is a Legal Advertising Representative of the Bradenton Herald, a daily newspaper published at Bradenton in Manatee County, Florida; that the attached copy of the advertisement, **LEGAL NOTICE OF PUBLIC HEARING** as published in said newspaper in the issue **07/30/2010**.


Affiant further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.


(Signature of Affiant)

Sworn to and subscribed before me this

30 Day of July, 2010




SEAL & Notary Public

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

BRADENTON HERALD**CLASSIFIED ADVERTISING**

Order:	131980515	Pubs:	1,9	Rate:	LE
Phone:	9417453750	Class:	4995	Charges:	\$ 0.00
Account:	11805	Start Date:	07/30/2010	List Price:	\$ 225.68
Name:	MANATEE,	Stop Date:	07/30/2010	Payments:	\$ 0.00
Firm:	MANATEE CO-CTY ATTY	Insertions:	2	Balance:	\$ 225.68

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07/30/2010

Repealed

ORDINANCE NO. 10-57

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, RELATING TO ABATEMENT OF CRIMINAL NUISANCES; REPEALING DIVISION 4 OF ARTICLE VI OF CHAPTER 2-2 OF THE MANATEE COUNTY CODE OF ORDINANCES, ENTITLED NUISANCE ABATEMENT BOARD; CREATING CHAPTER 2-33 OF THE MANATEE COUNTY CODE OF ORDINANCES TO PROVIDE FOR ABATEMENT OF CRIMINAL NUISANCES; PROVIDING INTENT; PROVIDING DEFINITIONS; PROVIDING FOR CRIMINAL NUISANCE ABATEMENT BOARD; PROVIDING FOR HEARINGS; PROVIDING FOR PENALTIES; PROVIDING SUPPLEMENTAL PROVISIONS; PROVIDING FOR REVIEW; PROVIDING FOR PROCEDURES; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 893.138, Florida Statutes (2009), authorizes the creation of administrative boards with authority to hear complaints and to impose administrative fines and other non-criminal penalties regarding criminal nuisances; and

WHEREAS, pursuant to Section 893.138, Florida Statutes (1995), the Board of County Commissioners of Manatee County, Florida, enacted Ordinance No. 96-21, codified as Division 4 of Article VI of Chapter 2-2 of the Manatee County Code of Ordinances, which created the Manatee County Nuisance Abatement Board; and

WHEREAS, the Florida Legislature has amended Section 893.138, Florida Statutes, and Florida courts have decided cases involving nuisance abatement boards in other jurisdictions since the adoption of Manatee County Ordinance No. 96-21; and

WHEREAS, the Board of County Commissioners of Manatee County has determined that it is in the best interest of the County to repeal Division 4 of Article VI of Chapter 2-2 of the Manatee County Code of Ordinances relating to the Nuisance Abatement Board and to enact a new Chapter 2-33 of the Manatee County Code of Ordinances providing for abatement of criminal nuisances and creating a new criminal nuisance abatement board.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. Division 4 of Article VI of Chapter 2-2 of the Manatee County Code of Ordinances, entitled Nuisance Abatement Board, is hereby repealed.

Section 2. Chapter 2-33 of the Manatee County Code of Ordinances is hereby created to read as follows:

Chapter 2-33. Abatement of Criminal Nuisances.

Sec. 2-33-1. Intent.

It is the intent of this chapter to promote, protect, and improve the health, safety, and welfare of the citizens of Manatee County, Florida, by providing for the creation of an administrative board with authority to impose administrative fines and other non-criminal penalties in order to provide an equitable, expeditious, effective, and inexpensive method of enforcing ordinances in the unincorporated area of Manatee County under circumstances when a pending or repeated violation of a criminal nuisance continues to exist.

Sec. 2-33-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

Board shall mean the Manatee County criminal nuisance abatement board.

Controlled substance shall mean any substance named or described in Schedules I through V of Section 893.03, Florida Statutes, and any substance sold in lieu of a controlled substance in violation of Section 817.563, Florida Statutes, or any imitation controlled substance defined in Section 817.564, Florida Statutes.

County shall mean Manatee County, Florida.

County administrator shall mean the county administrator of Manatee County or the county administrator's designee.

County attorney shall mean the county attorney of Manatee County or a deputy county attorney assigned by the county attorney.

Criminal nuisance shall mean any place or premises that has been used:

- (1) On more than two (2) occasions within a six (6)-month period, as the site of a violation of Section 796.07, Florida Statutes;
- (2) On more than two (2) occasions within a six (6)-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (3) On one (1) occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one (1) occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (4) By a criminal gang for the purpose of conducting criminal gang activity as defined by Section 874.03, Florida Statutes; or
- (5) On more than two (2) occasions within a six (6)-month period, as the site of a violation of Section 812.019, Florida Statutes, relating to dealing in stolen property.

Recurring criminal nuisance shall mean any single or multiple occurrence of the same criminal public nuisance at the same place or premises during the one (1)-year effective term of an order entered by the board.

Sheriff shall mean the sheriff of Manatee County or a deputy sheriff designated by the sheriff.

Sec. 2-33-3. Criminal nuisance abatement board.

(a) There is hereby created a criminal nuisance abatement board as an administrative board to hear complaints regarding criminal nuisances on places or premises located in the unincorporated area of the county.

ORDINANCE NO. 10-57

(b) The board shall consist of five (5) members appointed by the board of county commissioners for two (2)-year terms. Members of the board shall be residents of the county.

(c) The initial appointments to the board shall be as follows: two (2) members appointed for a term of one (1) year each, and three (3) members appointed for a term of two (2) years each. Thereafter, any appointment shall be made for a term of two (2) years.

(d) A member may be reappointed upon approval of the board of county commissioners.

(e) An appointment to fill any vacancy on the board shall be for the remainder of the unexpired term of office. If any member fails to attend two (2) of three (3) successive meetings without cause or without prior notice to the board, the board of county commissioners may declare the member's office vacant and shall promptly fill such vacancy.

(f) The members of the board shall serve without compensation at the pleasure of the board of county commissioners. Any member of the board may be suspended and removed with or without cause by a majority vote of the board of county commissioners.

(g) The members of the board shall elect a chair and a vice-chair, who shall be voting members, from among the members of the board. The presence of three (3) or more members shall constitute a quorum of the board.

(h) The county attorney shall serve as legal counsel to the board.

Sec. 2-33-4. Hearings.

(a) Upon the occurrence of any activity defined as a criminal nuisance, the sheriff shall furnish a written notice to the owner of the place or premises, informing the owner of such activity and the consequences if such activity is not eliminated. Should the activity continue to occur or be repeated at the same place or premises, any employee, officer, or resident of the county may file a complaint with the county administrator. The county administrator shall review the complaint

together with sworn supporting statements and other documents. If the county administrator determines that the activity defined as a criminal nuisance has been eliminated, the complaint may be dismissed. If the county administrator has reasonable cause to believe such activity continues to exist or has been repeated at the place or premises, the county administrator shall refer the complaint to the board for a hearing.

(b) In the event the owner does not eliminate the activity defined as a criminal nuisance, the board, through the county administrator, may schedule a hearing. A copy of the complaint and written notice of the hearing shall be provided to the owner of the place or premises at his or her last known address not less than three (3) days prior to the hearing. The notice shall be provided by certified mail, return receipt requested, or by hand delivery by the sheriff or other law enforcement officer.

(c) Upon request of the county administrator, or at such other times as may be necessary, the chair or vice-chair of the board may call a hearing of the board. The board at any hearing may set a future hearing date. Minutes shall be kept of all hearings of the board, and all hearings and proceedings shall be open to the public in accordance with the Government in the Sunshine Law, Chapter 286, Florida Statutes. The county administrator shall provide clerical and administrative personnel as may be reasonably required by the board for the proper performance of its duties.

(d) The clerk of the circuit court shall serve as clerk to the board as it serves as clerk to the board of county commissioners. The clerk shall keep minutes of all board proceedings and shall be the custodian of the official records of the board. All records of the board shall be public records in accordance with the Public Records Law, Chapter 119, Florida Statutes.

(e) A hearing on a complaint may be held if the owner of the place or premises complained against is absent, provided notice of the hearing has been given to such owner in

accordance with subsection (b) of this section.

(f) Each case before the board shall be presented by the complainant or by a member of the county administrative staff. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. The burden of proof at the hearing shall be on the complainant or the county administrative staff to establish that a criminal nuisance exists by competent and substantial evidence sufficient to meet the clear and convincing standard of proof.

(g) The owner of the place or premises shall have an opportunity, in person and/or through legal counsel, to present testimony and evidence in his or her defense, to cross examine witnesses, and to submit rebuttal testimony and evidence. The board may consider any evidence, including evidence of the general reputation of the place or premises.

(h) The board may continue a hearing in order to receive additional testimony and/or evidence or for any other reason the board determines appropriate before ruling on the complaint. If the board does not find that the allegations of the complaint have been proven, the board shall enter an order dismissing the complaint.

(i) At the conclusion of the hearing and based on the evidence received, the board may declare the place or premises to be a criminal nuisance. The order shall be by motion approved by a majority of those members present and voting, except that at least three (3) members of the board must vote in order for the action to be official. The order shall be reduced to writing and shall be signed by the chair or vice-chair of the board. The order shall be provided to the owner by U.S. mail or hand delivery.

Sec. 2-33-5. Penalties.

(a) If the board declares a place or premises to be a criminal nuisance, the board may enter an order requiring the owner of such place or premises to adopt such procedures as may be

appropriate under the circumstances to abate any such criminal nuisance or it may enter an order immediately prohibiting:

- (1) The maintaining of the criminal nuisance;
- (2) The operating or maintaining of the place or premises, including the closure of the place or premises or any part thereof, provided that the activities which constitute the criminal nuisance meet the standard of being inextricably intertwined with the operation of the place or premises as set forth in the case of Keshbro, Inc., vs. City of Miami, 801 So.2d 864 (Fla. 2001); or
- (3) The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such criminal nuisance.

(b) Before the board can order the closure of a place or premises under subsection (a) of this section, the board must make a factual finding that closure is the only effective option in eradicating the criminal nuisance, such finding to be supported by a written order setting forth the factual bases for such determination, and:

- (1) That the owner did not abate the criminal nuisance after being ordered by the board to do so;
- (2) That the owner did not substantially comply with an appropriate order entered by the board; and
- (3) That the owner continued to maintain an ongoing criminal nuisance.

(c) The order may require the county administrator to post a sign in a prominent location on any county right-of-way adjacent to the place or premises designating such place or premises to be a criminal nuisance.

(d) An order entered by the board shall expire after one (1) year or at such earlier time as stated in the order. The board may retain continuing jurisdiction for a period of one (1) year over

any place or premises that has been or is declared to be a criminal nuisance.

(e) An order entered by the board may be enforced pursuant to the procedures contained in Section 120.69, Florida Statutes. This provision does not subject the county or the board to any other provision of Chapter 120, Florida Statutes.

(f) The board may request that the board of county commissioners bring a complaint under Section 60.05, Florida Statutes, seeking temporary and permanent injunctive relief against any criminal nuisance.

(g) This chapter does not restrict the right of any person to proceed under Section 60.05, Florida Statutes, against any public nuisance.

Sec. 2-33-6. Supplemental provisions.

(a) The board may impose a fine not to exceed \$250 per day for each day a criminal nuisance exists at the place or premises, or a fine not to exceed \$500 per day for a recurring criminal nuisance. The board may order the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on criminal nuisances. The total fines imposed by the board pursuant to the authority of this chapter shall not exceed \$15,000.

(b) Orders on criminal nuisances shall be recorded in the public records of Manatee County, Florida, so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order. Recorded orders on criminal nuisances shall become liens against the real property that is the subject of the order. The board of county commissioners may authorize the foreclosure of property subject to such liens and the recovery of all costs, including reasonable attorney fees, associated with the recording of the orders and foreclosure of the liens.

(c) No lien created pursuant to the provisions of this chapter may be foreclosed on real property which is a homestead under Section 4, Article X of the State Constitution.

ORDINANCE NO. 10-57

(d) Where the county seeks to bring an administrative action, based on a stolen property criminal nuisance, against a property owner operating an establishment where multiple tenants, on one (1) site, conduct their own retail business, the property owner shall not be subject to a lien against his or her property or the prohibition of operation provision if the property owner evicts the business declared to be a criminal nuisance within ninety (90) days after notification by registered mail to the property owner of a second stolen property conviction of the tenant.

(e) Nothing contained within this chapter prohibits the county from proceeding against a criminal nuisance by any other means, including, but not limited to, filing a complaint for a violation of Section 823.01, Florida Statutes.

Sec. 2-33-7. Review.

An aggrieved party, including the county, may seek review of a final administrative order of the board in circuit court. Such review shall be by petition for writ of certiorari filed within thirty (30) days from the date of execution of the order or other remedies as provided by law.

Sec. 2-33-8. Procedures.

Rules of procedure for the conduct of hearings and the operation of the board shall be adopted by resolution of the board of county commissioners. In the event of any conflict between rules established in this chapter and rules adopted by resolution, the rules established this chapter shall control.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance, including but not limited to Ordinance No. 96-21, are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the

provisions of this ordinance are declared severable.

Section 5. This ordinance shall become effective upon filing with the Department of State.

APPROVED AND ENACTED by the Board of County Commissioners of Manatee County, Florida, with a quorum present and voting, on the ____ day of _____, 2010.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: _____
Chairman

ATTEST: R. B. SHORE
Clerk of the Circuit Court

By: _____

Robin Liberty

#37

From: Susan Romine
Sent: Tuesday, August 10, 2010 7:53 AM
To: Robin Liberty
Subject: FW: Ordinance No. 10-57 Relating to Abatement of Criminal Nuisances
Attachments: Ordinance 10-57.pdf

From: Wendy Smith
Sent: Monday, August 09, 2010 4:42 PM
To: Susan Romine
Subject: FW: Ordinance No. 10-57 Relating to Abatement of Criminal Nuisances

From: maureen.sikora@mymanatee.org [mailto:maureen.sikora@mymanatee.org]
Sent: Monday, August 09, 2010 4:41 PM
To: Susan Romine
Cc: Chips Shore; Wendy Smith; Diane Vollmer; cheri.coryea@mymanatee.org; annmarie.harper@mymanatee.org
Subject: Ordinance No. 10-57 Relating to Abatement of Criminal Nuisances

Attached for your information is a copy of the final version of the above-referenced ordinance which is included in the agenda materials for the Board of County Commissioners meeting tomorrow. The only change in the attached ordinance is addition of the phrase "or other remedies as provided by law" at the end of the section entitled Review on page 9.

----- Forwarded by Maureen Sikora/MCG on 08/09/2010 04:35 PM -----

From: Kate Stefaniak/MCG
To: Maureen Sikora/MCG@MCG
Date: 08/09/2010 04:08 PM
Subject: Ordinance

Kate J. Stefaniak
Legal Assistant to
William E. Clague, Deputy County Attorney and
Maureen S. Sikora, Deputy County Attorney
kate.stefaniak@mymanatee.org
PHONE (941) 745-3750
FAX (941) 749-3089

Please Note: Florida has a very broad public records law. Most communications to or from government officials regarding government business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

Florida has a very broad Public Records Law. This agency is a public entity and is subject to Chapter 119 of the Florida Statutes, concerning public records. E-mail communications are covered under such laws & therefore e-mail sent or received on this entity's computer system, including your e-mail address, may be disclosed to the public or media upon request.

8/10/2010

ORDINANCE NO. 10-57

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, RELATING TO ABATEMENT OF CRIMINAL NUISANCES; REPEALING DIVISION 4 OF ARTICLE VI OF CHAPTER 2-2 OF THE MANATEE COUNTY CODE OF ORDINANCES, ENTITLED NUISANCE ABATEMENT BOARD; CREATING CHAPTER 2-33 OF THE MANATEE COUNTY CODE OF ORDINANCES TO PROVIDE FOR ABATEMENT OF CRIMINAL NUISANCES; PROVIDING INTENT; PROVIDING DEFINITIONS; PROVIDING FOR CRIMINAL NUISANCE ABATEMENT BOARD; PROVIDING FOR HEARINGS; PROVIDING FOR PENALTIES; PROVIDING SUPPLEMENTAL PROVISIONS; PROVIDING FOR REVIEW; PROVIDING FOR PROCEDURES; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 893.138, Florida Statutes (2009), authorizes the creation of administrative boards with authority to hear complaints and to impose administrative fines and other non-criminal penalties regarding criminal nuisances; and

WHEREAS, pursuant to Section 893.138, Florida Statutes (1995), the Board of County Commissioners of Manatee County, Florida, enacted Ordinance No. 96-21, codified as Division 4 of Article VI of Chapter 2-2 of the Manatee County Code of Ordinances, which created the Manatee County Nuisance Abatement Board; and

WHEREAS, the Florida Legislature has amended Section 893.138, Florida Statutes, and Florida courts have decided cases involving nuisance abatement boards in other jurisdictions since the adoption of Manatee County Ordinance No. 96-21; and

WHEREAS, the Board of County Commissioners of Manatee County has determined that it is in the best interest of the County to repeal Division 4 of Article VI of Chapter 2-2 of the Manatee County Code of Ordinances relating to the Nuisance Abatement Board and to enact a new Chapter 2-33 of the Manatee County Code of Ordinances providing for abatement of criminal nuisances and creating a new criminal nuisance abatement board.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. Division 4 of Article VI of Chapter 2-2 of the Manatee County Code of Ordinances, entitled Nuisance Abatement Board, is hereby repealed.

Section 2. Chapter 2-33 of the Manatee County Code of Ordinances is hereby created to read as follows:

Chapter 2-33. Abatement of Criminal Nuisances.

Sec. 2-33-1. Intent.

It is the intent of this chapter to promote, protect, and improve the health, safety, and welfare of the citizens of Manatee County, Florida, by providing for the creation of an administrative board with authority to impose administrative fines and other non-criminal penalties in order to provide an equitable, expeditious, effective, and inexpensive method of enforcing ordinances in the unincorporated area of Manatee County under circumstances when a pending or repeated violation of a criminal nuisance continues to exist.

Sec. 2-33-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

Board shall mean the Manatee County criminal nuisance abatement board.

Controlled substance shall mean any substance named or described in Schedules I through V of Section 893.03, Florida Statutes, and any substance sold in lieu of a controlled substance in violation of Section 817.563, Florida Statutes, or any imitation controlled substance defined in Section 817.564, Florida Statutes.

County shall mean Manatee County, Florida.

County administrator shall mean the county administrator of Manatee County or the county administrator's designee.

County attorney shall mean the county attorney of Manatee County or a deputy county attorney assigned by the county attorney.

Criminal nuisance shall mean any place or premises that has been used:

- (1) On more than two (2) occasions within a six (6)-month period, as the site of a violation of Section 796.07, Florida Statutes;
- (2) On more than two (2) occasions within a six (6)-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (3) On one (1) occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one (1) occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (4) By a criminal gang for the purpose of conducting criminal gang activity as defined by Section 874.03, Florida Statutes; or
- (5) On more than two (2) occasions within a six (6)-month period, as the site of a violation of Section 812.019, Florida Statutes, relating to dealing in stolen property.

Recurring criminal nuisance shall mean any single or multiple occurrence of the same criminal public nuisance at the same place or premises during the one (1)-year effective term of an order entered by the board.

Sheriff shall mean the sheriff of Manatee County or a deputy sheriff designated by the sheriff.

Sec. 2-33-3. Criminal nuisance abatement board.

(a) There is hereby created a criminal nuisance abatement board as an administrative board to hear complaints regarding criminal nuisances on places or premises located in the unincorporated area of the county.

ORDINANCE NO. 10-57

(b) The board shall consist of five (5) members appointed by the board of county commissioners for two (2)-year terms. Members of the board shall be residents of the county.

(c) The initial appointments to the board shall be as follows: two (2) members appointed for a term of one (1) year each, and three (3) members appointed for a term of two (2) years each. Thereafter, any appointment shall be made for a term of two (2) years.

(d) A member may be reappointed upon approval of the board of county commissioners.

(e) An appointment to fill any vacancy on the board shall be for the remainder of the unexpired term of office. If any member fails to attend two (2) of three (3) successive meetings without cause or without prior notice to the board, the board of county commissioners may declare the member's office vacant and shall promptly fill such vacancy.

(f) The members of the board shall serve without compensation at the pleasure of the board of county commissioners. Any member of the board may be suspended and removed with or without cause by a majority vote of the board of county commissioners.

(g) The members of the board shall elect a chair and a vice-chair, who shall be voting members, from among the members of the board. The presence of three (3) or more members shall constitute a quorum of the board.

(h) The county attorney shall serve as legal counsel to the board.

Sec. 2-33-4. Hearings.

(a) Upon the occurrence of any activity defined as a criminal nuisance, the sheriff shall furnish a written notice to the owner of the place or premises, informing the owner of such activity and the consequences if such activity is not eliminated. Should the activity continue to occur or be repeated at the same place or premises, any employee, officer, or resident of the county may file a complaint with the county administrator. The county administrator shall review the complaint

together with sworn supporting statements and other documents. If the county administrator determines that the activity defined as a criminal nuisance has been eliminated, the complaint may be dismissed. If the county administrator has reasonable cause to believe such activity continues to exist or has been repeated at the place or premises, the county administrator shall refer the complaint to the board for a hearing.

(b) In the event the owner does not eliminate the activity defined as a criminal nuisance, the board, through the county administrator, may schedule a hearing. A copy of the complaint and written notice of the hearing shall be provided to the owner of the place or premises at his or her last known address not less than three (3) days prior to the hearing. The notice shall be provided by certified mail, return receipt requested, or by hand delivery by the sheriff or other law enforcement officer.

(c) Upon request of the county administrator, or at such other times as may be necessary, the chair or vice-chair of the board may call a hearing of the board. The board at any hearing may set a future hearing date. Minutes shall be kept of all hearings of the board, and all hearings and proceedings shall be open to the public in accordance with the Government in the Sunshine Law, Chapter 286, Florida Statutes. The county administrator shall provide clerical and administrative personnel as may be reasonably required by the board for the proper performance of its duties.

(d) The clerk of the circuit court shall serve as clerk to the board as it serves as clerk to the board of county commissioners. The clerk shall keep minutes of all board proceedings and shall be the custodian of the official records of the board. All records of the board shall be public records in accordance with the Public Records Law, Chapter 119, Florida Statutes.

(e) A hearing on a complaint may be held if the owner of the place or premises complained against is absent, provided notice of the hearing has been given to such owner in

accordance with subsection (b) of this section.

(f) Each case before the board shall be presented by the complainant or by a member of the county administrative staff. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. The burden of proof at the hearing shall be on the complainant or the county administrative staff to establish that a criminal nuisance exists by competent and substantial evidence sufficient to meet the clear and convincing standard of proof.

(g) The owner of the place or premises shall have an opportunity, in person and/or through legal counsel, to present testimony and evidence in his or her defense, to cross examine witnesses, and to submit rebuttal testimony and evidence. The board may consider any evidence, including evidence of the general reputation of the place or premises.

(h) The board may continue a hearing in order to receive additional testimony and/or evidence or for any other reason the board determines appropriate before ruling on the complaint. If the board does not find that the allegations of the complaint have been proven, the board shall enter an order dismissing the complaint.

(i) At the conclusion of the hearing and based on the evidence received, the board may declare the place or premises to be a criminal nuisance. The order shall be by motion approved by a majority of those members present and voting, except that at least three (3) members of the board must vote in order for the action to be official. The order shall be reduced to writing and shall be signed by the chair or vice-chair of the board. The order shall be provided to the owner by U.S. mail or hand delivery.

Sec. 2-33-5. Penalties.

(a) If the board declares a place or premises to be a criminal nuisance, the board may enter an order requiring the owner of such place or premises to adopt such procedures as may be

appropriate under the circumstances to abate any such criminal nuisance or it may enter an order immediately prohibiting:

- (1) The maintaining of the criminal nuisance;
- (2) The operating or maintaining of the place or premises, including the closure of the place or premises or any part thereof, provided that the activities which constitute the criminal nuisance meet the standard of being inextricably intertwined with the operation of the place or premises as set forth in the case of Keshbro, Inc., vs. City of Miami, 801 So.2d 864 (Fla. 2001); or
- (3) The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such criminal nuisance.

(b) Before the board can order the closure of a place or premises under subsection (a) of this section, the board must make a factual finding that closure is the only effective option in eradicating the criminal nuisance, such finding to be supported by a written order setting forth the factual bases for such determination, and:

- (1) That the owner did not abate the criminal nuisance after being ordered by the board to do so;
- (2) That the owner did not substantially comply with an appropriate order entered by the board; and
- (3) That the owner continued to maintain an ongoing criminal nuisance.
- (c) The order may require the county administrator to post a sign in a prominent location

on any county right-of-way adjacent to the place or premises designating such place or premises to be a criminal nuisance.

(d) An order entered by the board shall expire after one (1) year or at such earlier time as stated in the order. The board may retain continuing jurisdiction for a period of one (1) year over

any place or premises that has been or is declared to be a criminal nuisance.

(e) An order entered by the board may be enforced pursuant to the procedures contained in Section 120.69, Florida Statutes. This provision does not subject the county or the board to any other provision of Chapter 120, Florida Statutes.

(f) The board may request that the board of county commissioners bring a complaint under Section 60.05, Florida Statutes, seeking temporary and permanent injunctive relief against any criminal nuisance.

(g) This chapter does not restrict the right of any person to proceed under Section 60.05, Florida Statutes, against any public nuisance.

Sec. 2-33-6. Supplemental provisions.

(a) The board may impose a fine not to exceed \$250 per day for each day a criminal nuisance exists at the place or premises, or a fine not to exceed \$500 per day for a recurring criminal nuisance. The board may order the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on criminal nuisances. The total fines imposed by the board pursuant to the authority of this chapter shall not exceed \$15,000.

(b) Orders on criminal nuisances shall be recorded in the public records of Manatee County, Florida, so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order. Recorded orders on criminal nuisances shall become liens against the real property that is the subject of the order. The board of county commissioners may authorize the foreclosure of property subject to such liens and the recovery of all costs, including reasonable attorney fees, associated with the recording of the orders and foreclosure of the liens.

(c) No lien created pursuant to the provisions of this chapter may be foreclosed on real property which is a homestead under Section 4, Article X of the State Constitution.

(d) Where the county seeks to bring an administrative action, based on a stolen property criminal nuisance, against a property owner operating an establishment where multiple tenants, on one (1) site, conduct their own retail business, the property owner shall not be subject to a lien against his or her property or the prohibition of operation provision if the property owner evicts the business declared to be a criminal nuisance within ninety (90) days after notification by registered mail to the property owner of a second stolen property conviction of the tenant.

(e) Nothing contained within this chapter prohibits the county from proceeding against a criminal nuisance by any other means, including, but not limited to, filing a complaint for a violation of Section 823.01, Florida Statutes.

Sec. 2-33-7. Review.

An aggrieved party, including the county, may seek review of a final administrative order of the board in circuit court. Such review shall be by petition for writ of certiorari filed within thirty (30) days from the date of execution of the order or other remedies as provided by law.

Sec. 2-33-8. Procedures.

Rules of procedure for the conduct of hearings and the operation of the board shall be adopted by resolution of the board of county commissioners. In the event of any conflict between rules established in this chapter and rules adopted by resolution, the rules established this chapter shall control.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance, including but not limited to Ordinance No. 96-21, are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the

provisions of this ordinance are declared severable.

Section 5. This ordinance shall become effective upon filing with the Department of State.

APPROVED AND ENACTED by the Board of County Commissioners of Manatee County, Florida, with a quorum present and voting, on the ____ day of _____, 2010.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: _____
Chairman

ATTEST: R. B. SHORE
Clerk of the Circuit Court

By: _____

✓ #37

IF YOU WISH TO ADDRESS THE BOARD DURING A PUBLIC HEARING ON TODAY'S AGENDA, PLEASE COMPLETE THIS FORM. THANK YOU.

Individuals wishing to speak on any Public Hearing matter must indicate so by filling out this form and returning it to the Clerk prior to the beginning of the Public Hearing.

PLEASE PRINT

Name Sandy Marched

Address Fm CCA

Representing _____

Public Hearing matter on which you want to speak: res. about ord

Please check one for each #:

1. Are you in favor: ☒ *
opposed: ☐

2A. Speaking as an individual? Yes ☐

OR

2B. If you are speaking as an official representative of a group: **

Name of Group: Fm CCA

**** You are required to provide the Clerk with written evidence of your authority to speak on behalf of the organization or group you represent for land use public hearings.**

3. Do you have a visual presentation or other evidence to be submitted to the Board?

Yes ☐

No ☐

4. Do you wish to be notified of any subsequent dispute resolution proceedings?

Yes ☐

No ☐

* Designation in favor or opposed is required solely for determination of the order of appearance. The number of people for or against a matter is not considered by the Board with regard to whether to approve or deny the matter.

✓ #39

**IF YOU WISH TO ADDRESS THE BOARD DURING A
PUBLIC HEARING ON TODAY'S AGENDA, PLEASE
COMPLETE THIS FORM. THANK YOU.**

Individuals wishing to speak on any Public Hearing matter must indicate so by filling out this form and returning it to the Clerk prior to the beginning of the Public Hearing.

PLEASE PRINT

Name DAVID ENGLISH
Address 6112 28th ST, E
BRADENTON FL

Representing _____

Public Hearing matter on which you want to speak:
NUISANCE ABATEMENT

Please check one for each #:

1. Are you in favor: ☒
opposed: ☐

2A. Speaking as an individual? Yes ☒

OR

2B. If you are speaking as an official representative of a group: **

Name of Group: _____

**** You are required to provide the Clerk with written evidence of your authority to speak on behalf of the organization or group you represent for land use public hearings.**

3. Do you have a visual presentation or other evidence to be submitted to the Board?

Yes ☐ No ☒

4. Do you wish to be notified of any subsequent dispute resolution proceedings?

Yes ☒ No ☐

* Designation in favor or opposed is required solely for determination of the order of appearance. The number of people for or against a matter is not considered by the Board with regard to whether to approve or deny the matter.

✓ # 37

**IF YOU WISH TO ADDRESS THE BOARD DURING A
PUBLIC HEARING ON TODAY'S AGENDA, PLEASE
COMPLETE THIS FORM. THANK YOU.**

Individuals wishing to speak on any Public Hearing matter must indicate so by filling out this form and returning it to the Clerk prior to the beginning of the Public Hearing.

PLEASE PRINT

Name John MANN

Address 6025 Fernoel ST
BOLAO

Representing South County CRA

Public Hearing matter on which you want to speak:

NUISANCE ABATEMENT

Please check one for each #:

1. Are you in favor: ☒ *
opposed: ☐

2A. Speaking as an individual? Yes ☐

Chairman ^{OR} of S.C.CRA

2B. If you are speaking as an official representative of a group: **

Name of Group: South County
CRA

**** You are required to provide the Clerk with written evidence of your authority to speak on behalf of the organization or group you represent for land use public hearings.**

3. Do you have a visual presentation or other evidence to be submitted to the Board?

Yes ☐

No ☒

4. Do you wish to be notified of any subsequent dispute resolution proceedings?

Yes ☐

No ☒

* Designation in favor or opposed is required solely for determination of the order of appearance. The number of people for or against a matter is not considered by the Board with regard to whether to approve or deny the matter.

To: nicollette.coetzee@mymanatee.org; debbie.bassett@mymanatee.org; annmarie.harper@mymanatee.org

Subject: BCC Mtg - 8/10/10: Item 37 - Ordinance 10-57

Attachments: BC20100810DOCA37.PDF

Good Morning,

Attached is stamped agenda memorandum pkg and executed Ordinance 10-57, adopted by the BCC on August 10, 2010.

Robin Liberty
Clerk of Circuit Court
Board Records Dept.
(941) 749-1800, Ext. 4178
FAX: (941) 741-4089
robin.liberty@manateeclerk.com

To: Susan Romine
Cc: Susan Romine
Subject: RE: Nuisance Abatement Ordinance

Attachments: Ord. 10-57.pdf
[Hi Jeanne,](#)

[Attached is Ordinance 10-57, as requested.](#)

[Robin Liberty](#)

From: Susan Romine
Sent: Friday, August 13, 2010 2:54 PM
To: Robin Liberty
Subject: FW: Nuisance Abatement Ordinance

[Thank you.](#)

From: jeanne.watkins@mymanatee.org [mailto:jeanne.watkins@mymanatee.org]
Sent: Friday, August 13, 2010 2:40 PM
To: Susan Romine
Subject: Nuisance Abatement Ordinance

Susan,

Could I get an executed copy of this Ordinance via e-mail that went to the Board this week. Thanks.

Jeanne

Jeanne Watkins
Administrative Compliance Coordinator
Manatee County
Neighborhood Services Department
P.O. Box 1000, Bradenton, FL 34206-1000
Telephone: (941) 749-3029
FAX: (941) 749-3027
email: jeanne.watkins@mymanatee.org
Jeanne.Watkins@mymanatee.org

Florida has a very broad Public Records Law. This agency is a public entity and is subject to Chapter 119 of the Florida Statutes, concerning public records. E-mail communications are covered under such laws & therefore e-mail sent or received on this entity's computer system, including your e-mail address, may be disclosed to the public or media upon request.