



Criminal Nuisance Abatement Board

Monday, March 14, 2011

Agenda

Location: Board of County Commissioners Chambers
Manatee County Administrative Center
1112 Manatee Avenue West, First Floor
Bradenton, FL 34205

Time: 1:30 p.m.

- I. Call to Order**
 - II. Introduction**
 - III. Swearing In**
 - IV. Election of Officers**
 - V. Orientation/Responsibilities**
***Ordinance Review**
 - VI. Meeting Schedule**
 - VII. Adjournment**
-

For information, contact:

John Barnott, Director
Building & Development Services Department
1112 Manatee Avenue West, 4th Floor
Bradenton, FL 34205
Phone: (941) 748-4501
Email: john.barnott@mymanatee.org

The Board of County Commissioners of Manatee County, Florida, 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, employment, 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 742-5801; TDD ONLY 742-5802 and wait 60 seconds; FAX 745-3790.

According to Florida Statutes, Section 286.0105, any person desiring to appeal any decision made by the Board with respect to any matter considered at said Public Meeting will need a record of the proceedings, and for such purposes may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based.

Criminal Nuisance Abatement Board

One Year Term (12/14/10 – 12/13/11)

Mr. Roger C. Galle
807 67th Avenue Terrace West
Bradenton, FL 34207
Phone: 758-3588 (home) 531-0048 (work)
Email: RG3588@yahoo.com

Ms. Michele Garden
1801 32nd Street West
Bradenton, FL 34205
Phone: 778-7204 (Home) 812-7311 (work/cell)
Email: mgarden001@tampabay.rr.com

Two Year Term (12/14/10 – 12/13/12)

Mr. Donald G. Howard
10315 Cortez Road West – 29 J Street
Bradenton, FL 34210
Phone: 761-3410 (Home) 920-6118 (Cell)
Email:

Mr. Lee S. Martin III
6012 9th Avenue West
Bradenton, FL 34209
Phone: 794-2570 (Home) 350-4230 (Cell)
Email: scilsm@aol.com

Mr. Paul E. Olah, Jr.
6238 Blue Runner Court
Bradenton, FL 34202
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Staff Contact Info

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JUN 17 9 38 AM '96

ORDINANCE NO. 96-21

SECRET

JUN 13 9 07 AM '96

FILED

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING THE MANATEE COUNTY CODE BY ESTABLISHING A NUISANCE ABATEMENT BOARD; SETTING FORTH THE PURPOSE, POWERS AND JURISDICTION OF THE BOARD; ESTABLISHING THE MEMBERSHIP OF SUCH BOARD; PROVIDING FOR SEVERABILITY; RESCINDING RESOLUTION R-88-156; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 893.138, Florida Statutes (1995), authorizes a county to create by ordinance an administrative board to hear complaints regarding certain enumerated nuisances; and,

WHEREAS, Section 893.138 , Florida Statutes (1995), authorizes a nuisance abatement board to hear complaints regarding the following nuisances:

1. any place or premises that has been used on more than two occasions within a 6-month period:
 - a. as the site of a violation of Section 796.07, Florida Statutes;
 - b. as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance; or,
2. any place or premises that has been used on one 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 occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance; or,

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Nuisance Abatement Board

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3. any place or building used by a youth and street gang for the purpose of conducting a pattern of youth and street gang activity; and,

WHEREAS, the creation of a nuisance abatement board pursuant to Section 893.138, Florida Statutes, will serve a legitimate public purpose and will benefit the public health, safety and welfare of the citizens of Manatee County.

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

Section 1 - Purpose. The purpose, function, and responsibility of the Manatee County Nuisance Abatement Board shall be to conduct hearings and enter orders to abate nuisances as defined herein located within the geographic bounds of unincorporated Manatee County, Florida, as set forth in Section 893.138, Florida Statutes (1995), as may be amended.

Section 2. There is hereby created the Manatee County Nuisance Abatement Board, hereinafter referred to as the "Board."

A. Composition; Appointment, Terms of Office

1. The Board shall consist of seven (7) members who shall be appointed by the Board of County Commissioners.
2. Terms of Office: Initial appointments to the Board shall be as follows:
Four (4) members shall be chosen to serve for two years; three (3) members shall be chosen to serve for one year. Thereafter, all appointees to the Board shall serve for a term of two years.

Section 3. Powers.

- A. The Board shall have the power to adopt rules for the administration and conduct of its hearings. Such rules shall be designed to facilitate the efficient administration of this ordinance and shall always ensure fundamental due process.
- B. The Board is cross-designated as a code enforcement board and, as such, pursuant to Section 162.08, Florida Statutes, the Board shall have the power to subpoena alleged violators and witnesses to its hearings. Such subpoenas may be served by the Manatee County Sheriff's Office, or by such other persons as provided by law.
- C. The Board shall have the power to subpoena evidence to its hearings.
- D. The Nuisance Abatement Board shall hear complaints regarding the following nuisances:
 - 1. any place or premises that has been used on more than two occasions within a 6-month period:
 - a. as the site of a violation of Section 796.07, Florida Statutes;
 - b. as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance; or
 - 2. any place or premises that has been used on one 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 occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance; or,
3. any place or building used by a youth and street gang for the purpose of conducting a pattern of youth and street gang activity.

Section 4 - Hearing Procedures, Initiation of Proceeding.

- A. Upon the occurrence of any prohibited activity as set forth in Section 3, the Sheriff shall furnish a written notice to the owner, informing the owner of the prohibited activity and the legal consequences if the prohibited activity is not eliminated.
- B. Should the prohibited activity(ies) continue to occur and violate Subsections 1, 2 and/or 3 of Section 3, D, of this Ordinance, then any employee, officer or resident of Manatee County may file a complaint with the County Administrator.
 1. The County Administrator or his designee shall review the complaint.
 2. If the County Administrator or his designee, in consultation with the County Attorney, has reason to believe that a public nuisance exists on the premises, the County Administrator or his designee shall provide written notice to the owner that a nuisance exists and that the owner shall have 30 days from date of receipt to eliminate the nuisance. Should it be determined that the public nuisance(s) is (are) being committed by non-resident violators, the County Administrator

or designee will suggest that the owner install no trespassing signage and report such trespass to the Manatee County Sheriff's Office.

- C. Upon the expiration of the time provided for the elimination of the nuisance, the Sheriff shall investigate and determine whether the nuisance continues to exist. If the Sheriff determines that the nuisance has been eliminated, or that no trespassing signage has been installed and that such trespass has been reported to his Office, the County Administrator or his designee may dismiss the complaint.
- D. In the event the owner does not eliminate the nuisance in the time provided, then the Board, through the Code Enforcement Division, shall schedule a hearing and give not less than three (3) days' written notice of the complaint and hearing to the owner of the place or premises at such owner's last known address.
 - 1. The notice of hearing shall include:
 - (a) The time, place and nature of the hearing.
 - (b) The legal authority and jurisdiction under which the hearing is to be held.
 - (c) A reference to the particular sections of the statutes and ordinances involved.
 - (d) A copy of the complaint.
- E. The Board shall conduct a hearing on the complaint, receiving evidence pertaining to the alleged unlawful possession, sale or delivery of a controlled

substance, the alleged pattern of youth and street gang activities, or the alleged violation of Florida Statute Section 796.07, at the site.

- F. The owner of the place or premises shall have the opportunity to appear before the Board, in person and/or through legal counsel, to offer evidence in defense of such owner. The Board may hold the hearing on a complaint although the owner of the place or premises complained against is absent from the hearing, provided notice of the hearing pursuant to Section 4, B hereof has been given.
- G. The Clerk of the Circuit Court shall serve as Clerk to the Nuisance Abatement Board as it serves as Clerk to the Board of County Commissioners. The Clerk shall keep minutes of all Nuisance Abatement Board proceedings, including evidence presented, the name of all witnesses giving testimony, findings of fact by the Nuisance Abatement Board, and the vote of each member, or if absent, or, failing to vote, such fact. The Clerk shall be the custodian of the official record of the Nuisance Abatement Board and shall keep indexed records of all Resolutions, transactions, findings and determinations. All such records shall be official public records and shall be covered by all Florida Statutes pertaining to public records.
- H. All testimony shall be under oath and shall be recorded. The parties may cross-examine each other, any witness, or any member of the public who testified. The Board may consider any evidence, including evidence of the general reputation of the place or premises. The Board shall not be bound

by formal rules of evidence; however, it shall act to ensure fundamental due process in its hearing process.

- I. The burden of proof at the hearing shall be on the complainant to establish that a nuisance exists by a preponderance of the evidence.
- J. The order of presentation in the hearing shall be as follows:
 - (1) opening statement by the Complainant;
 - (2) opening statement by the Owner of the place or premises.
 - (3) Testimony by witnesses on behalf of the Complainant and cross-examination;
 - (4) testimony by witnesses on behalf of the Owner of the place or premises and cross-examination;
 - (5) testimony by members of the general public in attendance at the hearing and cross-examination;
 - (6) summation by the complainant;
 - (7) summation by the owner of the place or premises.
- K. At the conclusion of the hearing, and based solely on the evidence received, the Board may find by a majority of the Board present and voting that the place or premises has been used as alleged in the complaint and that such place or premises thereby constitutes a public nuisance.

Section 5. Penalties.

- A. The Board may declare a place or premises to be a public nuisance, and order that the Sheriff post signs in a prominent location thereon designating the place or premises to be a public nuisance .
- B. 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 such nuisance, including ordering the owner to file a criminal complaint for trespassing against non-resident violators; or it may enter an order immediately prohibiting:
1. The maintaining of the nuisance;
 2. The operating or maintaining of the place or premises, including the closure of the place or premises or any part thereof ; or
 3. The conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance.
- C. At the conclusion of the hearing, the Board may orally enter its order. In such event, the Standard Form of Order shall be prepared and shall be signed by the Chairperson or vice-chair of the Board. The order shall be mailed by U.S. mail or shall be served on the owner. Any order entered pursuant to this section shall expire one (1) year after the date of such order, or at such earlier time as may be stated in the order.

Section 6. Appeals. An aggrieved party, including the County, may appeal a final administrative order of the Nuisance Abatement Board to the Circuit Court of the Twelfth Judicial Circuit. Such appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Board. An appeal shall be filed within 30 days of the date of the written order appealed from.

Section 7. Enforcement of Orders. An order entered under Section 5 may be enforced pursuant to the procedures contained in Section 120.69, Florida Statutes. Alternatively, the Board may bring a complaint under Section 60.05, Florida Statutes, seeking temporary and permanent injunctive relief against any nuisance declared by the Board. These remedies shall be in addition to any other available remedy. The County Attorney or an Assistant County Attorney shall prosecute such action on behalf of the Board.

Section 8. Attendance, quorum.

- A. Any member of the Board may be removed with or without cause by a majority vote of the Manatee County Board of County Commissioners. If any member of the Board fails to attend three (3) consecutive hearings, without cause or without prior notice to the Chairman of the Board, the Manatee County Board of County Commissioners may declare the office of the member vacant, and the vacant seat shall be filled by the Board of County Commissioners of Manatee County, Florida, for the unexpired term.

- [REDACTED] [REDACTED] [REDACTED]
- B. A quorum of the Board shall consist of four or more members, and an affirmative vote of a majority of those present and voting shall be necessary to pass any motion or adopt any order.

Section 9. Procedures.

- A. Additional rules of procedure governing the activities of the Nuisance Abatement Board will be set forth in an implementing Resolution to be adopted by the Board of County Commissioners.
- B. The rules of procedure may be altered by the Board in a manner not inconsistent with Florida Statutes and County ordinances.
- C. The Florida Rules of Civil Procedure may be used as a guideline to aid the Board in determining what procedures to follow in circumstances not covered by the Board's rules. However, the Board is not bound by such rules of civil procedure.
- D. All meetings, regular or special, and all hearings shall be open to the public in accordance with the provisions of the Florida "Sunshine Law", (Chapter 286, Florida Statutes).
- E. All records of the Board shall be open to public examination, inspection and copying in accordance with the provisions of the Florida "Public Records Law", (Chapter 119, Florida Statutes).

Section 10. Severability. The sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be deemed severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional or otherwise invalid by

a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity of any other phrases, clauses, sentences, paragraphs or sections hereof.

Section 11. Rescission of Resolution R-88-156. Board of County Commissioners
Resolution R-88-156 is hereby rescinded.

Section 12. Manatee County Code of Laws. This Ordinance shall be codified in the Manatee County Code of Laws.

Section 13. Effective Date. This ordinance shall take effect immediately upon receipt by the Clerk of Circuit Court of official acknowledgement from the Department of State that the ordinance has been filed.

ADOPTED by the Board of County Commissioners of Manatee County, Florida, on the 4th day of June, 1996.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: Sean Stephen
Chairman

ATTEST: **R. B. Shore**
Clerk of the Circuit Court

By: Susan G. Fournier

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 11th day of

June 19 1996
R. B. SHORE
Clerk of Circuit Court
By: Evelyn M. Floyd D.C.

ORDINANCE NO. 10-57

CLERK OF COURT RECORD
R. B. SHORE

2010 AUG 31 AM 11: 57

COURT
CLERK

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.

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(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

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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.

(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.

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(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, 2010

R. B. SHORE
Clerk of Circuit Court

By: [Signature] D.C.