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## **ARTICLE XI. NUISANCE ABATEMENT**

### **Sec. 34-305. Definitions.**

- (a) For the purpose of this article a "public nuisance" is defined as any place or premises that has been used:
- (1) On more than two occasions within a six-month period, as the site of a violation of F.S. § 796.07 as amended, entitled "Prohibiting prostitution and related acts";
  - (2) On more than two occasions within a six-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
  - (3) 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;
  - (4) By a criminal street gang for the purpose of conducting a pattern of criminal street gang activity as defined by F.S. § 874.03 as amended;
  - (5) On more than two occasions within a six-month period, as the site of a violation of F.S. § 812.019 as amended, relating to dealing in stolen property;
  - (6) On more than two occasions within a six-month period, as the site of a violation of F.S. ch. 499, as amended, known as the Florida Drug and Cosmetic Act;
  - (7) Any pain-management clinic, as described in F.S. §§ 458.3265, or 459.0137, as amended, which has been used on more than two occasions within a six-month period as the site of a violation of:
    - a. F.S. §§ 784.011, 784.021, 784.03, or 784.045, as amended, relating to assault and battery;
    - b. F.S. § 810.02, as amended, relating to burglary;
    - c. F.S. § 812.014, as amended, relating to theft;
    - d. F.S. § 812.131, as amended, relating to robbery by sudden snatching; or
    - e. F.S. § 893.13, as amended, relating to the unlawful distribution of controlled substances.
  - (8) On more than one occasion or for more than 24 hours in a manner that is detrimental to health or which threatens danger to persons or property within the city, but that does not also constitute a violation of a provision of the city Code;
  - (9) On more than one occasion or for more than 24 hours in a manner which annoys or disturbs another in the free use, possession, or enjoyment of his or her property within the city or which renders its ordinary use or occupation physically uncomfortable, but that does not also constitute a violation of the city Code;
  - (10) On more than one occasion or for more than 24 hours in a manner that is offensive or noxious by reason of the emission of odors, gases, dust, smoke, vibration, or noise or which constitutes an eyesore or nuisance to adjacent property owners, residents, or the community, but that does not also constitute a violation of the city Code; or
  - (11) On more than one occasion or for more than 24 hours in a manner that is detrimental to the health or which threatens danger to persons or property within the city, to store or dispose of any corrosive, combustible, or other hazardous or flammable materials or liquids.

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- (12) Anything designated a public nuisance in the city Code, zoning code, or ordinance of the city commission.

The board may declare such a property to be a public nuisance, and the city may abate the nuisance pursuant to the procedures provided in this article.

- (b) For the purposes of this article "operator" means an owner or person having, as an agent or otherwise, possession of, charge of, an interest in, or control of the place or premises.
- (c) For the purposes of this article, "complaint" means the official process by which cases are initiated and brought before the nuisance abatement board.

(Ord. No. 2017-27, § 2(34-191), 6-13-2017)

### **Sec. 34-306. Nuisance abatement board...**

### **Sec. 34-307. Procedures.**

(a) *Written complaint; reports.*

- (1) Any employee, officer of the city, or any resident of the city, may file a written complaint with code enforcement or the police department suggesting the existence of a public nuisance. Such matters may also be referred to code enforcement or the police department, thereby initiating this process, by the city commission or its individual members, city manager, city attorney, or building official. Code enforcement or the police department may also initiate a complaint based on their own observations. The city shall send notice of the complaint, including a copy of the complaint, by certified mail, return receipt requested, to the owner and operator at their last known addresses. The owner or operator shall provide a copy of the notice to all tenants or subtenants of the owner or operator.
- (2) The complaint shall state facts that reasonably tend to establish the existence of a public nuisance located within the city or having an effect on properties located within the city or on the residents of the city. The complaint shall only be for those public nuisances listed in section 34-305.
- (3) Any police officer making an arrest for a violation of the statutes referred to in section 34-305 or any police officer or public service aide or code enforcement officer making a report of an incident or occurrence of a breach of any statutes or the occurrence of any of the public nuisances listed in section 34-305 shall submit a copy of the arrest or other report to the city attorney or designee.

(4) The City Manager may initiate an expedited nuisance abatement process for a public nuisance that poses an immediate threat of harm to persons or property. An expedited nuisance abatement process shall require the clerk of the board to provide notice to the owner and operator at their last known addresses as outlined in this section and to schedule a hearing before the nuisance abatement board within five business days of the notice being mailed.

- (b) *Processing; review of case.* The city attorney or designee shall review all complaints and reports for compliance with the requirements of section 34-307(a) and determine whether they describe a public nuisance listed in section 34-305 and determine whether the case is legally sufficient for presentation to the board for its consideration and disposition as provided in this article. If so, the city attorney or designee shall forward the case to the clerk of the board.

€ *Hearings; hearing notices.*

- (1) The clerk of the board shall provide notice of the hearing to the owner and operator at their last known address as set forth in article VI of chapter 105. The owner or operator shall provide a copy of the notice of hearing to all tenants or subtenants of the owner or operator.

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- (2) The notice of hearing shall include a:
- a. Statement of the time, place, and nature of the hearing;
  - b. Reference to the particular sections of the statutes and/or ordinances involved; and
  - c. A short and plain statement of facts summarizing the incidents complained of.