

Board of County Commissioners

Public Hearing

**Ordinance to Amend Chapter 28
(Drug Sales and Nuisance Abatement),
Article IV, of the Orange County Code**

May 21, 2024



Presentation Outline

- **Background**
- **Current Ordinance**
- **Statutory Changes**
- **Proposed Amendment**
- **Summary**
- **Requested Action**



Background

- Throughout Orange County, communities deal with illicit After-Hour Clubs and Lounges that operate in violation of their liquor license or without the proper licensing at all.
- These operations often attract criminal activity involving drugs and violence, resulting in a large police presence, physical injuries, and property damage.
- The Orange County Sheriff's Office is seeking a process that would help curtail such activity through the Public Nuisance Abatement process.



Current Ordinance

- **Section 28-103, Orange County Code, defines the term “Public Nuisance” as follows:**

Public nuisance shall mean any place or premises that is alleged to have been used:

- (1) By a criminal street gang for the purpose of conducting a pattern of criminal street gang activity as defined by F.S. § 874.03;
- (2) On more than two (2) occasions within a six -month period, as the site of a violation of F.S. § 796.07, that pertains to prostitution;
- (3) On more than two (2) occasions within a six-month period, as the site of the unlawful sale, delivery, manufacture or cultivation of any controlled substance; or
- (4) 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; or
- (5) On more than two (2) occasions within a six-month period, as the site of a violation of F.S. § 812.019, relating to dealing in stolen property; or
- (6) On more than two (2) occasions within a six-month period, as the site of a violation of any combination of the following:
 - a. F.S. § 782.04, relating to murder;
 - b. F.S. § 782.051, relating to attempted felony murder;
 - c. F.S. § 784.045(1)(a)2., relating to aggravated battery with a deadly weapon; or
 - d. F.S. § 784.021(1)(a), relating to aggravated assault with a deadly weapon without intent to kill.



Statutory Changes

- **On April 11, 2024, Governor DeSantis signed Senate Bill 1090 into law.**
 - **This legislation amends Sections 562.12 and 893.138, Florida Statutes, by revising the punishment for the unlawful sale of alcoholic beverages and adding the unlawful sale of alcoholic beverages to the activities that may be declared a public nuisance and abated by local governments.**
 - **The Orange County Sheriff's Office anticipates using this update as an additional tool to target problem locations through the Nuisance Abatement process.**
 - **The County now seeks to update its definition of Public Nuisance to capture these statutory changes.**



Proposed Amendment

Public nuisance shall mean any place or premises that is alleged to have been used:

- (1) By a criminal street gang for the purpose of conducting a pattern of criminal street gang activity as defined by F.S. § 874.03;
- (2) On more than two (2) occasions within a six -month period, as the site of a violation of F.S. § 796.07, that pertains to prostitution;
- (3) On more than two (2) occasions within a six-month period, as the site of the unlawful sale, delivery, manufacture or cultivation of any controlled substance; or
- (4) 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; or
- (5) On more than two (2) occasions within a six-month period, as the site of a violation of F.S. § 812.019, relating to dealing in stolen property; or
- (6) On more than two (2) occasions within a six-month period, as the site of a violation of any combination of the following:
 - a. F.S. § 782.04, relating to murder;
 - b. F.S. § 782.051, relating to attempted felony murder;
 - c. F.S. § 784.045(1)(a)2., relating to aggravated battery with a deadly weapon; or
 - d. F.S. § 784.021(1)(a), relating to aggravated assault with a deadly weapon without intent to kill.

(7) On more than two occasions within a 12-month period, as the site of a violation of F.S. § 562.12, relating to the unlicensed or unlawful sale of alcoholic beverages.



Summary

- **The proposed amendment accomplishes the following:**
 - Includes a recitals section to provide the necessary background for the Ordinance.
 - Amends the definition of Public Nuisance to include the unlawful sale of alcohol by an establishment on more than two occasions within 12 months.
 - Allows the County to pursue code violations and other abatement strategies, including fines up to \$15,000, liens against the property, and potential foreclosure.
 - Provides an Effective Date of July 1, 2024, which is consistent with the statutory update.



Requested Action

- Approval of an Ordinance Amending Chapter 28 of the Orange County Code (“Drug Sales and Nuisance Abatement”) by Updating the Definition of “Public Nuisance” found in Section 28-103; and Providing an Effective Date.

and

- Authorize Staff to Correct any Non-Substantial Grammatical or Scrivener’s Errors.