



COUNTY ATTORNEY'S OFFICE
JEFFREY J. NEWTON, *County Attorney*

201 South Rosalind Avenue ■ 3rd Floor
Reply To: Post Office Box 1393
Orlando, FL 32802-1393
407-836-7320 ■ Fax 407-836-5888
www.ocfl.net

Public Hearing

Deputy County Attorney
Georgiana Holmes

Senior Assistant County Attorneys
Whitney E. Evers

Assistant County Attorneys
Roberta Alfonso
Lee N. Bernbaum
Joy Carmichael
James Harwood
James Hetz
Andrew Mai
Sawsan Mohiuddin
Desmond Morrell
Matthew Pritchett
Scott Shevenell
Leather Wallace
Shonda White

Legal Administrative Supervisor
Dan Randolph

Senior Paralegal
Aleessia Lofgren

Paralegals
Amar Sharpe
Jail Stanford
Maria Vargas

MEMORANDUM

TO: Mayor Jerry L. Demings
and
County Commissioners

FROM: Jeffrey J. Newton, County Attorney *JJM*
Desmond W. Morrell, Assistant County Attorney *DWM*

CONTACT: Desmond W. Morrell, Assistant County Attorney
(407) 836-9651

DATE: May 13, 2024

SUBJECT: **May 21, 2024 – Public Hearing**
Revisions to Chapter 28, Article IV, Drug Sales and Nuisance
Abatement Ordinance

This public hearing is to consider approval of an ordinance to amend a portion of Chapter 28, Article IV, Drug Sales and Nuisance Abatement. The proposed change would amend the definition of Public Nuisance to include the unlawful sale of alcohol by an establishment on more than two occasions within 12 months. This amendment would allow the County to pursue code violations and other abatement strategies, including fines up to \$15,000 and liens against violators.

Throughout Orange County, communities deal with illicit After-Hours Clubs or Hookah Lounges that operate without liquor licenses or in violation of their license. These illicit operations attract criminal activity involving dangerous drugs and violent crimes. Every weekend, deputies in Orange County are called to respond to complaints of violent crime or dangerous narcotics at these illicit clubs. During the 2024 legislative session, Governor DeSantis signed Senate Bill 1090 into law, which 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 a local government. The proposed amendment to Section 28-103, Orange County Code, seeks to capture the statutory updates by adding the unlawful sale of alcohol on more than

two occasions within a 12-month period to the definition of Public Nuisance. The Ordinance provides an effective date of July 1, 2024, which is consistent with the statute.

ACTION REQUESTED: 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. All Districts.

AND

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

Attachment

c: Byron W. Brooks, AICP, County Administrator
Jon V. Weiss, P.E., Deputy County Administrator
Georgiana Holmes, Deputy County Attorney
Austin Moore, General Counsel, Orange County Sheriff’s Office

2
4

ORDINANCE NO. 2024-__

6
8
10

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.

12
14

WHEREAS, effective July 1, 2024, the Florida Legislature amended Section 893.138, Florida Statutes, to provide that certain violations of law related to the unlawful sale of alcohol may be declared a public nuisance; and

16

WHEREAS, the unlawful sale of alcohol in Orange County can be a public nuisance that threatens the health, safety and general welfare of the residents of Orange County; and

18

WHEREAS, the intent of the Nuisance Abatement Board established under Chapter 28 of the Orange County Code is to promote, protect, and improve the health safety and welfare of the citizens of the county by abating public nuisances; and

20
22

WHEREAS, the Board of County Commissioners desires to amend the definitions section of Chapter 28 of the Orange County Code to include certain violations of law related to the unlawful sale of alcohol as a public nuisance as allowed in Section 893.138, Florida Statutes.

24

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

26

Section 1. Amendment to Section 28-103. The definition of “Public Nuisance” in Section 28-103 of the Orange County Code (“Definitions”) is hereby amended to read as follows,

28

with additions being shown by underlines and deletions being shown by strike-throughs:

30

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

32

(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;

34

(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;

36

38 (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

40 (4) On one (1) occasion as the site, of the unlawful
42 possession of a controlled substance, where such possession
constitutes a felony and that has been previously used on more than
44 one (1) occasion as the site of the unlawful sale, delivery,
manufacture or cultivation of any controlled substance; or

46 (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

48 (6) On more than two (2) occasions within a six-month
period, as the site of a violation of any combination of the following:

- 50 a. F.S. § 782.04, relating to murder;
- 52 b. F.S. § 782.051, relating to attempted felony
murder;
- 54 c. F.S. § 784.045(1)(a)2., relating to aggravated
battery with a deadly weapon; or
- 56 d. F.S. § 784.021(1)(a), relating to aggravated
assault with a deadly weapon without intent to kill.

58 (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.

62 *[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.]*

64 **Section 2. *Effective date.*** This ordinance shall take effect on July 1, 2024.

ADOPTED THIS ____ DAY OF _____, 2024.

66

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

68

By: _____
Jerry L. Demings
Orange County Mayor

70

72

74

76

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

78

80 By: _____
Deputy Clerk

82

84. s:\dmorrell\ordinances\ch 28 nuisance\ch 28 definition of public nuisance ordinance - draft 4-10-24.docx