

BCC Mtg. Date: October 13, 2020

EFFECTIVE DATE: October 16, 2020

**ORDINANCE NO. 2020-28**

**AN ORDINANCE RELATING TO PUBLIC NUISANCES IN ORANGE COUNTY, FLORIDA; AMENDING THE DEFINITIONS IN CHAPTER 28 OF THE ORANGE COUNTY CODE PERTAINING TO DRUG SALES AND NUISANCE ABATEMENT TO ALLOW FOR A COMBINATION OF CERTAIN VIOLENT OFFENSES OCCURRING ON MORE THAN TWO OCCASIONS WITHIN A SIX-MONTH PERIOD TO BE DECLARED A PUBLIC NUISANCE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to section 893.138, Florida Statutes, the Board of County Commissioners adopted Ordinance No. 99-01 on January 12, 1999, which established the "Orange County Drug Sales and Nuisance Abatement Ordinance"; and

**WHEREAS**, effective July 1, 2020, the Florida Legislature amended section 893.138, Florida Statutes, to include a combination of violent offenses which would qualify a place or premises to be abated or enjoined; and

**WHEREAS**, the Board of County Commissioners desires to amend the definitions section of Chapter 28 of the Orange County Code to include these additional offenses provided for by general law.

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

***Section 1: Amendment to Section 28-103.*** Section 103 of Chapter 28, Article IV of the Orange County Code, otherwise known as the "Drug Sales and Nuisance Abatement Ordinance", is hereby amended as follows with additions shown by underlines and deletions by strike-throughs.

**Section 28. 103. Definitions.**

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

*Complainant* shall mean the person who files a complaint alleging that a place or premises constitutes a public nuisance.

*Controlled substance* shall have the same meaning as stated in F.S. §§ 893.03 and 891.138 and any other applicable provision of general law, as may be amended from time to time.

*County attorney* shall mean the person who serves as legal counsel to the board of county commissioners or any deputy or assistant county attorney who serves on such person's behalf.

*Nuisance abatement board* shall mean the Orange County Nuisance Abatement Board which is also referred to herein as "board".

*Owner* shall mean the owner of the place or premises that is alleged to be a "public nuisance".

*Place or premises* shall mean the land and its appurtenances, structures and fixtures thereon, as such land is described or contained in a deed or instrument of conveyance and recorded in the Official Records of Orange County, Florida.

*Property* shall mean anything of value, and includes:

(1) Real property, including things growing on, affixed to, and found in land.

(2) Tangible or intangible personal property including rights privileges, interests and claims.

(3) Services.

(4) 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 occasions within a six-month period, as the site of a violation of any combination of the following:

1. F.S. § 782.04, relating to murder;
2. F.S. § 782.051, relating to attempted felony murder;
3. F.S. § 784.045(1)(a)2., relating to aggravated battery with a deadly weapon; or
4. F.S. § 784.021(1)(a), relating to aggravated assault with a deadly weapon without intent to kill.

*Recurring public nuisance* shall mean a second or other additional occurrence of a public nuisance during the effective term of an order entered by the nuisance abatement board.

*Services* shall mean anything of value resulting from a persons' physical or mental labor or skill, or from the use, possession, or presence of property, and includes:

- (1) Repairs or improvements.
- (2) Professional services.
- (3) Private, public, or government communication, transportation, power, water or sanitation services.
- (4) Lodging accommodations.
- (5) Admissions to places of exhibition or entertainment.

*Sheriff's Office* shall mean the Office of the Orange County Sheriff.

*Stolen property* shall mean property that has been the subject of any criminally wrong taking.

*Value* shall mean value determined according to any of the following:

(1) a. Value means the market value of the property at the time and place of the offense or, if such control cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense.

b. The value of a written instrument that does not have a readily ascertainable market value in the case of instrument such as a check, draft or promissory note, is the amount due or collectible or is, in the case of any other instrument which creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation, the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

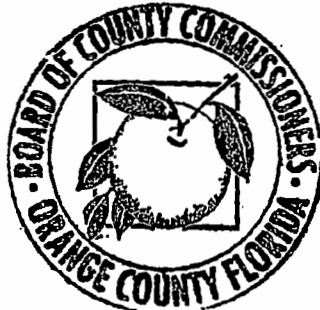
c. The value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner, suffered by reason of losing an advantage over those who do not know of or use the trade secret.

(2) If the value of the property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than one hundred dollars (\$100.00).

(3) Amounts of value of separate properties involved in thefts committed pursuant to one (1) scheme or course of conduct, whether the thefts are from the same person or from several persons, may be aggregated in determining the grade of the offense.

**Section 2. Effective Date.** This ordinance shall take effect upon its passage and as provided by law.

**ADOPTED** this 13<sup>th</sup> day of October, 2020.



ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By: Jerry L. Demings  
for Jerry L. Demings  
Orange County Mayor

DATE: OCT 13 2020

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

By: Katie Smith  
Deputy Clerk