

**202.13 UNSAFE STRUCTURES BOARD:** The Unsafe Structures Board is hereby created, consisting of nine members who shall be appointed by the Appointing Authority. All professional members of the Unsafe Structures Board should be registered and licensed in the State of Florida. In the event the Appointing Authority cannot find a properly qualified resident of the area under its jurisdiction, it may by majority vote of its membership, appoint a qualified non-resident of the specific categories or professions required.

**(a) QUALIFICATION OF MEMBERS:** Members of the Board shall be permanent residents of the area under the jurisdiction of the Appointing Authority, who possess outstanding reputations for civic activity, interest, integrity, responsibility, and business or professional ability. The composition and representative membership of the Board shall be as follows: a Registered Engineer, a Registered Architect, a General Building Contractor, an Electrical Contractor, an Attorney at Law, a Plumbing Contractor, a Real Estate Appraiser, a Real Estate Property Manager and Citizen with experience and background in the field of social problems.

**(b) TERMS OF OFFICE:** In order that the terms of office of all members of the Board shall not expire at the same time, the initial appointments to the Board shall be as follows: Three members for the term of two years, three members for the term of three years, and three members for the term of four years. Thereafter, all appointments shall be for the term of three years, provided that the term in all instances, shall continue until a successor is appointed and qualified. Appointments to fill any vacancy on the Board shall be for the remainder of the unexpired term, but failure to fill a vacancy shall not invalidate any action or decision of the Board.

**(c) ORGANIZATION OF THE BOARD:**

**(1)** The members of the board shall elect a Chairman and a Vice Chairman and such other officers as may be deemed necessary or desirable, who shall serve at the will of the Board. Election of officers shall be held at the first meeting after February First, and such officers shall hold office for one year.

**(2)** Five members of the Board shall constitute a quorum necessary to hold a meeting or take any action.

**(3)** A majority vote of the Board membership present and voting at a duly constituted meeting shall be sufficient to overrule, modify or affirm any action or decision of the Building Official or to take any other action within the scope of the power and duties of the Board.

**(4)** Members shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the performance of their official duties, upon approval by the legislative body adopting this Code.

**(5)** No member of the Board shall sit as a voting member in any hearing on a matter in which he has a personal or financial interest.

**(6)** The Building Official, or his designee, shall be the Secretary of the Board but shall have no vote.

**(7)** The Chairman or the Secretary may call meetings of the Board, and meetings may be called by written notice signed by three members of the Board.

**(8)** Minutes and records shall be kept of all meetings of the Board and all meetings shall be public.

**(9)** All hearings shall be open to the public, and any person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard in person, or through his attorney.

**(10)** Witnesses may be sworn and subpoenaed by the Board in a like manner as they are subpoenaed by the court or courts in the County in which this Code is adopted.

**(11)** The hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.

**(12)** Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient itself to support a finding unless it would be admissible over objection in civil actions.

**(13)** The rules of privilege shall be effective to the same extent that they are now, or hereafter may be, recognized in civil actions; and irrelevant and unduly repetitious evidence shall be excluded.

**(14)** The Board may establish rules and regulations for its own procedure.

(15) The Building Official shall provide adequate and competent clerical and administrative personnel and such technical or scientific personnel as may be reasonably required by the Board for the proper performance of its duties, subject to budget limitations and shall maintain a record of all proceedings in the office of the Building Official, including but not limited to a court reporter's transcript of the proceeding, and shall make available for copying any and all portions of the record of the proceeding and may certify the same as a true copy and make a reasonable charge therefor; provided, the court reporter shall certify the copy of his transcript.

(16) The Building Official shall provide a regular meeting place for the Board.

**(d) DUTIES AND POWERS OF THE BOARD:** The board shall have the following duties, functions, powers and responsibilities:

(1) Hear and determine appeals from actions and decisions of the Building Official pursuant to the provisions thereof.

(2) Hear and review the application of the Building Official for review of his action where his decision as indicated in a Notice of Violations has not been complied with.

(3) Affirm, modify or reverse the decision of the Building Official upon appeal or on application for review.

(4) The Board, through its Secretary, shall transmit the record with all exhibits, instruments, papers, and transcripts of its proceedings to the appointing authority in the event that authority shall consider the matter pursuant to applicable law in that regard made and provided.

(5) Hear and determine appeals from actions and decisions of the enforcing agency pursuant to the provisions of the applicable Minimum Housing Code.

**202.14 DUTIES OF LEGAL COUNSEL:** It shall be the duty of the attorney for the appointing authority, when so requested, to appear at all hearings before the Unsafe Structures Board and to represent and advise the Board.

**202.15 CONFLICT OF INTEREST:** No official, board member or employee charged with the enforcement of this law shall have any financial interest, directly or indirectly, in any repairs, corrections, construction or demolition which may be required, nor shall any official, board member or employee give to anyone the location of any property or the names of owners thereof on which repairs, corrections or demolition have been ordered, except as otherwise directed hereinafter, until after the owners have been formally advised at which time such shall become a matter of public record.

original 31

**ORDINANCE NO. 2006- 41**

**CITY OF POMPANO BEACH  
Broward County, Florida**

**AN ORDINANCE AMENDING CHAPTER 33, "BOARDS AND COMMISSIONS", OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY MODIFYING SECTION 33.130, "NUISANCE ABATEMENT BOARD", BY INCLUDING PROPERTY LOCATIONS THAT DEAL IN STOLEN PROPERTY AS A PUBLIC NUISANCE; BY INCREASING THE TOTAL AMOUNT OF FINES FOR PROPERTIES FOUND TO BE A PUBLIC NUISANCE; AND TO OTHERWISE CONFORM THE CITY'S ORDINANCE WITH CHANGES IN SECTION 893.138 FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That Section 33.130 "Nuisance Abatement Board", of Chapter 33, "Boards and Commissions", of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

**§ 33.130 NUISANCE ABATEMENT BOARD.**

...

(B) *Definitions.*

...

**PUBLIC NUISANCE** Any place or premises within the city limits of the City of Pompano Beach which has been used ~~on more than two occasions within a six month period:~~

(a) on more than two occasions within a 6-month period, As the site of a violations of F.S. § 796.07, F.S.; or

(b) on more than two occasions within a 6-month period, As the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance; or

(c) ~~On~~ 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

(d) ~~Any place or building used~~ by a criminal street gang for the purpose of conducting a pattern of criminal street gang activity as defined by § 874.03, F.S. ; or

(e) on more than two occasions within a 6-month period, as the site of a violation of § 812.019, F.S. relating to dealing in stolen property.

(C) Any public nuisance as defined in subsection (B) above, may be abated pursuant to the procedures set forth in this section.

(C) Procedures.

(1) Pursuant to F.S. § 893.138, F.S. the Nuisance Abatement Board shall hear complaints regarding public nuisances. Any employee, law enforcement officer, or resident of the city may ~~bring~~ initiate a complaint before the Board. The complaint shall be made to the City's ~~Police Department~~ Law Enforcement Agency, and shall be forwarded for review to the Nuisance Abatement Officer as designated by the Chief of Police. The Nuisance Abatement Officer shall promptly review said complaint and if determined that the complaint properly alleges that a public nuisance exists on a place or premises which is within the purview of the Board, the Nuisance Abatement Officer shall promptly request a hearing before the Nuisance Abatement Board from the ~~Board~~ Board's Clerk.

(3) (a) The Board shall attempt to convene no less frequently once every month, but may meet more or less often as the demand

necessitates. The Board may adopt additional rules for the conduct of its hearings. Minutes shall be kept of all hearings and hearings shall be open to the public. The Board shall have the power to subpoena owners, witnesses and evidence to the hearings. The city shall provide clerical and administrative personnel as may be reasonably required for the proper performance of the Board's duties.

(b) The City's Law Enforcement Agency's Police Department's Nuisance Abatement Officer, along with its legal counsel, or another party designated by the city, shall present all cases before the Board. All parties shall have an opportunity to present evidence and argument on all issues involved, to conduct cross-examination, to submit rebuttal evidence, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications before the Board. The Board may consider any evidence, including evidence of the general reputation of the place or premises. All testimony shall be under oath. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Orders of the Board shall be based upon competent and substantial evidence, and any findings that a nuisance exists must be based on a "preponderance of the evidence" standard. A majority vote of those Board members voting is required in order to approve any Board order.

...

(e) Requiring the owner to pay a fine in an amount up to \$250.00 per day for a public nuisance or up to \$500.00 per day for a recurring public nuisance. Total fines imposed pursuant to this section shall not exceed ~~\$7,500.00~~ \$15,000.00.

...

(6) The City's Police Department Law Enforcement Agency shall assist the Board in carrying out any legally authorized order rendered pursuant to this section.

...

(9) For any action under this section based upon a stolen property nuisance, against a property owner operating an establishment where multiple tenants, on one 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 nuisance within 90 days after notification by certified mail to the property owner, of a second stolen property violation by the tenant.

(910) The procedures contained within this section do not restrict the right of the Board or of any person or entity to bring a complaint under F.S. §

60.05, F. S., or F.S. § 823.05, F.S. against any public nuisance, or from proceeding against a public nuisance by any other means.

(4011) The City Attorney's Office shall act as legal counsel to the Board.

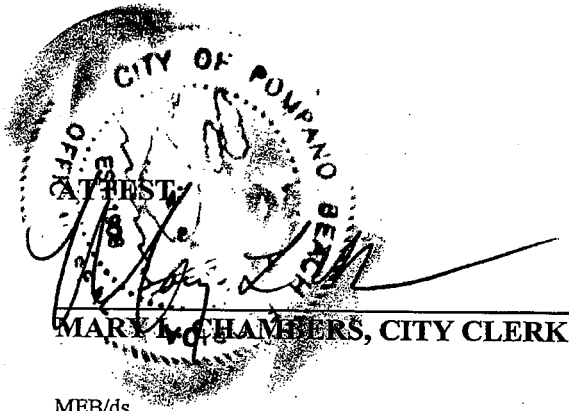
...

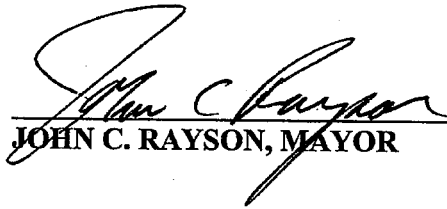
**SECTION 2.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 3.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this 23rd day of May, 2006.

**PASSED SECOND READING** this 13th day of June, 2006.



  
\_\_\_\_\_  
JOHN C. RAYSON, MAYOR

MEB/ds  
4/25/06  
l:ord/ch33/2006-231

orig # 30

**CITY OF POMPANO BEACH  
Broward County, Florida**

**AN ORDINANCE AMENDING CHAPTER 33, "BOARDS AND COMMISSIONS", OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 33.130, "NUISANCE ABATEMENT BOARD", TO INCREASE THE TOTAL AMOUNT OF FINES IMPOSED AND TO AUTHORIZE FORECLOSURE OF LIENS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1:** That Section 33.130, "Nuisance Abatement Board" of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

**Section 33.130 NUISANCE ABATEMENT BOARD.**

...

**(C) PROCEDURES.**

(1) Pursuant to Section 893.138, Florida Statutes, the Nuisance Abatement Board shall hear complaints regarding nuisances as described in Section 33.131. Any employee, officer, or resident of the City may bring a complaint before the Board. The complaint shall be made to the City's police department and shall be forwarded for review to the Nuisance Abatement Officer as designated by the Chief of Police. The Nuisance Abatement Officer shall

promptly review said complaint and if determined that the complaint properly alleges that a public nuisance exists on a place or premises which is within the purview of the Board, the Nuisance Abatement Officer shall promptly request a hearing before the Nuisance Abatement Board from the Board's Clerk

...

(4) After considering all evidence, the Board may declare the place or premises to be a public nuisance as defined in Section 33.130 (B)(1) and may enter an order as follows:

(a) Requiring the owner of such place or premises to adopt such procedure as may be appropriate under the circumstances to abate any such nuisance.

...

(e) Requiring the owner to pay a fine in an amount up to \$250.00 per day for a public nuisance or up to \$500.00 per day for a recurring public nuisance. Total fines imposed pursuant to this section shall not exceed ~~\$5,000.00~~ \$7,500.00.

(f) Providing for the payment of reasonable costs, including attorney's fees, associated with investigations of and hearings on public nuisances.

...

(8) A certified copy of orders on public nuisances entered by the Nuisance Abatement Board may be recorded in the public records and shall constitute a lien against the real property that is the subject of the order. A lien arising pursuant to this section runs in favor of the City, and the City may execute a satisfaction or release of lien upon compliance with the order.

(a) Said liens may be foreclosed in the manner prescribed by law for foreclosure of liens, and the Nuisance Abatement Board may authorize the City Attorney's Office to foreclose on the lien and to seek the recovery of all costs, including reasonable attorney's fees, associated with the recording of orders and foreclosure.

(b) No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under S. 4, Art. X of the State Constitution.

~~(8)~~ (9) The procedures contained within this Section do not restrict the right of the Board or of any person or entity to bring a complaint under



Section 60.05, Florida Statutes, or Section 823.05, Florida Statutes, against any public nuisance.

(9) (10) The City Attorney's Office shall act as legal counsel to the Board.

...

**SECTION 2:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 3:** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this 23rd day of November, 1999.

**PASSED SECOND READING** this 14th day of December, 1999.

  
\_\_\_\_\_  
E. PAT LARKINS, MAYOR

**ATTEST:**

  
\_\_\_\_\_  
MARY L. CHAMBERS, CITY CLERK

MEB/jrm  
10/21/99  
l:ord/ch33/2000-61

Handwritten: #29

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**AN ORDINANCE AMENDING CHAPTER 33, "BOARDS AND COMMISSIONS", OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 33.130, "NUISANCE ABATEMENT BOARD", BY AMENDING THE DEFINITION OF PUBLIC NUISANCE AND DELETING SURPLUS LANGUAGE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, House Bill 363 amended Section 893.138, Florida Statutes, to provide that places used for the purpose of dealing in stolen property could be declared a Public Nuisance; and

**WHEREAS**, City Ordinance No. 99-43 adopted said definition from the aforementioned legislation; and

**WHEREAS**, House Bill 363 was not enacted; and

**WHEREAS**, the City desires its Nuisance Abatement ordinance to conform to the definitions contained within Section 893.138, Florida Statutes; and

**WHEREAS**, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

**WHEREAS**, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1:** That Section 33.130, "Nuisance Abatement Board" of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

**Section 33.130 NUISANCE ABATEMENT BOARD.**

(A) Establishment.

(1) There is hereby created and established a Nuisance Abatement Board to hear evidence and address issues relating to the existence of drug-related public nuisances, prostitution-related public nuisances, criminal street gang-related public nuisances, or nuisances involving dealing in stolen property, on premises located within the city. Said Board shall consist of members of the city's Unsafe Structures and Housing Appeals Board, who shall serve as ~~ex-officio~~ members of the Nuisance Abatement Board.

...

(B) Definitions.

***PUBLIC NUISANCE.*** Any place or premises within the city limits of the City of Pompano Beach which has been used on more than two (2) occasions within a six (6)-month period:

(a) As the site of a violation of Section 796.07, Florida Statutes; or

(b) As the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance; or

(c) 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

(d) Any place or building used by a criminal street gang for the purpose of conducting a pattern of criminal street gang activity; or

~~(e) Any place or premises used for the purpose of dealing in stolen property (on or after July 1, 1999).~~

...

**SECTION 2:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

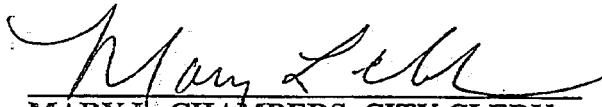
**SECTION 3:** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this 12th day of October, 1999.

**PASSED SECOND READING** this 26th day of October, 1999.

  
\_\_\_\_\_  
**E. PAT LARKINS, MAYOR**

**ATTEST:**

  
\_\_\_\_\_  
**MARY L. CHAMBERS, CITY CLERK**

MEB/jrm  
9/9/99  
l:ord/ch33/99-472

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**AN ORDINANCE AMENDING CHAPTER 33, "BOARDS AND COMMISSIONS", OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY CREATING SECTION 33.130, "NUISANCE ABATEMENT BOARD", TO ESTABLISH A NUISANCE ABATEMENT BOARD WITHIN THE CITY AND ESTABLISHING DEFINITIONS, RULES AND PROCEDURES FOR SAME; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Pompano Beach desires to promote, protect and improve the health, safety and welfare of the citizens of Pompano Beach; and

**WHEREAS**, the City Commission of the City of Pompano Beach desires to create 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 within the city under circumstances when a pending or repeated violation continues to exist; and

**WHEREAS**, the State of Florida enacted Section 893.138, Florida Statutes, to allow a local government to establish a nuisance abatement Board to address the issues of prostitution, the sale of controlled substances, street gang activity, and dealing in stolen property on real property located within the government's jurisdiction; and

**WHEREAS**, the City Commission of the City of Pompano Beach recognizes the significant efforts of the citizens of Pompano Beach and the Pompano Beach Police Department in working together to control prostitution, the sale of controlled substances, criminal street gang activity, and dealing in stolen property; and

WHEREAS, despite the efforts, the City Commission of the City of Pompano Beach finds that in order to meet the goals as stated above, the establishment of a Nuisance Abatement Board is necessary to provide additional assistance in the continued efforts to control prostitution, the sale of controlled substances, criminal street gang activity, and dealing in stolen property within the city limits; and

WHEREAS, the City Commission of the City of Pompano Beach finds that the nuisance abatement board process as authorized by Section 893.138, Florida Statutes, will provide the citizens of Pompano Beach an effective method of addressing nuisances within the city; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1:** That Section 33.130, "Nuisance Abatement Board" of the City of Pompano Beach Code of Ordinances is hereby created to read as follows:

**Section 33.130 NUISANCE ABATEMENT BOARD.**

**(A) ESTABLISHMENT.**

**(1) There is hereby created and established a Nuisance Abatement Board to hear evidence and address issues relating to the existence of drug-related public nuisances, prostitution-related public nuisances, criminal street gang-related public nuisances, or nuisances involving dealing in stolen property, on premises located within the city. Said Board shall consist of members of the city's Unsafe Structures and Housing Appeals Board, who shall serve as ex-officio members of the Nuisance Abatement Board.**

(2) The City Commission may, by resolution, amend the provisions of Section (A) relating to the terms and conditions of membership on the Nuisance Abatement Board.

(3) The presence of five (5) or more members shall constitute a quorum. Members shall serve without compensation.

(B) DEFINITIONS.

(1) PUBLIC NUISANCE. Any place or premises within the city limits of the City of Pompano Beach which has been used on more than two (2) occasions within a six (6)-month period:

(a) As the site of a violation of Section 796.07, Florida Statutes; or

(b) As the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance; or

(c) 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

(d) Any place or building used by a criminal street gang for the purpose of conducting a pattern of criminal street gang activity; or

(e) Any place or premises used for the purpose of dealing in stolen property (on or after July 1, 1999).

(2) BOARD. The Nuisance Abatement Board of the City of Pompano Beach.

(3) CLERK. Person who performs the clerical duties necessary to carry out the activities of the Nuisance Abatement Board, and who also serves as the Clerk to the Unsafe Structures Board.

(4) OWNER. The lawful owner of any place or premises within the City.

(5) CONTROLLED SUBSTANCE. Includes any substance listed in Chapter 893, 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.

(C) PROCEDURES.

(1) Pursuant to Section 893.138, Florida Statutes, the Nuisance Abatement Board shall hear complaints regarding nuisances as described in Section 33.131. Any employee, officer, or resident of the City may bring a complaint before the Board. The complaint shall be made to the City's police department and shall be forwarded for review to the Nuisance Abatement Officer as designated by the Chief of Police. The Nuisance Abatement Officer shall promptly review said complaint and if determined that the complaint properly alleges that a public nuisance exists on a place or premises which is within the purview of the Board, the Nuisance Abatement Officer shall promptly request a hearing before the Nuisance Abatement Board from the Board's Clerk

(2) The Nuisance Abatement Board, through its clerk, shall schedule a hearing, and written notice of the hearing shall be sent to the owner of the place or premises by mail at his or her last known address at least five (5) days prior to the scheduled hearing. The aforementioned notice of hearing shall include:

(a) The statement of the time, place and nature of the hearing;

(b) The statement of 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; and

(d) A short and plain statement summarizing the incidents complained of.

(3) The Board shall attempt to convene no less frequently than once every month, but may meet more or less often as the demand necessitates. The Board may adopt additional rules for the conduct of its hearings. Minutes shall be kept of all hearings and hearings shall be open to the public. The Board shall have the power to subpoena owners, witnesses and evidence to the hearings. The city shall provide clerical and administrative personnel as may be reasonably required for the proper performance of the Board's duties.

The police department's Nuisance Abatement Officer, or another party designated by the City, shall present all cases before the Board. All parties shall have an opportunity to present evidence and argument on all issues involved, to conduct cross-examination, to submit rebuttal evidence, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications before the Board. The Board may consider any evidence, including evidence of the general reputation of the place



or premises. All testimony shall be under oath. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Orders of the Board shall be based upon competent and substantial evidence, and any findings that a nuisance exists must be based on a "preponderance of the evidence" standard. A majority vote of those Board members voting is required in order to approve any Board order.

(4) After considering all evidence, the Board may declare the place or premises to be a public nuisance as defined in Section 33.130 (B)(1) and may enter an order as follows:

(a) Requiring the owner of such place or premises to adopt such procedure as may be appropriate under the circumstances to abate any such nuisance.

(b) Prohibiting the maintaining of the nuisance.

(c) Prohibiting the operating or maintaining of the place or premises, including the closure of the place or premises or any part thereof.

(d) Prohibiting the conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.

(e) Requiring the owner to pay a fine in an amount up to \$250.00 per day for a public nuisance or up to \$500.00 per day for a recurring public nuisance. Total fines imposed pursuant to this section shall not exceed \$5,000.00.

(f) Providing for the payment of reasonable costs, including attorney's fees, associated with investigations of and hearings on public nuisances.

(5) Any order entered under Section 33.130 (C)(4) above shall expire after one (1) year or at such earlier time as stated in the order. The Board may retain jurisdiction to modify its orders prior to the expiration of any such order.

(6) The City police department shall assist the Board in carrying out any legally authorized order rendered pursuant to this section.

(7) An order entered under this section may be enforced pursuant to the procedures contained in Section 120.69, Florida Statutes, but does not subject the city or the Board to any other provision of Chapter 120.

(8) The procedures contained within this Section do not restrict the right of the Board or of any person or entity to bring a complaint under Section 60.05, Florida Statutes, or Section 823.05, Florida Statutes, against any public nuisance.

(9) The City Attorney's Office shall act as legal counsel to the Board.

**(D) RIGHT OF APPEAL.**

An aggrieved party, including the City of Pompano Beach, may appeal a Final Administrative Order of the Nuisance Abatement Board to the Circuit Court of the 17<sup>th</sup> Judicial Circuit. Such appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created for the Board. An appeal shall be filed within thirty (30) days of the written order appealed from.

**SECTION 2:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 3:** This Ordinance shall become effective upon passage.

PASSED FIRST READING this 27th day of April, 1999.

PASSED SECOND READING this 11th day of May, 1999.

  
\_\_\_\_\_  
E. PAT LARKINS, MAYOR

ATTEST:

  
\_\_\_\_\_  
MARY L. CHAMBERS, CITY CLERK

MEB/jrm  
4/7/99  
l:ord/ch33/99-272