

**AN ORDINANCE OF THE CITY OF ORLANDO, FLORIDA,
RELATING TO THE CRIMINAL NUISANCE
ABATEMENT BOARD; AMENDING CHAPTER 2,
ARTICLE XXVII, SECTION 2.189, OF THE CODE OF THE
CITY OF ORLANDO, FLORIDA; PROVIDING FOR
SEVERABILITY, CODIFICATION, CORRECTION OF
SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORLANDO,
FLORIDA:**

WHEREAS, to ensure that the orders of the criminal nuisance abatement board, issued to promote, protect and improve the health, safety and welfare of the citizens of Orlando are effective; and

WHEREAS, to ensure that all such orders affecting the real property at issue remain in full force and effect, regardless of any transfer in ownership as provided for s. 893.138(11), Fla. Stat.; and

WHEREAS, the City Council of the City of Orlando, Florida wishes to ensure the continuity of orders, promote efficiency and provide an equitable, expeditious, effective, and inexpensive method to enforce ordinances under circumstances when a pending or repeated violation continues to exist, irrespective of the current owner, successor in interest, or assign.

SECTION ONE: SECTION 2.189, AMENDED. Section 2.189, Code of the City of Orlando, Florida, is hereby amended as follows:

Sec. 2.189. Fines, Penalties, Costs, Liens and Foreclosure.

- (1) The Criminal Nuisance Abatement Board, in addition to the powers and duties available in Section 2.187, may:
 - (a) Order the owner to pay a fine not to exceed two hundred fifty dollars (\$250.00) per day for each day conduct occurred upon which the Board based its finding of a public nuisance;
 - (b) Order the owner to pay a fine not to exceed five hundred dollars (\$500.00) per day for recurring public nuisance conduct (as defined hereinafter), occurring on the place or premises.
- (2) As used in this article, "recurring public nuisance" means any single or multiple instance of the conduct described in Section 2.188(1) occurring during the effective term of an order entered by the Board.
- (3) The Criminal Nuisance Abatement Board may order the owner of property declared to be a public nuisance to pay reasonable costs, including reasonable attorney fees associated with the investigation of and hearings on public nuisances, and recording of the order.
- (4) In determining the amount of any fine, the Criminal Nuisance Abatement Board may consider the following factors, including but not limited to:
 - (a) the gravity of the public nuisance;
 - (b) any actions taken by the owner to abate the public nuisance and;

- (c) any previous public nuisance violations committed by the owner.
- (5) A certified copy of an order imposing a fine may be recorded in the Public Records of Orange County, Florida, and thereafter shall constitute a lien against the real property that is the subject of the order. A fine imposed pursuant to this Section shall continue to accrue until the owner abates the public nuisance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever comes first. Total fines, excluding costs, imposed pursuant to this Article shall not exceed fifteen thousand dollars (\$15,000.00) during the effective term of any order imposed by the Board. The Criminal Nuisance Abatement Board may authorize the City's Office of Legal Affairs to foreclose on any such lien. No lien created pursuant to the provisions of this Section may be foreclosed on real property which is a homestead under § 4, Art. X of the State of Florida Constitution.
- (6) A certified copy of an order declaring a place or premises to be a public nuisance and requiring the owner of such place or premises to adopt such procedure as may be appropriate under the circumstances to abate any such nuisance, issued in accordance with this section, may be recorded in the Public Records of Orange County, Florida, and thereafter shall constitute notice and be binding on all subsequent purchasers, successors in interest, or assigns of the real property that is subject of the order.
- ~~(6)~~(7) Where the City seeks to bring an administrative action, based on 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/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 registered mail to the property owner of a second stolen property conviction of the tenant.
- ~~(7)~~(8) In addition to the costs which may be imposed under subsection (3), the City may recover all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure.
- ~~(8)~~(9) Nothing contained within this section prohibits the City or Criminal Nuisance Abatement Board from proceeding against a public nuisance by any other means.

SECTION TWO: SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION THREE: CODIFICATION. The City Clerk and the City Attorney shall cause the Code of the City of Orlando, Florida, to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION FOUR: SCRIVENER'S ERROR. The City Attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the City Clerk.

SECTION FIVE. EFFECTIVE DATE. This ordinance takes effect immediately upon final passage.

ORDINANCE NO. 2016-49

ADVERTISED on the _____ day of _____, 2016.

READ FIRST TIME on the _____ day of _____, 2016.

READ SECOND TIME AND ADOPTED on the _____ day of _____,
2016.

CITY OF ORLANDO, FLORIDA

Buddy Dyer, Mayor

ATTEST:

Amy Iennaco, Interim City Clerk

APPROVED AS TO FORM AND LEGALITY
For the use and reliance of the
City of Orlando, Florida, only.

_____, 2016.

City Attorney/Assistant City Attorney
Orlando, Florida

Print Name