

RESOLUTION NO. R-11-213

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, ADOPTING RULES OF PROCEDURE FOR CRIMINAL NUISANCE ABATEMENT BOARD; PROVIDING DIRECTIONS REGARDING CODIFICATION; REPEALING AND SUPERSEDING PRIOR AND CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 2-33 of the Manatee County Code of Ordinances, enacted by Ordinance No. 10-57, provides for abatement of criminal public nuisances and creates a criminal nuisance abatement board for unincorporated Manatee County; and

WHEREAS, Section 2-33-8 of the Manatee County Code of Ordinances authorizes the Board of County Commissioners to adopt by resolution rules of procedure for the conduct of hearings and the operation of the criminal nuisance abatement board; and

WHEREAS, the Board of County Commissioners of Manatee County has reviewed the Rules of Procedure attached to this resolution which provide for the conduct of hearings and the operation of the criminal nuisance abatement board; and

WHEREAS, the Board of County Commissioners has determined that it is in the best interest of the public health, safety and general welfare of the citizens of Manatee County to adopt said Rules of Procedure for the Criminal Nuisance Abatement Board of Manatee County, Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. The Board of County Commissioners hereby adopts the Rules of Procedure for the Criminal Nuisance Abatement Board of Manatee County, Florida, attached hereto and incorporated herein by reference, for the conduct of hearings and the operation of the Board.

Section 2. This resolution shall not be codified in the Manatee County Code of Resolutions.

Section 3. All prior and conflicting resolutions, including but not limited to Resolution R-97-59, are hereby repealed, rescinded, superseded and replaced by this resolution.

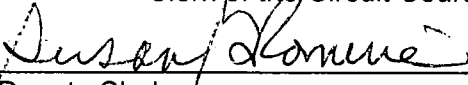
Section 4. This resolution shall take effect immediately upon adoption.

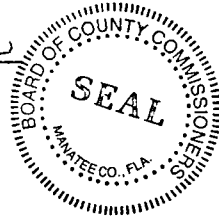
PASSED AND ADOPTED by the Board of County Commissioners of Manatee County, Florida, with a quorum present and voting, on the 20 day of September, 2011.

BOARD OF COUNTY COMMISSIONERS  
OF MANATEE COUNTY, FLORIDA

By:   
Chairman

ATTEST: R. B. SHORE  
Clerk of the Circuit Court

By:   
Deputy Clerk



MANATEE COUNTY, FLORIDA  
CRIMINAL NUISANCE ABATEMENT BOARD  
RULES OF PROCEDURE

I. NAME

The name of the Board shall be the Criminal Nuisance Abatement Board of Manatee County, Florida.

II. JURISDICTION

The Board has jurisdiction over those matters which are set forth in Section 893.138, Florida Statutes, and Chapter 2-33 of the Manatee County Code of Ordinances.

III. OFFICERS AND DUTIES

- A. The officers shall be a Chair and a Vice-Chair. The Chair and Vice-Chair shall have the privilege of discussing all matters before the Board and shall have the same voting rights as all Board members.
- B. The Chair shall preside over all meetings and hearings of the Board and shall have the duties normally conferred by parliamentary usage of such office.
- C. With the exception of the initial Chair, a member must have at least one (1) year of service on the Board to be eligible for the position of Chair.
- D. The Vice-Chair shall act in the absence of the Chair. A member selected from among the Board members present may be designated to act at a meeting in the absence of the Chair and Vice-Chair.

IV. ELECTION OF OFFICERS

- A. Election of the initial officers of the Board shall be made by the vote of the members present at the initial meeting of the Board.
- B. Nomination of officers shall be made by the members at the first meeting held each calendar year, and the election shall be held immediately thereafter.
- C. The candidate receiving a majority of the votes cast shall be declared elected and shall serve a term of one (1) year or until a successor shall take office. The Chair may not serve more than two (2) consecutive terms as Chair.
- D. Vacancies in the office of Chair or Vice-Chair shall be filled at the next Board meeting by the regular election procedure described above.

V. MEETINGS

- A. Regular meetings shall be held each month as necessary in the Board Chambers on the first floor of the Manatee County Administrative Center, located at 1112 Manatee Avenue West, Bradenton, Florida.
- B. Special meetings may be called upon written notice signed by the Chair. Notice of special meetings shall be posted in the Manatee County Administrative Center at least three (3) days in advance of the meeting.
- C. Notice of regular meetings and special meetings shall be provided to all Board

members at least three (3) days in advance of the meeting. Notice of all Board meetings shall be provided to the public by including said meetings on the County's schedule of board meetings.

- D. Members shall notify the County clerical staff if they cannot attend a meeting. A member must be present for at least seventy-five percent (75%) of a meeting to be considered present at said meeting.
- E. An affirmative vote of a majority of those members present and voting shall be necessary to pass any motion or adopt any order, except that at least three (3) members of the Board must vote in order for the action to be official.
- F. Voting shall be by voice vote and shall be recorded by individual "aye" or "nay" for each Board member present. Pursuant to Section 286.012, Florida Statutes, each member shall vote on every matter coming before the Board unless prohibited from voting due to a possible conflict of interest under Section 112.311, 112.313 or 112.3143, Florida Statutes. In such cases, the member shall abstain from voting and comply with the requirements of Sections 286.012 and 112.3143, Florida Statutes.
- G. Parliamentary procedure at Board meetings shall be governed first by the Rules of Procedure contained herein, and, if not specifically covered herein, then by Robert's Rules of Order, Revised.

VI. ORDER OF BUSINESS

- A. Regular meetings of the Board shall be governed by the following order of business:
  - 1. Roll Call
  - 2. Approval of Minutes of Previous Meetings
  - 3. Reports
  - 4. Public Hearings
  - 5. Unfinished or Old Business
  - 6. Administrative Business
  - 7. Next Meeting Date
  - 8. Adjournment
- B. The order of business may be suspended by an affirmative vote of a majority of the members present and voting.

VII. REPRESENTATION

- A. The County administrator or his or her designee is responsible for reviewing Complaints filed by individuals and determining whether such Complaints should be presented to the Board. The County administrative staff shall present the County's case before the Board.
- B. The property owner is entitled to be represented by an attorney of his or her own choosing at his or her expense.

VIII. INITIATION OF ACTIONS

- A. Any employee, officer or resident of Manatee County may file a Complaint with the County administrator. The Complaint shall specify:
  - 1. The address or location of the place or premises involved.
  - 2. The nature of the criminal nuisance.
  - 3. The particular sections of the Florida Statutes violated.
  - 4. The dates of the arrests for the offenses constituting the criminal nuisance.
  - 5. A statement summarizing the allegations against the owner and operator of the place or premises.
- B. The County clerical staff shall assign a case number to the Complaint. The County administrator or his or her designee shall review the Complaint, sworn supporting statements and other documents for compliance with the jurisdictional requirements. If the County administrator or his or her designee has reasonable cause to believe a criminal nuisance exists or has been repeated at the place or premises, the County administrator or his or her designee may request the clerical staff to schedule a hearing before the Board.
- C. When a case is scheduled for hearing, the County clerical staff shall notify the property owner by a Notice of Hearing provided not less than three (3) days prior to the hearing date.
- D. The Notice of Hearing shall include:
  - 1. A statement of the date, time and location of the hearing.
  - 2. A statement of the nature of the hearing.
  - 3. A statement of the legal authority and jurisdiction under which the hearing is to be held.
  - 4. A reference to the particular sections of the Florida Statutes involved.
  - 5. A copy of the Complaint.

IX. CONDUCT OF HEARINGS

Hearings before the Board shall be governed by the following procedures:

- A. The County administrative staff, property owner and all witnesses shall be sworn in.
- B. The County administrative staff shall present the County's case first.
- C. The property owner or the property owner's attorney shall then present his or her case.
- D. Both parties, pro se or by their attorneys, will have an opportunity to present brief opening statements, present and examine witnesses, submit evidence, cross-examine witnesses, submit rebuttal evidence, and present brief closing arguments.

- E. The Board or its counsel may question any witness or call any witness as necessary.
  - F. The Board may, in its discretion at any time during a hearing, request further information from the County administrative staff, property owner or any witness and thereupon continue the hearing to a future meeting.
  - G. If a hearing is continued or adjourned and reconvened at a later time, only those Board members who have been present from the beginning of the hearing on a particular case may participate in the deliberations and decision-making process on that case.
  - H. Upon completion of all testimony and evidence, the Chairman shall conclude the hearing.
  - I. The Board shall immediately deliberate in open, public session.
  - J. The Board shall only consider that evidence which is presented at the hearing, including evidence of the general reputation of the place or premises.
  - K. Irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding.
  - L. The Board shall orally issue an Order which is approved by a majority of the Board members present and voting. The Order shall contain Findings of Fact and Conclusions of Law and shall state the affirmative relief granted by the Board. If the Board finds the existence of a criminal nuisance, the Board may order any affirmative relief authorized by Florida Statutes or County ordinance. The Order shall be reduced to writing and provided to the property owner by U.S. mail or hand delivery within ten (10) working days after the hearing.
- X. ENFORCEMENT OF ORDERS
- A. Any Order issued by the Board shall expire one (1) year after issuance or at such earlier time as stated in the Order. The Board may retain jurisdiction to modify an Order prior to the expiration of said Order.
  - B. If the activity constituting a criminal nuisance at a place or premises continues after the Board issues an Order finding the existence of a criminal nuisance, the County administrator or his or her designee may request the clerical staff to schedule a hearing before the Board for the imposition of fines, costs and other penalties. The County clerical staff shall notify the property owner by a Notice provided at least three (3) days in advance stating the date, time and location of the hearing to determine if fines, costs and penalties should be imposed for noncompliance.
  - C. At the conclusion of a hearing on noncompliance, the Board may issue an Order imposing fines, costs and other penalties authorized by Subsection 893.138(10), Florida Statutes, and Section 2-33-6 of the Manatee County Code of Ordinances. The Order shall be reduced to writing and provided to the property owner by U.S. mail or hand delivery within ten (10) working days after the hearing.
  - D. The Board may hold hearings as necessary to insure the effectiveness of any Order

issued by the Board, provided that the County has complied with the advance notice requirements to the property owner for noncompliance hearings described above.

XI. MISCELLANEOUS

- A. These Rules of Procedure may be amended in a manner not inconsistent with Florida Statutes and County ordinance by adoption of a resolution by the Board of County Commissioners.
- B. No member of the Board may initiate any action before the Board. No Board member shall knowingly discuss any case with any County administrative staff, property owner or operator, witness or other interested party.
- C. All regular and special meetings and hearings of the Board shall be open to the public in accordance with the provisions of the Florida Government in the Sunshine Law, Chapter 286, Florida Statutes.
- D. All records of the Board shall be open to public examination, inspection and copying in accordance with the provisions of the Florida Public Records Law, Chapter 119, Florida Statutes.