

1 Introduced by Council Members Gaffney, Cumber, White and Newby &
2 Co-Sponsored by Council Members Carrico, Pittman, Becton, Bowman,
3 Salem, Morgan, DeFoor, Carlucci, Freeman and Ferraro and Amended by
4 the Neighborhoods, Community Services, Public Health & Safety
5 Committee and amended on the floor of Council:

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8 **ORDINANCE 2021-83-E**

9 AN ORDINANCE CREATING A NEW CHAPTER 672
10 (PUBLIC NUISANCE ABATEMENT BOARD); PROVIDING A
11 STATEMENT OF LEGISLATIVE INTENT; CREATING A
12 PUBLIC NUISANCE ABATEMENT BOARD; PROVIDING FOR
13 IDENTIFYING PROPERTIES THAT ATTRACT OR ALLOW
14 NUISANCE ACTIVITIES; REQUIRING CORRECTIVE
15 ACTION BY PROPERTY OWNERS; PROVIDING
16 PROCEDURES FOR ENFORCEMENT; PROVIDING FOR
17 NOTICE, HEARING RIGHTS AND APPEALS; PROVIDING
18 FOR ASSESSMENT AND RECOVERY OF COSTS, FINES
19 AND FEES RELATED TO ENFORCEMENT; CREATING A
20 PUBLIC NUISANCE ABATEMENT BOARD; PROVIDING FOR
21 CONFLICTS, SEVERABILITY, CODIFICATION AND AN
22 EFFECTIVE DATE.

23
24 **WHEREAS**, the Council finds that there is a limited amount of
25 police and fire and rescue resources available to address the
26 public safety, health and welfare needs of Jacksonville residents;
27 and

28 **WHEREAS**, the Council finds that each City taxpayer should have
29 the ability to timely, sufficiently and appropriately access a pro
30 rata share of those limited police and fire and rescue services to
31 which each parcel of real property is entitled; and

1 **WHEREAS**, the Council also finds that some real properties,
2 hereinafter described as "public nuisance properties" require
3 disproportionate police and fire and rescue services and cause an
4 unnecessary burden on those limited public services and therefore
5 on all taxpayers of the City; and

6 **WHEREAS**, property owners are ultimately responsible for the
7 conduct and actions that occur on their property; and

8 **WHEREAS**, properties with disproportionate service calls are an
9 indication that such properties are not being properly managed
10 and/or maintained; and

11 **WHEREAS**, properties that require excessive calls for service
12 disproportionately necessitate overuse of the City's limited
13 resources available to ensure the public health, safety and welfare
14 and are considered public nuisances; and

15 **WHEREAS**, the Council deems it appropriate and in the best
16 interests of the general health, safety and welfare of the citizens
17 and residents of the City to create a public nuisance abatement
18 board to identify and address properties that are not properly
19 managed and/or maintained and which burden the City's limited
20 resources and are a negative influence or blight on adjacent
21 properties, the surrounding neighborhoods and the City.

22 **BE IT ORDAINED** by the Council of the City of Jacksonville:

23 **Section 1.** The foregoing "WHEREAS" clauses are true and
24 correct and incorporated herein by this reference.

25 **Section 2.** Chapter 672 (Public Nuisance Abatement Board),
26 Ordinance Code. Chapter 672 (Public Nuisance Abatement Board),
27 Ordinance Code, is hereby created to read as follows:

28 **CHAPTER 672. PUBLIC NUISANCE ABATEMENT BOARD.**

29 **Sec. 672.01. Statement of Legislative Intent; Declaration of**
30 **Public Nuisance.**

31 In addition to the burden placed on the City's limited police

1 and fire and rescue resources, public nuisance properties present
2 health, safety and quality of life concerns and exist when the
3 persons responsible for such properties fail to take corrective
4 actions to abate nuisance activities or a nuisance condition.
5 Public nuisance properties have a significant adverse effect on the
6 quality of life, safety and health of the neighborhoods where they
7 are located. Public nuisance properties are a financial and
8 operational burden on the City by generating repeated calls for
9 service to the properties. Public nuisance properties adversely
10 affect the value of adjacent properties. The Public Nuisance
11 Abatement Board is created to address and reduce nuisance
12 activities and/or nuisance conditions that disrupt quality of life
13 and repeatedly occur or exist at properties. Pursuant to the
14 City's police powers, public nuisance properties are hereby
15 declared to constitute a public nuisance and are subject to
16 enforcement and abatement as described herein. The nuisance
17 abatement process hereinafter set forth may be used by the City in
18 conjunction with any and all legal actions available to the City.

19 It is the City's intent:

20 1. To identify public nuisance activities and public nuisance
21 conditions.

22 2. To hold accountable those persons responsible for such
23 nuisance activities and/or conditions on the property.

24 3. To assist victims of crime and penalize those who commit
25 crimes or those who permit conditions to exist that give rise to
26 crime or excessive calls for service to the Sheriff and JFRD.

27 4. To establish rules, procedures, and penalties to address
28 property owners that have public nuisance issues and fail to take
29 corrective measures.

30 5. To work in partnership with the owners to address the
31 negative results caused by public nuisance activities and/or

1 conditions and to improve the vitality of neighborhoods by
2 addressing excessive calls for service to the Sheriff and JFRD.

3 6. To encourage owners and operators to cooperate by
4 classifying calls for service made by the owners or operators which
5 demonstrate their good-faith commitment to abate nuisance
6 activities and/or conditions on their property such that the self-
7 reported actions will not be included as nuisance activity
8 responses.

9 7. To establish a means for the City to abate public nuisance
10 properties in the event the owner is unwilling or unable to correct
11 such conditions in a timely manner.

12 8. To establish the cost of City response and enforcement
13 services to the property owners identified as owning public
14 nuisance properties and enable the City to recoup such costs.

15 **Sec. 672.02. Creation; composition; term of office.**

16 (a) Pursuant to the authority granted in section 893.138,
17 F.S. and the City's home rule authority, there is hereby created
18 and established a board to be known and designated as the Public
19 Nuisance Abatement Board.

20 (b) The Board shall consist of nine members.

21 (c) Except as modified herein, the members of the Board shall
22 be appointed pursuant to and be governed by Chapter 50, Ord. Code.

23 (d) Board members shall have the following employment or
24 qualifications and term lengths:

25 (1) One member shall be a JSO officer appointed by the
26 Sheriff, no term length;

27 (2) One member shall be a JFRD employee appointed by the
28 Fire Chief, no term length;

29 (3) One member shall be an employee of the City's
30 Neighborhoods Department appointed by the Director of the
31 Neighborhoods Department, no term length;

1 (4) One member shall be a Florida Bar licensed attorney
2 in good standing appointed by the Mayor, three-year term length,
3 may serve two successive full terms;

4 (5) One member shall be a developer, property manager or
5 realtor with extensive experience with commercial property
6 operations appointed by the Mayor, three-year term length, may
7 serve two successive full terms;

8 (6) One member shall be a developer, property manager or
9 realtor with extensive experience with multi-family residential
10 property operations appointed by the Mayor, three-year term length,
11 may serve two successive full terms;

12 (7) One member shall be an individual with extensive
13 experience in public health services or child protective services
14 appointed by the Mayor, three-year term length, may serve two
15 successive full terms; and

16 (8) Two members shall be community advocates appointed by
17 the Council President; however, such members shall be prohibited
18 from voting on any property located within their community, two-
19 year term length, may serve two successive full terms.

20 All members shall be confirmed by the Council in accordance
21 with Chapter 50, Ord. Code.

22 **Sec. 672.03. Definitions.**

23 The following words, terms and phrases, when used in this
24 Chapter, shall have the meanings ascribed to them in this section,
25 except where the context clearly indicates a different meaning:

26 *Board* means the Public Nuisance Abatement Board created in
27 this Chapter.

28 *City* shall mean the City of Jacksonville, Florida, excluding
29 the Second, Third, Fourth and Fifth Urban Services Districts.

30 *Controlled substance* means any substance named or described in
31 F.S. § 893.03; any substance sold in lieu of a controlled substance

1 defined in F.S. § 817.563; any imitation controlled substance
2 defined in F.S. § 817.564; or any legend drug or prescription drug
3 as defined in F.S. § 499.003.

4 *Effective term* means the term of one year from the date of
5 entry by the Board of an order requiring the owner of a place or
6 premises declared by the Board to be a public nuisance to adopt
7 procedures to abate the nuisance, or a shorter term if the order
8 provides for its expiration in less than one year. Any order of the
9 Board declaring a recurring nuisance relating to nuisance activity
10 on the same property with the same property owner shall not extend
11 the effective term.

12 *Operator* means the person operating a place or premises
13 subject to this article. The term "operator" includes, but is not
14 limited to, owners, managers, tenants, subtenants, and persons
15 having operational control over the place or premises.

16 *Owner* means the owner of the real property upon which the
17 place or premises is located. In cases where the owner and the
18 operator are the same person, the terms "owner" and "operator" are
19 used interchangeably in this article.

20 *Place or premises* means real property and its appurtenances
21 and structures thereon as described in the deed or other instrument
22 of conveyance as recorded in the public records of the City. The
23 term "place" or "premises" includes but is not limited to parking
24 lots, curtilage and other areas open to the general public or to
25 invitees or licensees.

26 *Public nuisance conduct* means the conduct described in section
27 672.04.

28 *Recurring public nuisance* conduct means any single or multiple
29 instance of the conduct described in section 672.04 occurring
30 during the effective term of an order entered by the Board.

1 *Respondent* means the owner, operator, and any other person
2 against whom a complaint is brought pursuant to this Chapter.

3 **Sec. 672.04. - Declaration of public nuisance.**

4 For the purpose of this Chapter, any place or premises, or any
5 part thereof, within the boundaries of the City which has been used
6 for the following purposes are declared to be public nuisances:

7 (1) On more than two occasions within a six-month period, as
8 the site of a violation of F.S. § 796.07, relating to prostitution
9 and prostitution-related activities;

10 (2) On more than two occasions within a six-month period, as
11 the site of the unlawful sale, delivery, manufacture, or
12 cultivation of any controlled substance;

13 (3) On one occasion within a six-month period as the site of
14 the unlawful possession of a controlled substance, where such
15 possession constitutes a felony and that has been previously used
16 on more than one occasion as the site of the unlawful sale,
17 delivery, manufacture, or cultivation of any controlled substance;

18 (4) On one occasion within a six-month period by a criminal
19 gang for the purpose of conducting criminal gang activity as
20 defined by F.S. § 874.03;

21 (5) On one occasion within a six-month period as the site of
22 a violation of F.S. § 787.06, relating to human trafficking;

23 (6) On more than two occasions within a six-month period, as
24 the site of a violation of F.S. § 812.019 relating to dealing in
25 stolen property; or

26 (7) On more than two occasions within a six-month period, any
27 pain management clinic, as described in F.S. § 458.3265 or F.S. §
28 459.0137, as the site of a violation of:

29 a. F.S. § 784.011, 784.021, 784.03, or 784.045, relating
30 to assault and battery;

31 b. F.S. § 810.02, relating to burglary;

1 c. F.S. § 812.014, relating to dealing in theft;

2 d. F.S. § 812.131, relating to robbery by sudden
3 snatching; or

4 e. F.S. § 893.13, relating to the unlawful distribution
5 of controlled substances.

6 (8) On more than two occasions within a six-month period, as
7 the site of a forcible felony as described in F.S. § 776.08
8 (treason; murder; manslaughter; sexual battery; carjacking; home-
9 invasion robbery; robbery; burglary; arson; kidnapping; aggravated
10 assault; aggravated battery; aggravated stalking; aircraft piracy;
11 unlawful throwing, placing, or discharging of a destructive device
12 or bomb; and any other felony which involves the use or threat of
13 physical force or violence against any individual).

14 **Sec. 672.05. Board powers and duties.**

15 (a) The Board shall serve as a quasi-judicial forum in which
16 a determination regarding the existence of public nuisance conduct
17 may be resolved in the public interest with due process of law.

18 (b) The Board shall have the power to adopt or establish
19 rules of procedure for the administration and conduct of its
20 hearings. Such rules shall be designed to facilitate the efficient
21 administration of this chapter and shall always ensure fundamental
22 due process.

23 (c) The members of the Board shall elect a chair who shall be
24 a voting member from among the members of the Board. The member
25 elected chair shall serve as chair for a term of one year and may
26 be re-elected to serve an additional term or terms as chair.

27 (d) The presence of five members shall constitute a quorum of
28 the Board. The affirmative vote of at least a majority of those
29 members present and voting shall be necessary to take action.

30 (e) The City may call hearings of the Board and all hearings
31 shall be open to the public.

1 (f) The Neighborhoods Department shall be the custodian of
2 all Board case files and documents pertaining thereto. The
3 Director of the Neighborhoods Department shall designate an
4 individual to serve as clerk to the Board, who shall be empowered
5 to administer oaths to witnesses appearing before the Board, to
6 issue subpoenas in the name of the Board for service of process by
7 any JSO officer or designated agent and shall have the authority to
8 certify other documents issued by the Board.

9 (g) The General Counsel shall designate assistants general
10 counsel to represent the Board and to present cases before the
11 Board and to represent the City in the event of appellate review of
12 orders issued by the Board.

13 **Sec. 672.06. Procedures.**

14 (a) *Written complaint; reports.* Any law enforcement officer
15 making an arrest or substantiating an incident or occurrence of any
16 statutory violation(s) or violations of section(s) set forth herein
17 and pursuant to information or independent observation, may submit
18 a copy of every such report and/or offense incident report to the
19 Sheriff or designee, who shall process all such reports and, in
20 consultation with the Office of General Counsel, determine when the
21 requisite number of occurrences or violations have taken place as
22 set forth in section 672.04. Additionally, a citizen complaint can
23 be made by a property or business owner located within one mile of
24 any location to allege that a particular property is a public
25 nuisance. The Sheriff shall investigate all complaints made
26 pursuant to this subsection to determine whether such property
27 constitutes a public nuisance and whether to refer such property to
28 the Board. All final determinations regarding citizen complaints
29 shall be communicated to the complainant by the Sheriff.

30 (b) *Processing; review of case.*

1 (1) In each case where such determination has been made
2 in accordance with subsection (a) of this section, the case
3 shall be processed through the Sheriff's Office.

4 (2) When the Sheriff, in consultation with the Office of
5 General Counsel, believes that a public nuisance as defined in
6 section 672.04 exists, he or she may request the Board clerk
7 to prepare a case folder for a complaint and request a hearing
8 before the Board.

9 (c) *Hearings; hearing notices.*

10 (1) The Board clerk shall schedule the hearings and
11 issue hearing notices at least 15 calendar days prior to the
12 scheduled hearing date:

13 a. By sending written notice of the hearing to the owner
14 and/or operator by certified mail, return receipt requested to
15 the address for the property designated by the owner for
16 receipt of tax bills as listed on the Tax Collector's website;
17 or

18 b. By hand delivering the written notice to the owner
19 and/or operator of the premises at their last known address.

20 If an attempt to serve notice upon the owners and/or operators
21 by certified mail or hand delivery is unsuccessful, service of the
22 notice of the hearing may be made by conspicuously posting the
23 notice at the subject property, such posting to take place not less
24 than ten days before the scheduled hearing date. The owner and/or
25 operator shall be responsible for providing notice to any tenant,
26 lessee or lessor of the hearing.

27 (2) The notice of hearing shall include a complaint
28 stating the following:

29 a. The time, place and nature of the hearing.

30 b. The legal authority and jurisdiction under which the
31 hearing is to be held.

1 c. Reference to the relevant section(s) of the
2 statute(s) and ordinance(s) involved in the determination of a
3 public nuisance.

4 d. A short and plain statement of facts giving rise to
5 the complaint.

6 **Sec. 672.07. Conduct of hearings.**

7 (a) The Board shall conduct a hearing on the complaint and
8 receive evidence pertaining to the conduct described in the
9 complaint.

10 (b) The Office of General Counsel attorney shall present
11 evidence before the Board on behalf of the City.

12 (c) All parties shall have an opportunity to present evidence
13 and argument on all issues involved, conduct cross examination,
14 submit rebuttal evidence and to be represented by counsel. In
15 addition:

16 (1) The Board may consider any evidence, including but
17 not limited to evidence of the general reputation of the place
18 or premises. All testimony shall be given under oath and shall
19 be recorded. Formal rules of evidence shall not apply, but
20 fundamental due process shall govern the proceedings. Orders
21 of the Board shall be based upon competent and substantial
22 evidence submitted for the Board's consideration at the
23 hearing.

24 (2) The City shall have the burden of proving the
25 existence of an unlawful public nuisance by the greater weight
26 of the evidence.

27 (d) If the respondent has been properly noticed for the
28 hearing before the Board and fails to appear, the Board may proceed
29 with a hearing in absentia on the merits of the alleged violation.
30 Any findings or orders resulting from such hearing are valid and
31 binding upon the respondents.

1 **Sec. 672.08. Remedies, orders and jurisdiction.**

2 (a) At the conclusion of the hearing and after considering
3 all evidence presented at such hearing, the Board shall issue
4 findings of fact based upon the evidence presented and made part of
5 the record that a public nuisance does not exist or that an
6 unlawful public nuisance does exist.

7 (1) If the Board finds that the allegations of the
8 complaint have not been proved, the Board shall dismiss the
9 complaint.

10 (2) If the Board finds that a sufficient number of the
11 allegations of the complaint have been proved, the Board may
12 declare the property to be an unlawful public nuisance.

13 (b) If the Board declares that the property is an unlawful
14 public nuisance, the Board shall then consider the appropriate
15 remedy, at the same meeting or at a later regular meeting or
16 special meeting called for such purpose. The Board may, following
17 its consideration of the appropriate remedy and endeavoring to use
18 the least restrictive method believed necessary to abate the
19 nuisance, enter an order:

20 (1) Immediately prohibiting the maintaining of the
21 nuisance;

22 (2) Immediately prohibiting the operating or maintaining
23 of the place or premises, including the closure of the place
24 or premises or any part thereof;

25 (3) Immediately prohibiting the conduct, operation, or
26 maintenance of any business or activity on the premises which
27 is conducive to such nuisance;

28 (4) Requiring the owner of such place or premises to
29 adopt such procedure(s) as may be appropriate under the
30 circumstances to abate any such nuisance; or

1 (5) Any combination of subsection (b)(1), (2), (3), or
2 (4) of this section.

3 (c) Upon declaring that the property is an unlawful public
4 nuisance, the Board may also:

5 (1) Impose a fine not to exceed \$250.00 per day for each
6 day conduct occurred upon which the Board based its finding of
7 a public nuisance and a fine not to exceed \$500.00 per day for
8 each subsequent finding of recurring public nuisance conduct
9 occurring on the premises during the time the Board retains
10 jurisdiction over the premises. If two or more respondents are
11 fined, the total amount of the fines shall not exceed the
12 maximum amount per day authorized by this subsection. The
13 respondent must satisfy the fine by making payment to the
14 City. Unpaid fines shall accrue interest as provided in F.S. §
15 55.03. The Board may suspend such fines, in whole or in part,
16 contingent upon compliance with other terms or conditions of
17 the order, and may terminate the suspension and impose such
18 fines upon a showing that the respondent has not complied with
19 such term or condition of the order. If the Board terminates
20 the suspension, interest that has accumulated during the time
21 of suspension shall also be due and owing;

22 (2) Award reasonable costs associated with the
23 investigation and hearing on the public nuisance, including an
24 attorney's fee, investigative costs, and costs of recording of
25 its order. The respondent must pay the award of costs and fees
26 to the City. Unpaid costs and fees shall accrue interest as
27 provided in F.S. § 55.03. The Board may suspend such costs and
28 fees, in whole or in part, contingent upon compliance with the
29 other terms or conditions of the order, and may later
30 terminate the suspension and impose such costs and fees upon a
31 showing that the respondent has not complied with such term or

1 condition of the order. If the Board terminates the
2 suspension, interest that has accumulated during the time of
3 suspension shall also be due and owing.

4 (d) If the Board finds two or more respondents responsible
5 for a public nuisance, those respondents will be jointly and
6 severally responsible for complying with the actions ordered under
7 this section and for satisfying the fines imposed and costs and
8 fees awarded.

9 (e) The total fine imposed pursuant to this section shall not
10 exceed \$15,000.00 during the effective term of any order. If two or
11 more respondents are fined, the total amount of the fines shall not
12 exceed \$15,000.00 during the effective term of the order.

13 (f) The findings and orders of the Board shall be reduced to
14 writing, executed by the presiding chair of the Board, and filed
15 with the Board clerk. A copy of the executed order shall be mailed
16 or hand delivered to each party within five working days after
17 execution by the presiding chair of the Board. This time period is
18 procedural in nature, and the failure to comply with this time
19 period shall not invalidate any Board order.

20 (g) The Board may retain jurisdiction for one year after the
21 order's effective date to modify the order where just cause is
22 found to exist.

23 (h) The Board may request the City to bring a complaint under
24 F.S. § 60.05, seeking an injunction against any nuisance described
25 herein.

26 (i) The Board, after ordering any of the remedies authorized
27 by this section, may amend the remedy if additional safeguards are
28 necessary, may suspend the remedy for good cause shown, and may
29 rescind the suspension at any time while the Board has
30 jurisdiction, whether such remedy was initially imposed or not. The
31 Board shall give the owner notice and an opportunity to be heard

1 before rescinding a suspended remedy or imposing a new remedy.
2 Rescinding a suspended remedy or imposing a new remedy shall not
3 operate to extend the one-year jurisdiction of the Board; however,
4 nothing shall prevent the City from filing a new complaint if there
5 has been a substantial change in circumstances or if new nuisance
6 activities have occurred.

7 **Sec. 672.09. Enforcement of orders.**

8 (a) Any order issued by the Board under the provisions of
9 section 672.08 shall expire one year after its effective date or at
10 such earlier time as is stated in the order. However, any fines
11 imposed or costs and fees awarded shall continue to be an
12 indebtedness owed to the City until satisfied and shall not expire
13 one year after the effective date of the order. Such fines, costs,
14 and fees will become a lien against the property upon the recording
15 of a certified copy of the order.

16 (b) A certified copy of any order issued by the Board
17 declaring a place or premises to be a public nuisance that imposes
18 fines, costs, or attorney's fees under section 672.08 shall be
19 recorded in the public records, and shall become a lien against the
20 real property that is the subject of the order.

21 (c) Fines, costs, or attorney's fees imposed under the
22 provisions of section 672.08 shall be due and payable upon the date
23 of the order of the Board imposing any and all fines, costs, or
24 attorney's fees. Fines, costs, or attorney's fees may be paid in
25 full without interest during the first 30 calendar days after the
26 date of the order of the Board. Thereafter, interest at the rate
27 established by the comptroller of the state pursuant to F.S. §§
28 55.03 and 687.01, shall accrue upon any unpaid amount of fine and
29 costs. The interest rate in effect on the date of the order of the
30 Board shall remain in effect until the fine and costs are paid.

1 (d) Any lien recorded against real property may be foreclosed
2 by the City and the owner of such real property shall be liable for
3 all costs, including reasonable attorney fees, associated with the
4 recording of orders and foreclosure. However, no lien created
5 pursuant to the provisions of this section may be foreclosed on
6 real property which is a homestead under section 4, article X of
7 the Florida Constitution.

8 (e) The City may bring a complaint under F.S. § 60.05 and
9 seek a permanent injunction against any public nuisance.

10 (f) The City is authorized to enforce any orders entered
11 under this Chapter in the circuit court, pursuant to the procedures
12 contained in F.S. § 120.69.

13 (g) The City is authorized to initiate proceedings in any
14 county, state or federal forum for the suspension or revocation of
15 any permits, licenses, concessions or contracts held or awarded to
16 the respondent, including contracts awarded under F.S. § 24.112
17 (lottery retailers) and including licenses for the sale of
18 beverages issued under F.S. § 561.19, where the existence of such
19 permits, licenses, concessions or contracts is conducive to the
20 maintenance of such nuisance.

21 (h) Orders shall be posted at the place, building, or
22 premises where the public nuisance exists, existed or is occurring
23 in violation of the law and shall be sent by certified mail to the
24 owner and/or operator of such place, building, or premises within
25 two business days of the posting.

26 (i) All powers and rights conferred by this section shall be
27 in addition to and supplemental to those conferred by any other
28 general or special laws governing public nuisances and shall be
29 liberally construed to effectuate the purpose of this chapter.

30 **Sec. 672.10. Appeals.** An order of the Board shall be subject
31 to judicial review in the manner provided by law.

1 **Sec. 672.11. Deposit of fines, fees, costs and interest**
2 **awards.** Any monies received pursuant to this chapter shall be
3 deposited into the City's Nuisance Abatement Lien Special Revenue
4 Fund for those uses as established in Section 111.470, *Ordinance*
5 *Code*.

6 **Section 3. Effectuating the intent.** City staff is
7 authorized to take all steps necessary to effectuate the intent of
8 this ordinance.

9 **Section 4. Savings clause.** Should any section or provision
10 of this Ordinance or any portion thereof be declared by a court of
11 competent jurisdiction to be invalid, such decision shall not
12 affect the remainder of this Ordinance.

13 **Section 5. Effective Date.** This ordinance shall become
14 effective upon signature by the Mayor or upon becoming effective
15 without the Mayor's signature.

16
17 Form Approved:

18
19 /s/ Margaret M. Sidman

20 Office of General Counsel

21 Legislation Prepared By: Jason R. Teal

22 GC-#1411707-v5-Nuisance_Abatement_Board_(2021-83).DOCX

**CITY COUNCIL RESEARCH DIVISION
LEGISLATIVE SUMMARY**



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Bill Type and Number: Ordinance 2021-83

Introducer/Sponsor(s): Council Members Gaffney, Cumber, White & Newby

Date of Introduction: February 9, 2021

Committee(s) of Reference: NCSPHS, F

Date of Analysis: February 11, 2021

Type of Action: Ordinance Code amendment

Bill Summary: The bill creates a new Ordinance Code Chapter 672 – Public Nuisance Abatement Board – to deal with problems associated with “public nuisance properties” that absorb a disproportionate share of limited City police, fire and rescue services and have a negative impact on the general health, safety and welfare of the City. The chapter declares the legislative intent, provides definitions, creates the board and establishes its powers and duties, establishes procedures and authorizes hearings, and provides for remedies, orders and enforcement.

Background Information: The Public Nuisance Abatement Board would consist of 9 members: a JSO officer appointed by the Sheriff; a JFRD employee appointed by the Fire Chief; a Neighborhoods Department employee appointed by the department director; a licensed attorney appointed by the Mayor, a developer, property manager or realtor with extensive experience in commercial property operations appointed by the Mayor; a property manager or realtor with extensive experience in multi-family residential property operations appointed by the Mayor; an individual with extensive experience in public health services or child protective services appointed by the Mayor, and 2 community advocates appointed by the Council President. The board would serve as a quasi-judicial forum in which to determine the existence of public nuisance conduct and resolve it in the public interest with due process of law. The bill defines “recurring public nuisance conduct”, “owner”, “operator” and “place or premises”. It provides for notice requirements and hearing procedures. Remedies are authorized, including prohibition against maintaining the nuisance, closure of the place or premises, prohibition of conduct that is conducive to the nuisance, requiring abatement of the nuisance by the owner or operator, imposition of fines (\$250/day for a first offense, \$500/day for subsequent offenses) up to a total of \$15,000.

Policy Impact Area: Nuisance behavior abatement

Fiscal Impact: Provides for imposition of fines for violations up to a maximum total of \$15,000.

Analyst: Clements

NCSPHS AMENDMENT

The Neighborhoods, Community Services, Public Health & Safety Committee offers the following amendment to File No. 2021-83:

- (1) On **page 1, line 7, after** "OF LEGISLATIVE INTENT;" **insert** "CREATING A PUBLIC NUISANCE ABATEMENT BOARD;"
- (2) On **page 2, line 19, strike** "Section 2." and **insert** a tab space followed by "**Section 2. Creating a new Chapter 672 (Public Nuisance Abatement Board), Ordinance Code.**";
- (3) On **page 4, line 2, after** "owner" **strike** "in" and **insert** "is";
- (4) On **page 4, line 16, after** "qualifications" **insert** "and term lengths";
- (5) On **page 4, line 18, after** "Sheriff" **insert** ", no term length";
- (6) On **page 4, line 20, after** "Fire Chief" **insert** ", no term length";
- (7) On **page 4, line 23, after** "Neighborhoods Department" **insert** ", no term length";
- (8) On **page 4, line 25, after** "Mayor" **insert** ", three-year term length, may serve two successive full terms";
- (9) On **page 4, line 31, after** "Mayor" **insert** ", three-year term length, may serve two successive full terms";
- (10) On **page 5, line 3, after** "Mayor" **insert** ", three-year term length, may serve two successive full terms";
- (11) On **page 5, line 6, after** "community" **insert** ", two-year term length, may serve two successive full terms";
- (12) On **page 6, line 29, after** "occasion" **insert** "within a six month period";
- (13) On **page 7, line 3, strike** "By" and **insert** "On one occasion

within a six month period by”;

- (14) On **page 7, line 5, after** “occasion” **insert** “within a six month period”;
- (15) On **page 8, line 10, strike** “four” and **insert** “five”;
- (16) On **page 13, line 3, strike** “provide” and **insert** “provided”;
- (17) On **page 15, lines 4-7, strike** “If the Board suspends a fine, costs, or both, interest shall begin to accrue on the date that the Board may terminate the suspension and re-impose the fines or costs, or both, in whole or in part.”
- (18) On **page 16, line 7½, insert** “**Sec. 672.11. Deposit of fines, fees, costs and interest awards.** Any monies received pursuant to this chapter shall be deposited into the City’s General Fund.”
- (19) On **page 1, line 1,** amend the introductory sentence to add that the bill was amended as reflected herein.

Form Approved:

 /s/ Jason R. Teal

Office of General Counsel

Legislation Prepared By: Jason R. Teal

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BECTON FLOOR AMENDMENT

Council Member Becton offers the following floor amendment to the Neighborhoods, Community Services, Public Health and Services Committee amendment to File No. 2021-83:

- (1) On **page 16, beginning on line 7½, strike** "General Fund." and **insert** "Nuisance Abatement Lien Special Revenue Fund for those uses as established in Section 111.470, Ordinance Code."
- (2) On **page 1, line 1**, amend the introductory sentence to add that the bill was amended as reflected herein.

Form Approved:

/s/ Mary Staffopoulos

Office of General Counsel

Legislation Prepared By: Jason R. Teal

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