



# MEMORANDUM

Office of the City Attorney

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FIRST READING

SECOND READING MARCH 13, 2000

DATE: February 28, 2000

TO: Mayor and City Commission

FROM: Marion J. Radson, City Attorney

FIRST READING

SUBJECT: Ordinance No. 0-00-34

AN ORDINANCE OF THE CITY OF GAINESVILLE, FLORIDA, RELATING TO PUBLIC NUISANCE ABATEMENT; AMENDING SECTION 16.91 OF THE CODE OF ORDINANCES TO INCLUDE ARRESTS AND CONVICTIONS FOR THE UNLAWFUL SALE OF SUBSTANCES IN LIEU OF CONTROLLED SUBSTANCES, THE UNLAWFUL SALE OF IMITATION CONTROLLED SUBSTANCES, THE VIOLATION OF FEDERAL NARCOTICS LAWS AND CONSPIRACY TO VIOLATE FEDERAL NARCOTICS LAWS, AND VIOLATIONS OF STATE GAMBLING LAWS AS GROUNDS CONSTITUTING A PUBLIC NUISANCE WHEN 2 OR MORE ARRESTS AND CONVICTIONS HAVE OCCURRED IN A 6 MONTH PERIOD FOLLOWED BY AN ADDITIONAL ARREST; AMENDING SECTIONS 16-92 THROUGH 16-96 AND CREATING NEW SECTIONS 16-97 AND 16-98; CREATING THE NUISANCE ABATEMENT BOARD; PROVIDING FOR PROCEDURES AND THE CONDUCT OF HEARINGS; PROVIDING FOR POST HEARING PROCEEDINGS AND THE ENFORCEMENT OF ORDERS; PROVIDING FOR APPEALS; PROVIDING DIRECTIONS TO THE CODIFIER; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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Recommendation: The City Commission adopt the proposed ordinance.

At its meeting on November 22, 1999, the City Commission authorized the City Attorney to draft an ordinance amending the City's "padlock ordinance". The ordinance expands the grounds that constitute a public nuisance to include arrests and convictions for the unlawful sale of substances in lieu of controlled substances in violation of section 817.563, Fla. Stat., or the unlawful sale of imitation controlled substances in violation of section 817.561, Fla. Stat., or violations of federal narcotics laws, or conspiracy to violate federal narcotics laws, or violations of state gambling laws.

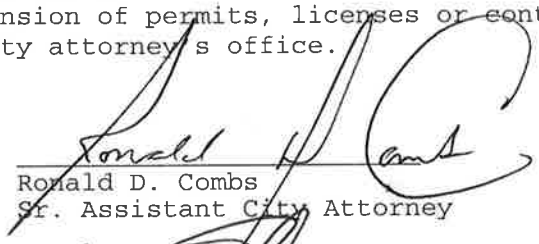
The Florida Legislature has authorized cities and counties to create nuisance abatement boards to hear and take action on complaints regarding public nuisances. For purposes of board and staff economy, we drafted the ordinance to allow the members of the code enforcement board to serve ex-officio as members of the nuisance abatement board. The new board, like the code enforcement board, will act in a quasi-judicial capacity and can order

PASSED ON FIRST READING BY A VOTE OF 5-0.

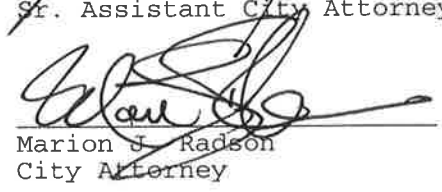
the cessation of certain activities, the closure of a business or property, and the levy of fines.

In order to file a complaint with the board, the chief of police must have 2 or more arrests and convictions of certain laws within a 6 month period followed by an additional arrest. After a hearing the board can take action. Orders of the board are also enforceable in the circuit court, or through the suspension of permits, licenses or contracts in proceedings brought by the city attorney's office.

Prepared by:

  
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Ronald D. Combs  
Sr. Assistant City Attorney

Approved and Submitted by:

  
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Marion J. Radson  
City Attorney

RDC/bas