

Chapter 13

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ARTICLE I. IN GENERAL

Secs. 13-1—13-25. Reserved.

ARTICLE II. NUISANCES ON PRIVATE PROPERTY*

Sec. 13-26. Definitions.

For the purposes of this article, the term "nuisance" means any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes but is not limited to the keeping or the depositing on or the scattering over the premises of any of the following:

- (1) Accumulated junk, trash, or debris.
- (2) Abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers.
- (3) Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects.
- (4) Any unsanitary matters or conditions, or any deleterious or septic material unless such material is retained in containers or vessels which deny access to humans, flies, insects, rodents and animals.
- (5) Any growth of grass or weeds of a height exceeding 18 inches which constitutes a menace to public health and safety of the town and its inhabitants by:
 - a. Concealing filthy deposits or containers that collect water in which mosquitoes breed;
 - b. Producing diseases and otherwise adversely affecting the health of the residents of the town;
 - c. Serving as a breeding place for flies, rats and other pests; or
 - d. Becoming a dangerous fire hazard or fostering the accumulation of trash and filth on the premises where located.

(Ord. No. 199, § 2, 8-27-84)

Sec. 13-27. Duty to maintain private property.

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

(Ord. No. 199, § 3, 8-27-84)

*State law reference—Sanitary nuisances, F.S. ch. 386.

Sec. 13-28. Exterior storage of nonoperating vehicles—Prohibited.

No person in charge of or in control of a premises, whether an owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, wrecked, junked, discarded or otherwise nonoperating motor vehicle to remain on such property longer than ten days; and no person shall leave any such vehicle on any property within the town for a longer time than ten days.

(Ord. No. 199, § 4, 8-27-84)

Sec. 13-29. Same—Exceptions.

The prohibitions of section 13-28 shall not apply with regard to any vehicle:

- (1) In an enclosed building or located upon the premises so as not to be readily visible from any public place or from any surrounding private property.
- (2) On the premises of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise.
- (3) In an appropriate storage place or depository maintained in a lawful place and manner by the town or any other public agency or entity.

(Ord. No. 199, § 4, 8-27-84)

Sec. 13-30. Enforcement of article—Generally.

Enforcement of this article may be accomplished by the town in the manner provided in this article. Any person who, by reason of another's violation of any provision of this article, suffers special damage to himself different from that suffered by other property owners throughout the town generally may bring an action to enjoin or otherwise abate an existing violation.

(Ord. No. 199, § 5, 8-27-84)

Sec. 13-31. Same—Notice of noncompliance.

(a) All persons owning, leasing, occupying or having charge of any premises within the corporate limits of the town upon which a violation of any provision of this article shall have been determined to exist by the police department of the town shall be notified in writing by the police department of such violation by personal service by an officer of the police department or by registered or certified mail, return receipt requested.

(b) The notice of noncompliance shall describe the premises in violation and shall also specify in as much detail as possible the violations involved. Such person shall be given a reasonable time not to exceed 30 days from the date of the mailing of the notice in which to remove or abate the nuisance from the premises.

(Ord. No. 199, § 5(a), 8-27-84; Ord. No. 296, § 1, 7-27-99)

Sec. 13-32. Same—Failure to abate after notice.

Upon failure of any person owning, leasing, occupying or having charge of any premises to remove or abate any nuisance found to be existing upon the premises within the time period provided in section 13-31, the chief of police shall report such failure in writing to the town manager and shall appear at all hearings conducted by the town council to testify and present photographs showing the nuisance involved.

(Ord. No. 199, § 5(b), 8-27-84)

Sec. 13-33. Same—Hearing, issuance of order by town council.

(a) The town council shall, upon receipt of the written report of the chief of police as provided for in section 13-32, give written notice by certified or registered mail, return receipt requested, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the premises as shown by the tax assessment rolls for the county, to appear on the hearing date specified in the notice to show cause why the circumstances or situation reported to be a nuisance should not be removed or abated from the premises.

(b) The town council shall hold a hearing and hear such evidence as the chief of police or the owner, occupant, mortgagee, lessee or any other person having an interest in the premises shall offer relative to the nuisance. The town council shall make findings of fact from the evidence offered as to whether or not a nuisance does exist on the premises.

(c) If a nuisance is found to exist, a written order shall be issued by the town council allowing the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the premises to remove or abate the nuisance within a specified reasonable time which shall in no event be less than 30 days from the date of the hearing.

(d) The town council's order shall fairly and adequately notify the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the premises of the possible consequences of their failure to comply with the order.

(Ord. No. 199, § 5(c), 8-27-84)

Sec. 13-34. Same—Imposition of lien.

(a) If the owner, occupant, mortgagee, or lessee fails to comply with the order of the town council provided for in section 13-33 within the time specified in the order, the town council may cause such nuisance to be removed or abated as the facts may warrant, and shall, with the assistance of the town attorney, cause the reasonable costs and expenses incurred by the town for any such removal or abatement to be charged against the land on which the nuisance existed.

(b) For the costs and expenses so assessed, the town may issue lien certificates bearing interest at the rate of six percent per annum in payment of such costs and expenses of such work, payable to the town within six months from the date of issue.

(c) Upon nonpayment after the expiration of the six months, the lien as evidenced by the lien certificate so issued shall be enforceable in equity against the property described therein.

Such lien may be foreclosed in a suit in equity as a mortgage. The costs and expenses of such foreclosure, including a reasonable attorney's fee, shall be an additional charge and lien against the property, and shall be collected at the same time and in the same proceedings for the collection of the amount for which the lien was originally issued.

(Ord. No. 199, § 5(d), 8-27-84)

Sec. 13-35. Same—Penalties for violation of order.

The owner, occupant, lessee or other persons having an interest in the premises who shall violate this article by failing to comply with any written order issued by the town council as provided in section 13-33 shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not exceeding \$500.00 or imprisoned for a term not exceeding 90 days, or by both such fine and imprisonment.

(Ord. No. 199, § 6, 8-27-84)

Secs. 13-36—13-55. Reserved.

ARTICLE III. DRUG-RELATED NUISANCES*

DIVISION 1. GENERALLY

Sec. 13-56. Definition.

In accordance with the provisions of F.S. § 893.138(1), any place or premises which has been used on more than two occasions as the site of the unlawful sale or delivery of controlled substances may be declared to be a public nuisance, and such nuisance may be abated, pursuant to the provisions as provided in this article.

(Ord. No. 216, § 5, 7-26-88)

Secs. 13-57—13-65. Reserved.

DIVISION 2. DRUG ABATEMENT BOARD

Sec. 13-66. Creation.

Pursuant to F.S. § 893.138, a local administrative board to hear complaints and take action with respect to the abatement of drug-related nuisances is hereby created by the town. Such board shall be entitled the "Havana Drug Abatement Board."

(Ord. No. 216, § 1, 7-26-88)

Sec. 13-67. Membership—Composition, compensation.

(a) The drug abatement board shall be composed of five members appointed by the town council as provided in this article.

*State law reference—Abatement of drug-related public nuisances, F.S. § 893.138.

(b) Members of the board shall serve without compensation.
(Ord. No. 216, § 2(a), (f), 7-26-88)

Sec. 13-68. Same—Qualifications.

The five members of the drug abatement board shall be residents of the town and selected by the town council. The main criteria for such selection shall be a specific interest in or knowledge of drug abuse prevention and control on the part of the persons to be appointed.
(Ord. No. 216, § 2(b), 7-26-88; Ord. No. 228, § 1, 7-25-89)

Sec. 13-69. Same—Liability.

No member of the drug abatement board shall be personally liable for any action taken in attempting in good faith to perform his duties or for a decision not to act, except in instances of fraud or willful neglect of duty, and in such instances the member shall indemnify, save and hold harmless the town from and against any and all claims or injuries arising out of such instances of fraud or willful neglect.
(Ord. No. 216, § 2(g), 7-26-88)

Sec. 13-70. Same—Terms.

The terms of the five members of the drug abatement board first appointed shall be as follows: Two members shall be appointed for terms of three years; two members for terms of two years; and one member for a term of one year. Thereafter all appointments shall be for terms of three years.
(Ord. No. 216, § 2(c), 7-26-88)

Sec. 13-71. Same—Removal.

Any member of the drug abatement board may be removed by the town council for failure to attend meetings, malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties or upon commission of a felony.
(Ord. No. 216, § 2(d), 7-26-88)

Sec. 13-72. Same—Filling of vacancies.

In the event of death, resignation or removal of any member of the drug abatement board, a successor shall be appointed by the town council for the unexpired period of time for which such member has been appointed. All other members shall continue in office until their successors have been appointed.
(Ord. No. 216, § 2(e), 7-26-88; Ord. No. 228, § 2, 7-25-89)

Sec. 13-73. Same—Officers.

At its organizational meeting and thereafter each year, the drug abatement board shall elect from its own membership a chairman, a vice-chairman, and a secretary who shall have and perform such duties as are commonly associated with their respective titles and as may be

assigned to them from time to time under rules and regulations adopted by the board. Terms of office shall be for one year with eligibility for re-election.

(Ord. No. 216, § 3(a), 7-26-88)

Sec. 13-74. Powers, duties, responsibilities.

The drug abatement board shall have the specific power and duty to hear complaints relating to any place or premises which has been the site of the unlawful delivery or sale of controlled substances, to conduct hearings on such complaints in the manner as provided in this article, and to make such declarations, enter such orders, and take such further action with respect to the prohibition or abatement of any public nuisance found to exist with respect to any place or premises as provided in this article.

(Ord. No. 216, § 4, 7-26-88)

Sec. 13-75. Rules and bylaws.

The drug abatement board shall adopt or promulgate such reasonable rules, regulations or bylaws, consistent with this article, as may be necessary or desirable in order to carry out its functions.

(Ord. No. 216, § 3(c), 7-26-88)

Sec. 13-76. Meetings.

(a) The drug abatement board shall meet at regular intervals at such times and places to be determined by the board.

(b) A majority of the members of the board shall constitute a quorum, and an affirmative vote of a majority of the quorum present shall be necessary for the passage, enactment or transaction of any official business of the board.

(c) Special meetings may be called by the town council or by the chairman of the board, or in his absence by the vice-chairman of the board. All such requests shall state the purpose for which the special meeting is to be called and shall be filed, in accordance with rules to be adopted by the board, at least 24 hours before the time of the special meeting so called and authorized. Any such request and call for a special meeting shall be read at the meeting and entered into the minutes, and no business shall be transacted except that stated in the request and call for such special meeting.

(Ord. No. 216, § 3(b), 7-26-88)

Secs. 13-77—13-85. Reserved.

DIVISION 3. ABATEMENT

Sec. 13-86. Complaints.

Any employee, officer or resident of the town may bring a complaint before the drug abatement board after giving not less than three days' written notice of such complaint to the owner of the place or premises at his last known address.

(Ord. No. 216, § 6, 7-26-88)

Sec. 13-87. Hearing.

The drug abatement board shall conduct a hearing on any complaint made pursuant to this division, during which hearing the board may consider any evidence, including evidence of the general reputation of the place or premises about which the complaint has been received, as well as any evidence which the owner of the premises or his agents or employees may present in his defense.

(Ord. No. 216, § 7, 7-26-88)

Sec. 13-88. Declaration of public nuisance.

After conducting a hearing pursuant to this division, the drug abatement board may declare the place or premises to be a public nuisance as described in section 13-56.

(Ord. No. 216, § 8(a), 7-26-88)

Sec. 13-89. Order regarding public nuisance.

(a) Pursuant to F.S. § 893.138(3), if the drug abatement board declares a place or premises to be a public nuisance, it may enter an order immediately prohibiting:

- (1) The maintenance of the nuisance by requiring one or more of the following measures to be taken:
 - a. Installing additional lighting.
 - b. Posting warning signs.
 - c. Requiring the reporting of suspicious activities.
 - d. Setting a probationary period.
 - e. Requiring onsite security officers during specified times.
 - f. Limiting hours of operation.
 - g. Limiting sale of certain products, i.e., alcohol, that would attract crowds.
 - h. Clearing of congested or wooded areas.
- (2) The operation or maintenance of the place or premises; or
- (3) The conduct, operation or maintenance of any business or activity on the premises which is conducive to such nuisance.

(b) An order entered by the board under this section shall expire after one year or at such earlier time as is stated in the order.

(Ord. No. 216, § 8(b), (c), 7-26-88; Ord. No. 228, § 3, 7-25-89)

Sec. 13-90. Recommendation to suspend or revoke license.

The drug abatement board may also make a recommendation directly to the town council that the council exercise its power to suspend or revoke any business or occupational licenses issued to or associated with the premises declared to be a public nuisance.

(Ord. No. 228, § 4, 7-25-89)

Sec. 13-91. Seeking permanent injunctive relief.

If the drug abatement board declares a place or premises to be a public nuisance in accordance with the procedures set forth in this division, the board may bring a complaint under F.S. § 60.05, seeking a permanent injunction against any nuisance so declared by the board.

(Ord. No. 216, § 9, 7-26-88)

Sec. 13-92. Other persons not restricted from pursuing injunctive relief.

This article shall not restrict the right of any person to proceed under F.S. § 60.05, against any public nuisance.

(Ord. No. 216, § 10, 7-26-88)

Secs. 13-93—13-115. Reserved.

ARTICLE IV. NOISE*

Sec. 13-116. Creation of loud or unnecessary noise—Prohibited.

(a) It shall be unlawful for any person to create, make, continue or cause to be created, made or continued, within the town, any loud, unnecessary or unusual noise, or any other noise which disturbs, annoys, injures or endangers the comfort, quiet, repose, health, peace, safety or welfare of other persons or which disturbs the peace and good order of the neighborhood or the persons owning, using or occupying property in the neighborhood, nor shall any person knowingly permit such conduct upon any premises owned, occupied or controlled by such person.

(b) This prohibition shall specifically include but shall not be limited to the playing of portable radios or recording playback devices upon the public streets and in homes or other such premises and the playing of portable radios or recording playback devices, including speakers and amplifying devices, in automobiles, trucks and other motor vehicles, as more particularly set out in subsection (c) of this section.

(c) It shall be unlawful for any person to play, use, operate or permit to be played, used, or operated any radio or television receiving set, musical instrument, phonograph or other recording playback machine or device, including speakers and amplifying devices, for the producing or reproducing of sound, in such a manner as to disturb the quiet, comfort, repose, health, peace, safety or welfare of the neighboring inhabitants or at any other time with louder volume than is necessary for the convenient hearing of the person who is in the room, vehicle or immediate vicinity in which such machine or device is operated and who is a voluntary listener thereto.

(Ord. No. 231, § 1, 12-12-89)

Cross reference—Traffic and vehicles, ch. 18.

***State law reference**—Noise from motor vehicles, F.S. §§ 316.293, 403.415.

*Changed
by
Ordinance
No. 331
on 6-26-89*

Sec. 13-117. Same—Exceptions.

(a) The town council delegates to the town manager the authority to permit such community activities as ballgames, picnics, church related functions, civic gatherings, parades, street or parking lot dances, promotions and other similar activities which might tend to produce high noise levels by way of amplified music or other sources, when appropriate steps have been taken to reduce the likelihood of annoying or disturbing the peace and comfort of persons in the immediate vicinity of the proposed activities.

(b) The decision of whether to permit an activity covered by this section shall be that of the town manager under such terms and conditions as he deems reasonably necessary and proper to meet the intent of this article and to be consistent with this article.

(Ord. No. 231, § 1(c), 12-12-89)

Cross reference—Parades, demonstrations, assemblies, § 17-51.

Secs. 13-118—13-135. Reserved.

ARTICLE V. LITTER*

Sec. 13-136. Definitions.

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

Bulky waste means items of solid waste, such as appliances and furniture.

Commercial or industrial waste means waste accumulation including but not limited to metal, metal products, minerals, chemicals, rock, tar, oil, grease, grass, crockery, rubber, tires, bottles, cans, lumber, sawdust, waste from animal packing or slaughterhouses or other materials usually created by commercial or industrial enterprises.

Construction and demolition waste means the waste, building materials and rubble resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings, pavements and other structures.

Garbage means all kitchen and table food waste and animal or vegetable waste that is attendant with or results from the storage, preparation, cooking or handling of food materials, including byproducts of the preparation or packaging of such foods or other matter.

Hazardous waste means any hazardous, toxic or radioactive waste or substance as defined by applicable federal, state or local laws, ordinances or regulations.

Household waste means garbage and refuse.

Law enforcement officer means any law enforcement officer of the town or any law enforcement officer of the county sheriff's department, the state department of natural resources,

***Cross reference**—Solid waste, ch. 16.

the state game and fresh water fish commission, or the state or any political subdivision thereof.

Litter means all waste materials, including, but not limited to, bulky waste, commercial or industrial waste, construction and demolition waste, hazardous waste, household waste, including garbage and refuse, solid waste and yard waste, thrown or deposited as prohibited herein.

Litter receptacle means a mechanical container, a roll-off container or any other disposal container provided by the town, which containers are constructed or placed for use as a depository for litter.

Mechanical container means a container with a volume of two cubic yards or greater and which is emptied into a front-end loader truck. The words "mechanical container" are synonymous with "dumpster."

Person means any natural person, corporation, partnership, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, or representative or group of individuals or entities of any kind.

Private property means property owned by any person as defined herein, including but not limited to yards, grounds, driveways, entrances or passageways, parking areas, storage areas, any body of water, vacant land, and recreation facilities.

Public property means any area that is used or held out for use by the public, whether owned or operated by public or private interests, including but not limited to highways, streets, alleys, parks, recreation areas, sidewalks or medians, or lakes, rivers, streams, ponds or other bodies of water.

Refuse means accumulations of rubbish, such as paper, sweepings, dust, rags, bottles, cans and other waste material of any kind usually attendant to a domestic household or house-keeping.

Roll-off container means a solid waste container from ten to 45 cubic yards capacity whose waste contents are taken off by the town or its authorized agent and an empty container is left in its place.

Solid waste means all garbage, rubbish, yard waste or commercial or industrial waste.

Vehicle means every device capable of being moved upon a public highway or public waterway and in, upon or by which any person or property may be transported or drawn upon a public highway or public waterway, including any watercraft, boat, ship, vessel, barge or other floating craft, or which are used exclusively upon stationary rails or tracks, or which are used exclusively for agricultural purposes and not licensed pursuant to state law and are not operated on a public highway for purposes other than crossing such public highway or along such highway between two tracts.

Yard waste means accumulations of lawn grasses, shrubbery cuttings or clippings, bushes or shrubs, green leaf cuttings and tree branches.

(Ord. No. 252, § 2, 5-26-92)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 13-137. Administration and penalties.

(a) It shall be the duty of the all law enforcement officers to enforce the provisions of this article, but the town council hereby appoints the chief of police as the official who is charged and provided with the authority to administer this article and to enforce the regulations and procedures contained in this article. In the performance of his duties, the chief of police or his designee may enter upon any land at reasonable times and make surveys and examinations upon reasonable notification to the property owner or person described in section 13-138.

(b) Any person who violates any provision of this article shall be guilty of a misdemeanor and shall upon conviction be punished by fine not exceeding \$500.00 or by imprisonment not to exceed 60 days or both such fine and imprisonment. Each day of violation after written notice shall constitute a separate offense.

(c) The town council shall have the right to bring an immediate civil action to enjoin or restrain any violator from continuing any action which is proceeding in violation of this article. If the violator is found by the court to be in violation of this article, the violator shall be required to pay the town council's costs and reasonable attorney fees incurred in bringing the civil action. This action shall be in addition to any criminal action authorized in this article.

(Ord. No. 252, § 5, 5-26-92)

Sec. 13-138. Presumptions.

The following presumptions shall apply in the enforcement of this article, but shall be rebuttable by competent evidence.

(1) When a violation of the provisions of this article has been observed by any person, and the matter dumped or disposed of in the highway, right-of-way, property adjacent to such highway or right-of-way, or private property has been ejected from a vehicle, the owner or operator of such motor vehicle shall be presumed to be the person who ejected such trash, garbage, refuse or other unsightly matter.

(2) Any article of litter bearing a person's name or address, found on the private property of another, or on any public property as designated in this article, shall be presumed to be the property of such person whose name or address appears thereon, and it shall be presumed that such person placed or caused to be placed such article of litter where found.

(Ord. No. 252, § 3, 5-26-92)

Sec. 13-139. Unlawful acts.

(a) It is unlawful for any person to drop, deposit, discard or otherwise dispose of litter in or upon any public or private property within the town, including but not restricted to any street, sidewalk, park, body of water, vacant parcel or occupied lot, except in public litter receptacles or in authorized private litter receptacles provided for public use, or in an area lawfully established and maintained as a garbage or waste disposal site, sanitary landfill or junkyard.

(b) It is unlawful for any person to drop, deposit, discard or otherwise dispose of litter in a private receptacle if such person is not authorized to use such receptacle as a garbage or waste disposal receptacle. Authorization to use another person's private garbage or waste disposal receptacle must be in writing.

(c) It is unlawful to drive or move any vehicle on any street or highway unless such vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom; provided, however, that sand or any substances to increase traction, or water or other substance, may be applied on a roadway in the cleaning or maintaining of such roadway by the state or local government agency having such responsibilities.

(d) It is unlawful to drive, move, stop or park on any street or highway any vehicle being used to transport litter or other items likely to fall or be blown from such vehicle, unless such vehicle is covered to prevent its contents from blowing, dropping or falling from such vehicle. (Ord. No. 252, § 4, 5-26-92)