

Chapter 21

POLICE*

* **Cross References:** City departments created, § 2-126; authority of police to seize certain stolen, wrecked or abandoned property, § 12-1; wrecker service for towing vehicles, § 12-41 et seq.; offenses, Ch. 17; pensions and retirement, Ch. 18; police officers retirement system § 18-61 et seq.; police protection in development review, § 20-72; traffic and vehicles Ch. 25, registration of bicycles with the police department, § 25-61; reward for arrest of bicycle thieves, § 25-69.

State Law References: Law enforcement officers qualifications, training and certification, F.S. §§ 943.12, 943.13, 943.14, 943.15 and 943.25(8); law enforcement officers rights, F.S. § 112.531 et seq.; assessment for police training, F.S. § 943.25; law enforcement officers salary incentive program, F.S. § 943.22; contraband forfeiture act, F.S. § 932.701 et seq.; precious metals, holding period, records, inspections, F.S. § 812.051.

Art. I. In General, §§ 21-1--21-20

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ARTICLE I.

IN GENERAL

Sec. 21-1. Incarceration of city prisoners in county jail.

If it becomes necessary in the enforcement of the ordinances of the city or the processes or judgments of any court that the violator of any such ordinance, processes or judgments be confined in jail, then in that event, the county jail is hereby designated as the jail in which such violator is to be confined.
(Code 1964, § 19-3)

Sec. 21-2. Court costs for police training--Assessment.

(a) There is hereby assessed by the city in compliance with F.S. section 943.25(8) an additional two dollars (\$2.00) court costs against every person convicted for violation of a state penal or criminal statute or convicted of a municipal ordinance, where the offense occurred within the city limits.

(b) In addition, two dollars (\$2.00) shall be deducted from every bond estreature or forfeited bail bond related to such penal estreature or forfeited bail bond related to such penal statutes or ordinances.

(c) No such assessment shall be made against any person convicted for violation of any state statute or municipal ordinance relating to the parking of vehicles.

Sec. 21-3. Same--Use.

All assessments under section 21-2 shall be collected by the appropriate court and shall be remitted to the town and earmarked for law enforcement education and training for members of the police department. The use and expenditure of such funds shall be in accordance with education and training programs for law enforcement personnel as determined by the chief of police and in accordance with F.S. section 943.14(4).

State Law References: Law enforcement officers qualifications training and certification F.S. §§ 943.12, 943.13, 943.14, 943.145 and 943.25(8), law enforcement officers rights, F.S. §§ 112.531--112.534.

Sec. 21-4. Law enforcement trust fund.

(a) *Established.* There is hereby created a City of Plantation Law Enforcement Trust Fund for the purpose of accepting and disbursing monies, forfeiture proceeds, awards of money, gifts or other monies as may be appropriate pursuant to F.S. section 932.704(3)(a) for the purposes of expenditures as allowed by such section.

(b) *Term of existence.* The trust fund and account shall be self-perpetuating and sustaining from year to year unless terminated by the city council.

(c) *Trust assets.* All trust assets shall be expended, utilized and disbursed only for those purposes allowed as provided in F.S. section 943.25 and specifically for law enforcement purposes only.

(d) *Disbursement of monies.* No fund shall be disbursed from the trust fund unless approved by the city council.

(e) *Funds not expended.* Funds not expended at the close of any fiscal year shall be carried forward into the next year.

(f) *Accounting.* The city comptroller, or the appropriate budgetary officer of the city, shall provide quarterly reports to the city council in accordance with the requirements of F.S. section 932.704 which report shall specify for such period the type and approximate value of the property received and the amount of any proceeds received.

(Code 1964, § 19-22)

Cross References: Finance, § 2-266 et seq.

State Law References: Forfeiture proceedings, F.S. § 932.704.

Secs. 21-5--21-20. Reserved.

ARTICLE II.

POLICE DEPARTMENT*

* **Cross References:** Audit of wrecker company records by the finance department or the police department, § 12-56;

pawnbroker's records to be inspected by chief of police or his representative, § 14-97.

DIVISION 1.

GENERALLY

Sec. 21-21. Fingerprint service and fees.

The police department is hereby authorized to provide the service of taking and preparing fingerprints of persons requesting the service. A fee in the amount of five dollars (\$5.00) shall be charged for each set of fingerprints taken or prepared by the police department from residents of the city and fifteen dollars (\$15.00) shall be charged for nonresidents. This fee shall be utilized to offset the cost of taking and preparing the fingerprints and the cost of training personnel in the process of taking and preparing fingerprints. The time and location for offering the fingerprint service shall be established by the police department and modified, from time to time, based on the department's availability of resources and personnel.

(Ord. No. 1878, § 1, 9-30-92)

Secs. 21-22--21-35. Reserved.

DIVISION 2.

AUXILIARY POLICE

Sec. 21-36. Auxiliary police.

(a) *Creation; police chief to appoint members.* There is hereby created a voluntary organization which shall be known as Plantation Auxiliary Police and the members of which shall be appointed by the chief of the police department of the city and shall be governed by the provisions of this section.

(b) *Method of appointment; qualifications.* No person shall become a regular member of the reserve police until he has complied with the rules of police standards council for part time or auxiliary police officers, and has met all other requirements as prescribed by the chief of police. When so qualified, he shall be sworn in by the chief, or by an authorized representative of the chief, as a member of the reserve police of the city.

(c) *Power and authority.* A member of the reserve police, when on duty as assigned by the chief, shall have the same authority and power of arrest granted to a regular member of the police department, subject to any limitations which the chief may impose.

(d) *Duties.* In order to effectuate the purpose of the reserve police, the chief may, by order, establish rules and regulations to govern the reserve police including the fixing of specific duties of its members and providing for the maintenance of discipline.

(e) *Workmen's compensation.* Each member of the auxiliary police while acting under the direction of the chief during a regularly assigned tour of duty, or when receiving instruction or training as provided in this section, shall, for the purpose of workmen's compensation insurance, be deemed an employee of the city and entitled to receive compensation from the city in accordance with Chapter 440, the Workmen's Compensation

Law of the State of Florida. It is hereby determined and declared that the intent of the city council is to secure to all reserve police complete coverage under the Workmen's Compensation Law, known and numbered as Chapter 440 of the Florida Statutes, being part of the organic law of the state.
(Code 1964, § 19-20)

Secs. 21-37--21-50. Reserved.

DIVISION 3.

SPECIAL DUTY

Sec. 21-51. Written requests to police chief.

Any person or entity desiring a special duty detail of city police personnel shall request same in writing to the office of the chief of police, and shall agree to pay to the city the hourly rates hereinafter set forth for such special duty detail, which hourly rate shall include all charges incurred by the city in processing and record-keeping such details.

(Code 1964, § 19-21(a))

Sec. 21-52. Roster of volunteers.

The office of the chief of police shall maintain a roster of police personnel who volunteer for such special duty details and such requests will be filled from such roster on a rotating-as-received basis once the office of the chief of police approves the propriety of such special detail requests.

(Code 1964, § 19-21(b))

Sec. 21-53. Authority, duties of personnel.

All police personnel assigned to such special duty detail shall be on an active duty basis; shall be fully uniformed (unless a request for a plain clothes duty detail is received); shall be fully armed; shall maintain communications with the shift supervisor at the police station during such special duty detail; and, being on duty, shall be subject to any departmental call for assistance or backup that may arise during such special duty detail; shall be fully responsible to enforce the laws should a violation thereof occur within or beyond the assigned duties or premises of such special detail; and shall otherwise be subject to all of the duties and responsibilities of his shift supervisor, and thus, not under either the direction or supervision of the party or person requesting such special duty detail.

(Code 1964, § 19-21(c))

Sec. 21-54. Hourly pay rate.

The regular hourly rate established by city for the services of all police personnel volunteering under this division shall from time to time be set by the police chief with the approval of the administration and, if no such approval can be obtained by the police chief, with an approval of the city council by enactment of a resolution. All such revisions in such rates shall be filed over the cosignature of the mayor and police chief (if approved by the administration and police chief) or by enactment of a resolution with the city clerk and upon such filing, such revisions in the rate shall be deemed effective until further revised. At this time, the regular hourly rate

established until revised, as contemplated herein, shall be sixteen dollars (\$16.00) per hour for such special duty details of which sum fourteen dollars and fifty cents (\$14.50) shall be paid to the policemen performing such special duty and one dollar and fifty cents (\$1.50) to the city for bookkeeping and recordkeeping costs, as well as to defer the cost of insuring such special duty services. The police chief or his designee shall have the discretion to assign supervisory personnel (rank of sergeant or above) as deemed needed and the city shall pay such personnel performing supervisor services the difference between the above-mentioned special duty rate due such assigned supervisor and one and one-half times their normal salary during such off-duty assignment. (Code 1964, § 19-21(d))

Sec. 21-55. Billing by comptroller; delinquent accounts; deposit of funds.

(a) The office of the police chief shall forward to the comptroller of the city all requests for special duty details, and the comptroller shall bill, at the aforespecified hourly rate, the personnel or entity requesting such details.

(b) The comptroller shall notify the office of the police chief of any account of special detail that is more than thirty (30) days delinquent, and the office of the police chief shall not thereafter accept requests from such delinquent accounts until the account is paid current. All monies received on such special detail bills shall be deposited in the general fund of the city and the police department shall be reimbursed for personnel costs charged to that department for such special details. The remaining fund shall remain in the general fund for the purpose of reimbursing the city its costs for insurance, overhead, taxes, processing, etc. (Code 1964, § 19-21(e), (f))

Sec. 21-56. Vehicles; weaponry.

Nothing contained in this division shall require or permit the furnishing of police vehicles or weaponry (other than the officer's handgun) to such special duty detail unless the shift supervisor orders same under a then-existing police emergency. (Code 1964, § 19-21)

Secs. 21-57--21-70. Reserved.

ARTICLE III.

RESERVED*

* **Editors Note:** Section 2 of Ord. No. 1724, adopted Aug. 22, 1990, repealed former Art. III, which contained §§ 21-71--21-79, pertaining to burglar alarms and deriving from Code 1964, §§ 4-11--4-19. Provisions relative to alarm systems are included in Ch. 5, Art. VII.

Secs. 21-71--21-79. Reserved.

ARTICLE IV.

PUBLIC NUISANCE ABATEMENT*

* **Cross References:** Dilapidated or inadequately maintained structures, § 5-86 et seq.; sanitation requirements for swimming pools, § 5-133; notice to correct sanitary nuisance, swimming pools, § 5-134; code enforcement, Ch. 6; general powers of city to abate and remove nuisances, impose liens, etc., § 11-1; unlawful accumulations of trash, rubbish, etc., § 11-7; excessive growth of weeds and brush, abatement thereof, § 11-8; junked, wrecked, abandoned property, Ch. 12; trash, debris, construction material, or obstructions to waterways declared public nuisance, § 15-36; noise, Ch. 16; lewd publications, exhibitions or shows declared public nuisance, § 17-26; handbills, § 22-1; prohibited signs § 22-76; restricted use of the public sewers, unacceptable waste materials constituting a public nuisance, § 26-124; general nuisance prohibitions, zoning, § 27-649.

State Law References: Abatement of nuisances, F.S. § 60.05; place where controlled substance are illegally kept, sold or used declared a public nuisance, F.S. § 823.10.

Sec. 21-80. Definitions.

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

Board means the city nuisance abatement board.

Clerk means the city clerk or designee of the city clerk.

Council means the city council of the City of Plantation, Florida.

Operator means a tenant, lessee or person having control or possession of the place or premises which is the subject of a complaint filed with the nuisance abatement board.

Owner means the owner of the place or premises which is the subject of a complaint filed with the nuisance abatement board.

Party shall mean a complainant, owner or operator.
(Ord. No. 1631, § 1, 6-21-89; Ord. No. 2176, § 1, 2-3-99)

Sec. 21-81. Nuisance abatement board--Created; duty.

There is hereby created the Plantation Nuisance Abatement Board, pursuant to section 893.138, Florida Statutes, with members, powers and duties as hereinafter set forth.

It shall be the duty of the nuisance abatement board to hear evidence relating to the existence of public nuisances on any place or premises located in the city. A public nuisance may be declared by the board and abated pursuant to the procedures provided in this article when:

- (a) Any place or premises has been used on more than two (2) occasions, within a six-month period:
 1. As the site of a violation of section 796.07 [Florida Statutes]; or
 2. As the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance; or

3. By a criminal street gang for the purpose of conducting a pattern of criminal street gang activity; or

(b) Any place or premises that has been used within a six-month period on one (1) occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one (1) occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance.

(Ord. No. 1631, § 1, 6-21-89; Ord. No. 2176, §§ 2, 3, 2-3-99; Ord. No. 2184, § 1, 3-10-99)

Editors Note: Ord. No. 2176, § 2, adopted Feb. 3, 1999, deleted former § 21-81, Nuisance, derived from Ord. No. 1631, § 1, adopted June 21, 1989, and provided that subsequent sections be renumbered accordingly; hence, former §§ 21-82--21-87 have been redesignated as §§ 21-81--21-86.

Sec. 21-82. Same--Organization.

(a) The nuisance abatement board shall be composed of seven (7) members with one (1) member appointed by each elected official. The seventh member shall be appointed by use of the rotation basis process specified in section 2-32 of the City Code of Ordinances. Each member of the board shall be a permanent resident of the city. The seat of any member of the board who removes his or her permanent residence from within the corporate limits of the city shall become immediately vacant upon the change of residence.

(b) Members of the board shall serve for a term of one (1) year, and shall be subject to the provisions of sections 2-31 through 2-33 of this Code.

(c) The members of the board shall elect a chairperson and vice-chairperson from among the members of the board. The presence of four (4) members shall constitute a quorum. A majority vote of those members present shall enable the board to take any action. The board shall promulgate such internal rules and procedures as it deems necessary to conduct its business. Members shall serve without compensation.

(d) The clerk shall perform the clerical duties of the board.

(Ord. No. 1631, § 1, 6-21-89; Ord. No. 2162, § 2, 5-13-98; Ord. No. 2176, § 2, 2-3-99)

Note: See the editor's note following § 21-81.

Sec. 21-83. Enforcement procedures.

(a) Any employee, officer or resident of the city may file a complaint with the board with regard to nuisances described in section 21-82. No member of the board may file a complaint with the board. All complaints shall be filed with the clerk. Each complainant must provide written notice of his complaint to the owner at the owner's last known address at least three (3) days prior to the scheduled hearing date.

(b) The clerk shall schedule a hearing for each complaint which alleges that a place or premises is a public nuisance as set forth in section 21-82.

(c) The clerk shall give written notice of every hearing by certified mail or hand delivery to the owner(s) and operator(s) at the last known addresses at least ten (10) days prior to the scheduled hearing. If an attempt to reach an owner or operator by certified mail or hand delivery is unsuccessful, notice of the hearing may be by publication as provided in Florida Statutes, Chapter 49. Notice shall include the following:

- (1) The time, date, place and nature of the hearing;
- (2) A reference to the Plantation Nuisance Abatement Ordinance;
- (3) A short and plain statement summarizing the incidents which form the basis of the complaint;
- (4) A statement that "failure to attend may result in an order being issued adverse to your interests";
- (5) A statement that all parties may be represented by counsel;
- (6) A statement that all parties shall be given an opportunity to present evidence in support of their position, submit rebuttal evidence, and conduct cross-examination; and
- (7) A conspicuous statement reflecting the requirements of Florida Statutes, Chapter 286, that a person deciding to appeal any decision of the board will need to ensure that a verbatim record of the proceedings is made.

(d) Meetings of the board shall be open to the public, and minutes shall be kept.

(Ord. No. 1631, § 1, 6-21-89; Ord. No. 2176, §§ 2, 4, 2-3-99)

Note: See the editor's note following § 21-81.

Sec. 21-84. Hearing procedure.

(a) All testimony shall be under oath and shall be recorded.

(b) Before the board may hear a complaint, the board must make a finding that the notice requirements as set forth in section 21-84 have been satisfied. In no case shall the board proceed to hear any complaint unless the notice requirements set forth in section 21-84 have been met.

(c) Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. The board may consider any evidence, including evidence of the general reputation of the place or premises. All 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 under the Florida Evidence Code.

(d) Each party shall have the following rights:

- (1) To call and examine witnesses.
- (2) To introduce documentary evidence, exhibits or physical evidence.
- (3) To cross-examine opposing witnesses on any relevant matter.
- (4) To impeach any witness.
- (5) To submit rebuttal evidence.

(6) To be presented by counsel.

(e) The owner of the place or premises in question may introduce evidence as to any remedial measures taken to ameliorate the conditions which led to the public nuisance.

(f) All findings of the board shall be based on a preponderance of the evidence. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible in a civil action. The burden of proof shall be on the complaining party.

(g) At the conclusion of the hearing, the board shall issue findings of fact and conclusions of law with respect to the issues before it.

(h) If the board finds that a place or premises was the site of a public nuisance, the board may declare the place or premises in question a public nuisance. Upon such declaration, the board may enter an order immediately prohibiting:

(1) The maintaining of the nuisance;

(2) The operating or maintaining of the place or premises;

(3) The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance;

(4) Order a fine not to exceed two hundred fifty dollars (\$250.00) for each day the public nuisance exists on the place or premises;

(5) Order the payment of reasonable costs, including reasonable attorneys' fees, associated with investigations of and hearings on the public nuisance;

(6) Order continuing jurisdiction for a period of one (1) year;

(7) Order a fine not to exceed five hundred dollars (\$500.00) for each day the public nuisance exists on the place or premises for recurring public nuisances; or,

(8) Any combination of the above.

(i) Orders of the board may be recorded and shall become liens against the real property that is the subject of the order. Costs of recordings, including reasonable attorneys' fees associated with recording the lien, shall be included in the total lien amount. Such liens may be foreclosed in the same manner as mortgages and costs and attorneys' fees resulting from any foreclosure action can be recovered.

(j) The total fines imposed pursuant to any order of the nuisance abatement board shall not exceed five thousand dollars (\$5,000.00).

(Ord. No. 1631, § 1, 6-21-89; Ord. No. 2176, §§ 2, 5, 6, 2-3-99)

Note: See the editor's note following § 21-81.

Sec. 21-85. Appeals.

(a) An aggrieved party, including the city council, may appeal a final administrative order of the board to the circuit court. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

(b) The scope of review shall be limited to the record made before the board and shall not be a trial de novo.

(c) The board shall, by rule, establish reasonable charges for the preparation of the record to be paid by the appealing party.

(Ord. No. 1631, § 1, 6-21-89; Ord. No. 2176, § 2, 2-3-99)

Note: See the editor's note following § 21-81.

Sec. 21-86. Supplementary provisions.

The provisions and procedures contained in this article shall be in addition and supplemental to any other remedies now existing or subsequently provided for by law, and does not restrict the right of any person to proceed under section 60.05, Florida Statutes, against any public nuisance.

(Ord. No. 1631, § 1, 6-21-89; Ord. No. 2176, § 2, 2-3-99)

Note: See the editor's note following § 21-81.