## Chapter 26A SANITARY NUISANCE [[1]](#BK_4A3A21FF9BCF7B966C8B79AA0E03EBA4)

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Sec. 26A-1. Title; applicability.

This chapter shall be known as the Sanitary Nuisance Chapter, and shall be applicable in all the incorporated and unincorporated areas of Dade County.

(Ord. No. 65-19, § 1, 4-6-65)

Sec. 26A-2. Sanitary nuisances generally.

(a) *Definition.* A sanitary nuisance is the commission of any act, by an individual, municipality, organization or corporation, or the keeping, maintaining, propagation, existence or permission of anything, by an individual, municipality, organization or corporation, by which the health or life of an individual, or the health or life of individuals, may be threatened or impaired or by which or through which, directly or indirectly, disease may be caused.

(b) *Presumption of nuisance injurious to health.* The following conditions existing, permitted, maintained, kept or caused by any individual, municipal organization or corporation, governmental or private, shall constitute prima facie evidence of maintaining a nuisance injurious to health:

(1) Untreated or improperly treated human waste, garbage, offal, dead animals or dangerous waste materials from manufacturing processes harmful to human or animal life and air pollutants, gases and noisome odors which are harmful to human or animal life.

(2) Improperly built or maintained septic tanks, water closets or privies.

(3) The keeping of diseased animals dangerous to human health.

(4) Unclean or filthy places where animals are slaughtered.

(5) The creation, maintenance or causing of any condition capable of breeding flies, mosquitoes or other arthropods capable of transmitting diseases, directly or indirectly to humans.

(6) Any other condition determined to be a sanitary nuisance as defined in this chapter.

(Ord. No. 65-19, §§ 2, 3, 4-6-65)

Sec. 26A-2.1. Mosquito control.

(a) *Definitions.* For the purposes of this section, the following terms shall have the following meanings:

(1) *Artificially induced mosquito breeding area* is any site at which five (5) or more immature mosquitoes are present in artificial containers, vegetative plants or wastewater facilities at any one (1) time.

(2) *Immature mosquito* means a mosquito larva or pupa.

(3) *Artificial containers* means any man-made containers, including, but not limited to, tires, swimming pools, cans, vases, buckets, boats, bird baths, jars, canals, ditches or flower cutting containers.

(4) *Vegetative plant* means any growing plant.

(5) *Mosquito sampling dipper* means a water dipper with a circular mouth, between four (4) and five (5) inches in diameter, and having a depth of not less than one and one-half (1½) inches.

(6) *Wastewater* means effluent from a sewage treatment plant.

(7) *Process water* means water that has been used in the production of a product.

(8) *Person* means an individual, corporation, organization, partnership, municipality, or other legal entity.

(9) *Enforcement Officer* means the Chief of the Dade County Mosquito Control Division, other designated representatives of the Dade County Mosquito Control Division, or Code Inspector as defined in [Chapter 8CC-3](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN_S8CC-3ENPR)

(10) *Structure* means a solid roofed and walled building constructed for permanent use.

(11) *Abate* means to take measures to control mosquito breeding.

(12) *Responsible party* means the owner of the property that is the site of the artificially induced mosquito breeding.

(13) *Tire* means a continuous covering for the wheel of a vehicle usually made of rubber reinforced with cords of nylon, fiberglass or other material and filled with compressed air.

(14) *Canal* means a long, wide hollow whose primary purpose is drainage or flood control.

(15) *Ditch* means a long, narrow hollow used for the purpose of drainage or irrigation.

(b) *Prohibition of nuisance.* It shall be a violation of this section for any person to allow the existence of, create, keep, or maintain an artificially induced mosquito breeding area.

(c) *Investigation and abatement procedures.* The Dade County Mosquito Control Division of the Public Works Department is authorized and empowered to investigate and abate conditions capable of breeding mosquitoes throughout Dade County.

(1) The Enforcement Officer of the Dade County Mosquito Control Division is hereby authorized to inspect, for mosquito breeding, any lot, tract, or parcel of land, improved or unimproved. Occupied or secured structures may be entered only by consent of the property owner, occupant, or at the direction of a court of competent jurisdiction.

(2) The Enforcement Officer of the Dade County Mosquito Control Division, in order to abate an artificially induced mosquito breeding area, is authorized to apply pesticides, in accordance with label directions, on any lot, tract, or parcel of land, improved or unimproved.

(3) Any person who obstructs, or resists the Enforcement Officer in the discharge of his duty as provided in this section shall be guilty of a misdemeanor of the second degree.

(d) *Enforcement procedures.*

(1) Whenever an Enforcement Officer determines that a site is an artificially induced mosquito breeding area, the Enforcement Officer is authorized to give, or cause to be given, to the responsible party notice, by personal service, posting or certified mail, to take corrective action to abate the mosquito breeding.

(2) The responsible party shall take corrective action to abate the artificially induced mosquito breeding within five (5) days of receipt or posting of the notice listed in subsection (d)(1).

(3) If the responsible party fails to take corrective action to abate the artificially induced mosquito breeding, said party shall be cited pursuant to [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code.

(I) The responsible party has seven (7) calendar days from receipt or posting of the citation to file for an appeal hearing before an 8CC Hearing Officer.

(II) If the responsible party does not appeal the citation, said party shall pay the fine in accordance with [Section 8CC-10](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN_S8CC-10SCCIPE) of the Code. Thereafter, each day the responsible party fails to take corrective action to abate the artificially induced mosquito breeding constitutes a continuing violation as defined in [Section 8CC-4](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN_S8CC-4CIPERETECO) of the Code.

(III) The Dade County Mosquito Control Division shall take corrective action to abate the artificially induced mosquito breeding, at the responsible party's expense, five (5) calendar days from the date of the citation issuance. the responsible party shall pay the Dade County Mosquito Control Division for the cost of performing such abatement, which includes all expenses, fines, penalties, interest and actual administrative costs. The responsible party shall make payment to the Mosquito Control Division within fourteen (14) days of receipt of the payment invoice from the Mosquito Control Division.

(IV) If the responsible party fails to pay Dade County Mosquito Control Division as described under [Section 26A-2.1](../level2/PTIIICOOR_CH26ASANU.docx#PTIIICOOR_CH26ASANU_S26A-2.1MOCO)(d)(3)(III) and/or [Section 26A-2.1](../level2/PTIIICOOR_CH26ASANU.docx#PTIIICOOR_CH26ASANU_S26A-2.1MOCO)(d)(5), the Department shall file a lien in the amount of all expenses incurred in correcting the condition, including all fines, penalties, interest and actual administrative costs.

(V) Such liens shall be enforceable in the same manner as a tax lien and may be satisfied at any time by payment thereof, including accrued interest. Upon such payment, the Clerk of the Circuit Court shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the record thereof. Notice of such lien may be filed in the Office of the Clerk of the Circuit Court and recorded among the public records of Dade County, Florida.

(4) The hearing provided for in [Section 26A-2.1](../level2/PTIIICOOR_CH26ASANU.docx#PTIIICOOR_CH26ASANU_S26A-2.1MOCO)(d)(3)(I) shall be conducted not sooner than five (5) calendar days, but not later than twenty (20) calendar days, after receipt of the appeal.

(5) If the responsible party is found guilty by the Hearing Officer, the responsible party shall pay a fine in accordance with [Section 8CC-10](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN_S8CC-10SCCIPE) of the Code and will be required to pay the Dade County Mosquito Control Division the cost of abating the artificially induced mosquito breeding as performed and defined under [Section 26A-2.1](../level2/PTIIICOOR_CH26ASANU.docx#PTIIICOOR_CH26ASANU_S26A-2.1MOCO)(d)(3)(III).

(e) *Tire storage.* All persons who engage in the manufacture, distribution, sale or storage of new, used or waste tires, including, but not limited to, automobile, truck, tractor, trailer, motorcycle or airplane tires, shall store or treat all tires in a manner which will prevent an artificially induced mosquito breeding area.

(f) *Records.* The County shall keep complete records relating to the amount payable for liens as described in [Section 26A-2.1](../level2/PTIIICOOR_CH26ASANU.docx#PTIIICOOR_CH26ASANU_S26A-2.1MOCO)(d)(3)(IV).

(g) *Violation; penalty.* If any person shall fail or refuse to obey or comply with, or violate any of the provisions of this section, or any lawful order of the Enforcement Officer, issued or rendered under [or] pursuant to the provisions of this section, such person shall be in violation of this section, and upon conviction of such offense, shall be subject to a fine not to exceed five hundred dollars ($500.00) or by imprisonment not to exceed sixty (60) days in the County Jail, or both, in the discretion of the court.

(h) *Provisions herein are supplemental.* Any enforcement procedures outlined in this section shall be considered cumulative and supplemental to all other penalties or remedies which may be provided for elsewhere by this Code or by statute.

(Ord. No. 80-95, § 1, 9-16-80; Ord. No. 86-82, § 1, 10-28-86; Ord. No. 95-85, § 1, 5-2-95; Ord. No. 95-205, § 1, 11-9-95)

Sec. 26A-3. Duties of Director, Public Health Department.

(a) The Director of the Dade County Department of Public Health is authorized to investigate any condition or alleged nuisance in any place within the County, and if such condition is determined to constitute a sanitary nuisance, he shall serve notice upon the proper party or parties to remove, abate, or correct the said nuisance within twenty-four (24) hours or such other reasonable time as he may determine.

(b) It shall be the duty of said Director to institute proceedings in the court of appropriate jurisdiction against all persons failing to comply with notices to remove, abate or correct said nuisance conditions.

(c) In all investigations and prosecutions pertaining to water and air pollution, the Director of the Department of Public Health shall coordinate his duties under this chapter with those of the Pollution Control Director under [Chapter 24](../level2/PTIIICOOR_CH24ENPRBIBAENDEAQPACOARBIBAENENTRFUENENLAPR.docx#PTIIICOOR_CH24ENPRBIBAENDEAQPACOARBIBAENENTRFUENENLAPR) of the Code of Metropolitan Dade County.

(Ord. No. 65-19, § 3, 4-6-65)

**Cross reference—** Powers, duties of the Public Health Department, § 2-77.

Sec. 26A-4. Penalties for violation.

Any person found guilty of creating, keeping or maintaining a nuisance injurious to health shall be punished by imprisonment in the County Jail not to exceed sixty (60) days or by a fine not exceeding two hundred dollars ($200.00), or by both such fine and imprisonment.

(Ord. No. 65-19, § 4, 4-6-65)

Sec. 26A-5. Duty of police to report nuisances or unsanitary conditions.

It shall be the duty of Police Officers to report to the Department of Public Health any nuisance or unsanitary condition which comes to their attention in the course of their official duties.

(Ord. No. 65-19, § 5, 4-6-65)

Sec. 26A-6. Chapter supplemental to State laws.

The provisions of this chapter are not intended to and shall not be construed as changing, modifying, amending, repealing, superseding or conflicting with any provisions or sections of the Florida Statutes, but shall be construed as supplemental and additional thereto and not a substitute therefor.

(Ord. No. 65-19, § 6, 4-6-65)

Sec. 26A-7. Sale of tobacco products prohibited in hospitals.

The sale of cigarettes and other tobacco products, including but not limited to cigars, cigarettes, pipe tobacco, and snuff, on the premises of licensed hospitals, sanitoria, convalescent homes, homes for the aged, and nursing homes and facilities as defined in Section 400.021, Florida Statutes, is found to be injurious to the public health, determined to be a sanitary nuisance, and is hereby prohibited.

(Ord. No. 72-45, § 1, 9-6-72)

Sec. 26A-8. Smoking, holding of lighted tobacco products prohibited in elevators; display of signs.

The smoking or carrying of lighted cigarettes, cigars, cigarillos, pipe tobacco and other tobacco products on all elevators available to and used by the general public is found to be injurious and dangerous to the public health, determined to be a sanitary nuisance and a fire hazard, and is hereby prohibited. The use of any spark, flame or fire producing device is similarly prohibited in all elevators in the County. A sign reading "Smoking Prohibited by Law" shall be permanently and conspicuously placed in each elevator available to and used by the general public by the owner or lessee of the building in which such elevator is located.

(Ord. No. 73-14, § 1, 2-20-73; Ord. No. 73-41, § 1, 4-16-73; Ord. No. 73-59, § 1, 6-5-73)

Sec. 26A-9. Smoking, holding of lighted tobacco products in certain mercantile stores; display of signs.

It shall be unlawful for any person to smoke or carry a lighted cigar, cigarette, cigarillo or pipe, or use any spark, flame, match or fire producing device in any mercantile store in the County:

(a) Designed or arranged to accommodate more than one hundred (100) persons, or

(b) In which more than twenty-five (25) persons are employed, or

(c) Which voluntarily elects, by and through the action of its management, to be included within this section.

This prohibition shall apply to restrooms, restaurants, coffee shops, soda fountain counters, executive offices or beauty parlors in such mercantile stores. Every person, or his agent, having control of such store premises in which smoking or the carrying of lighted objects is prohibited by or under the authority of this ordinance, shall conspicuously display upon the premises a sign reading "Smoking Prohibited by Law."

(Ord. No. 73-42, § 1, 4-16-73)

Sec. 26A-10. Smoking, holding of lighted tobacco products prohibited on premises of food stores; display of signs; exceptions.

The smoking, carrying or holding of lighted cigarettes, cigars, cigarillos, pipe tobacco and other tobacco products in areas within mercantile stores wherein food products are available for purchase by consumers for off-premises consumption tends to create unhygienic conditions injurious to the public health and is hereby prohibited. This prohibition shall not apply to restrooms, restaurants, coffee shops and soda fountain counters within such mercantile stores. Every person or corporation, or agent of such person or corporation, having control of such store premises in which smoking, carrying or holding of lighted tobacco products is prohibited shall post conspicuously within such store signs reading "Smoking Prohibited By Law." A similar sign shall also be posted on each door affording public access into the premises.

(Ord. No. 74-46, § 1, 6-18-74)

FOOTNOTE(S):

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**Editor's note—** Chapter 26A, §§ 26A-1—26A-6, is derived from Ord. No. 65-19, §§ 1—6, enacted April 6, 1965, effective April 16, 1965. As said ordinance was nonamendatory of this Code it has been so codified at the discretion of the editors. [(Back)](#BK_14AB8DC4254D0FBEECF608203B371F2E)

**State Law reference—** Sanitary nuisances, F.S. § 386.01 et seq. [(Back)](#BK_14AB8DC4254D0FBEECF608203B371F2E)