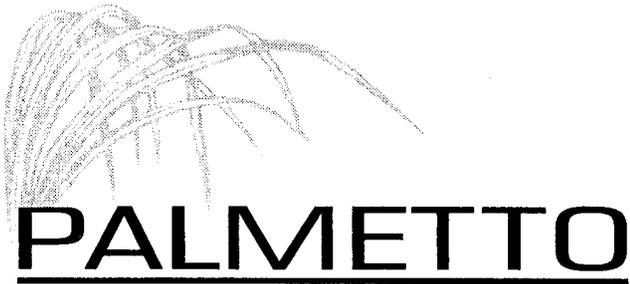


TAB 4



516 8th Avenue West
P.O. Box 1209
Palmetto, Florida 34220-1209
Phone (941) 723-4570
Fax: (941) 723-4576
Suncom: 516-0829
E-mail: chgeneral@palmettofl.org
Web: www.palmettofl.org

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

CITY OF PALMETTO CODE ENFORCEMENT BOARD

CITY OF PALMETTO
A political subdivision of the
State of Florida

Petitioner,

vs.

Case No. CEB 08-13

Ashland 2 Partners, LLC
7321 Merchant Court
Sarasota, Florida 34240

Respondent.

NOTICE OF HEARING

Address of Violation:
The Hall
1330 US 301 North
Palmetto, Florida 34221

Pursuant to Chapter 162, Florida Statutes, and City of Palmetto Code of Ordinances, Chapter 2, you are hereby called upon to take notice that a Public Hearing will be conducted before the City of Palmetto Code Enforcement Board (CEB) on the 12th day of November, 2008, at 6:00 P.M. in the Commission Chambers at City Hall, which is located at 516 8th Avenue West, Palmetto, Florida. The purpose of the hearing is to determine whether the City of Palmetto Code of Ordinances is being violated as set forth in the Notice of Violation dated September 23, 2008, and previously provided to you by Certified Mail/Return Receipt Requested on September 23, 2008. A copy of the Notice of Violation is attached to this Notice of Hearing as Exhibit A. The CEB will receive testimony and evidence at said Public

Hearing and shall make such findings of fact and conclusions of law as are supported by the testimony and evidence pertaining to the matters alleged in the attached Notice of Violation. **If you are found to be in violation, a fine may be assessed against you, as provided by law.** The purpose of the hearing shall be to conduct proceedings regarding the attached Notice of Violation attached hereto as Exhibit A.

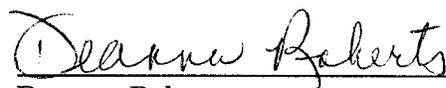
If you desire to appeal any decision of the CEB with respect to any matter considered at this Public Hearing, you will need a verbatim record of the proceedings and for that purpose, you need to insure that a verbatim record is made which includes the testimony, and evidence upon which the appeal is to be based. The hearing may be continued from time to time as deemed warranted and appropriate by the CEB. This case may be presented to the CEB even if the violation or repeat violation has been corrected prior to the hearing.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATE STATUTES, PERSONS WITH DISABILITIES NEEDING SPECIAL ASSISTANCE TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE CODE ENFORCEMENT BOARD CLERK FOR ASSISTANCE AT LEAST THREE BUSINESS DAYS PRIOR TO THE MEETING AT (941) 723-4570.

PLEASE GOVERN YOURSELF ACCORDINGLY.

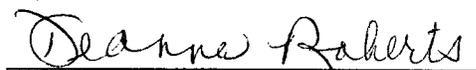
DATED: October 31, 2008

**CODE ENFORCEMENT BOARD OF THE
CITY OF PALMETTO, FLORIDA**



Deanna Roberts
Clerk of the Board

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been furnished by Certified Mail/Return Receipt Requested and by Regular Mail to the Respondent this 31st day of October, 2008.



Deanna Roberts
Clerk of the Board

cc: Michele S. Hall, City Attorney
David P. Persson, Code Enforcement Board Attorney

Ord. No. 210720015

Chapter 4

ALCOHOLIC BEVERAGES*

Sec. 4-1. Hours of sale.

(a) It shall be unlawful for any person to sell, offer for sale, serve or dispense intoxicating beverages in the city in any place or establishment licensed by the state for the sale of intoxicating beverages, on weekdays between the hours of 2:30 a.m. and 6:00 a.m.

(b) It shall be unlawful for any person to sell, offer for sale, serve or dispense intoxicating beverages in the city in any place licensed by the state for the sale of intoxicating beverages between 2:30 a.m. Sunday until 6:00 a.m. the following day, except that when Christmas Eve and New Year's Eve occur on Sunday, the sale of intoxicating beverages shall be permitted from 12:30 p.m. Sunday until 2:30 a.m. the following day. In situations in which properties have establishments located upon them which sell alcoholic beverages on Sunday and the properties are annexed into the city by means of the involuntary annexation statute, the sale of beer and wine for off-premises consumption shall be allowed to continue on only the properties subject to the annexation wherein such sales took place until such time as such use is discontinued for a continuous period of ninety (90) days. In the event that the use is discontinued for a period exceeding ninety (90) days, the property would then be subject to prohibition against Sunday sales of alcoholic beverages as set forth in this paragraph.

(c) Notwithstanding the restriction in subsection (b), the sale of intoxicating beverages shall be permitted on Sundays between the hours of 12:30 p.m. and 11:59 p.m. by any bona fide restaurant, and any holder of a special license issued by the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation under section 561.20(2) and (7), Florida Statutes, or any rules issued under such statute by the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation; provided, that alcoholic beverages are sold only during the time such holder is actively engaged in the primary business of the holder. No alcoholic beverages shall be sold in packages or for consumption off the premises.

(Code 1975, § 4-1; Ord. No. 359, § 1, 3-6-89; Ord. No. 460, § 1, 9-23-91)

State law reference—Authority to regulate hours, F.S. §§ 562.14(1), 562.45(2).

Sec. 4-2. Selling, where prohibited.

(a) No intoxicating beverages shall be sold within three hundred (300) feet of an established church or school. This distance shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the main entrance of the place of business wherein the intoxicating beverages are sold to the main entrance of the church, and in the case of a school, to the nearest point of the school grounds in use as part of the school facilities.

*Cross references—Administration, Ch. 2; minors prohibited from entering any pool-room or billiard room where alcoholic beverages are sold, § 5-46; licenses and business regulations, Ch. 19.

- (2) Any areas available for use by the public for motor vehicle parking purposes where such areas adjoin or are adjacent to any establishment where alcoholic beverages are sold or dispensed;
- (3) The area of public property adjacent to and upon which the police department is located;
- (4) The area adjacent to and upon which the city hall is located;
- (5) The area adjacent to and upon which the maintenance facility is located;
- (6) The area adjacent to and upon which the sewage treatment plant is located;
- (7) The area adjacent to and upon which the cemetery is located;
- (8) All areas included in city parks owned by the city.

(b) It shall be the responsibility of each licensee of any establishment licensed to sell alcoholic beverages containing more than one (1) percent of alcohol by weight to have conspicuously posted at all times a sign, which shall be furnished without charge by the chief of police, calling to the attention of the public the provisions of paragraph (a) of this section.

(Code 1975, § 4-5(d), (e))

Cross references—Cemeteries, Ch. 9; streets, sidewalks and other public places, Ch. 25; utilities, Ch. 29.

Sec. 4-4. Permitting access to minors.

(a) It shall be unlawful for any holder of a license to operate a saloon, bar, cocktail lounge or other place where intoxicating liquors are sold for consumption on the premises to allow or permit any person under the age of eighteen (18) years to visit, loiter, idle, stroll, wander or loaf in such premises, unless such minor is attended or accompanied by his parent or guardian.

(b) Notwithstanding the provision of subsection (a), a person under the age of eighteen (18) years, without being attended or accompanied by a parent or guardian, may be allowed to be present at and remain on the premises of any bona fide restaurant or any holder of a special license issued by the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation under section 561.20(2) and (7), Florida Statutes, or any rules issued under said statute by Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation; provided, that alcoholic beverages are sold only during the time such holder is actively engaged in the primary business of the holder.

(Code 1975, § 4-2; Ord. No. 460, § 2, 9-23-91)

State law reference—Minors visiting dance halls operated in connection with businesses selling alcoholic beverages, F.S. § 562.48.

Sec. 4-5. Definitions.

For the purposes of this chapter, the following words and phrases shall have the following meanings:

- (1) *Restaurant*. To determine whether a "restaurant" is a bona fide restaurant for the purposes of this chapter, such restaurant must:
 - a. Contain all necessary equipment for the service of full course meals.

- b. Serve full-course meals regularly and at all times such restaurant is open for business. A full-course meal shall include, at a minimum, the following:
 1. Salad.
 2. Entree.
 3. Dessert.
 4. Beverage.
 5. Bread and butter.
 - c. Derive at least fifty-one (51) percent of its gross revenue from the sale of food and nonalcoholic beverages. The restaurant shall maintain records regarding the purchase and sale of alcoholic beverages and the purchase and sale of food and nonalcoholic beverages in accordance with the rules and regulations of the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation.
 - d. Contain tables of adequate size to accommodate the service of full-course meals in accordance with the number of chairs found at that table.
 - e. Primarily advertise and hold itself out to the public to be a place where meals are served.
 - f. Contain necessary tableware, seating and dining room equipment to handle the seating capacity found within the restaurant.
 - g. Employ such number and types of employees for serving full-course meals to guests.
 - h. Have as its primary operation, the serving of meals and not for the sale of alcoholic beverages.
- (2) *Actively engaged in a primary business.* The phrase "actively engaged in a primary business of the license holder" means that the holder of such special liquor license as described herein shall primarily engage in a business pursuit other than the sale of alcoholic beverages and of a type suited to and in accordance with the facilities provided at the establishment of the holder and for which the holder holds itself out to the public.
- (Ord. No. 460, § 3, 9-23-91)

Section 4. New language. A new Chapter 19, Article II of the City of Palmetto Code of Ordinances is hereby created to read in its entirety as follows:

ARTICLE II. LOCAL BUSINESS TAX

Sec. 19-26 Payment of tax required.

(a) A business tax is hereby levied on:

(1) Any person who maintains a permanent business location or branch office within the city for the privilege of engaging in or managing any business within the city.

(2) Any person who maintains a permanent business location or branch office within the city for the privilege of engaging in or managing any profession or occupation within the city.

(3) Any person who does not qualify under subsection (1) or (2) of this section and who transacts any business or engages in any occupation or profession in interstate commerce, if the business tax is not prohibited by article I, section 8 of the United States Constitution.

(b) The obligation of securing a business tax receipt rests with the owner or owners of a business, but in the event of noncompliance, the owner's principal, agent or employee shall be subject to the same enforcement policies, in addition to the owner or owners.

(c) Professional practitioners are recognized professions regulated by state boards requiring examination and certification. Each person engaged in the practice of their profession whether alone, in a partnership or as an employee of another person, partnership, corporation or professional association shall pay a business tax.

Sec. 19-27. Application.

Prior to the issuance of any business tax receipt a written application therefor signed by an officer, partner or owner of the proposed business, occupation or profession, shall be filed with the city clerk. In such application, the applicant shall set forth the following:

- name of the owner (if firm, the names of all members of the firm; if a corporation, the names of all officers of the corporation);
- federal employer ID number (if sole proprietorship Social Security number);
- if state licensed individual, state license number;
- location of the business;
- full nature of the business;

Sec. 19-31. Term and expiration of business tax.

All business tax receipts shall be issued by the appropriate tax collector beginning July first of each year, are due and payable on or before September 30 of each year, and expire on September 30 of the succeeding year. If September 30 falls on a weekend or holiday, the tax is due and payable on or before the first working day following September 30. Except as otherwise provided, business tax receipts shall expire on September 30 of each year. No business tax receipt shall be issued for more than one year.

Sec. 19-32. Business tax for fractional part of one year.

Unless otherwise provided, for each business tax receipt obtained between October 1 and April 1 the full tax for one year shall be paid, and for each business tax receipt obtained from April 1 to September 30, one-half the full tax for one year shall be paid.

Sec. 19-33. Applicable to only one place of business.

All business tax receipts provided for herein shall be issued for and apply to only one location or place of business.

Sec. 19-34. Occupations falling into more than one classification.

When any occupation, business or profession shall fall into more than one of the classifications contained in the schedule of business taxes, then such business tax shall be required to be paid in full for each classification as herein set forth.

Sec. 19-35. Exemptions.

The business tax levied by the city is subject to all exemption mandated by state law.

Sec. 19-36. Posting of business tax receipt.

Every business tax receipt shall be posted in a conspicuous place in the place of business for which it is issued, and the holder of such business tax receipt shall exhibit same to the city clerk, his deputy, any code enforcement officer, or any police officer upon being requested to do so.

first obtaining a permit, concession, lease, or other authorization in writing approved by the city.

Sec.19-43. Property not exempt from other taxes.

The business tax imposed and collected under this article shall not be construed to exempt from other forms of taxation the property used in the taxed business or profession.

Sec.19-44. Business tax fee a debt.

The amount of any business tax and penalty imposed by the provisions of this article is hereby declared to be a debt to the city, and any person carrying on any business without first having procured a business tax receipt from the city, shall be liable to the city for the amount of such business tax recoverable in any court of competent jurisdiction.

Sec. 19-45. Enforcement and penalties.

The code enforcement board shall be responsible for enforcing this article pursuant to the rules and procedures established in Chapter 2, Article IV of this Code. In addition to any fines or penalties provided under Chapter 2, Article IV, the following shall apply:

(1) Receipts that are not renewed when due and payable are delinquent and subject to a delinquency penalty of 10 percent for the month of October, plus an additional 5 percent penalty for each subsequent month of delinquency until paid. However, the total delinquency penalty may not exceed 25 percent of the business tax for the delinquent establishment.

(2) Any person who engages in or manages any business, occupation, or profession without first obtaining a local business tax receipt, if required, is subject to a penalty of 25 percent of the tax due, in addition to any other penalty provided by law or Chapter 2, Article IV of this Code.

(3) Any person who engages in any business, occupation, or profession covered by this chapter, who does not pay the required business tax within 150 days after the initial notice of tax due, and who does not obtain the required receipt is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to \$ 250.

(4) *The full amount of any delinquent tax and related penalties shall be paid in cash or in the form of a money order or cashier's check.*

Sec. 19-46. Business tax inspection regulatory fee.

The city building department shall collect an additional inspection fee in the amount established by the building department for each application submitted for the issuance of a business tax receipt. This fee as set forth will defray the cost of inspection for occupancy of the premises by the building and zoning department which includes air conditioning, electrical, plumbing and fire inspections. This inspection fee is not refundable.

Sec. 19-47. Appeal.

Any decision of the city clerk or the code enforcement board may be appealed by the applicant to the city commission, whose decision shall be final. The applicant shall file a written notice to appeal setting forth the reasons for the appeal within ten (10) days from the decision appealed. The city commission shall hear the appeal and render its decision within thirty (30) days of the filing of the notice of appeal, unless extended by the city commission for good cause.

Sec. 19-48. Schedule of business taxes.

The various businesses, occupations and professions within the city are hereby classified for the purpose of this article, and the following business taxes shall be assessed and collected:

A

Abstract companies . . .	156.00
Accountant: (see Profession)	
Accounting, public: (see Profession)	
Addressing, mailing or duplicating . . .	39.00
Administrative office, where manufacture and delivery of products and inventory are located out of the city . . .	55.00
Advertising:	
a. Agency, general . . .	39.00
b. Coupon book publisher or distributor . . .	78.00
c. Directory or guide book publisher (cost of one (1) issue) . . .	78.00
d. Soliciting for publication not listed in the city . . .	31.00
e. Mobile:	
1. Owner or operator of a taxi, bus or truck who sells or rents space on exterior of vehicle to advertise any article,	

homeopathic physician; lawyer; naprapath; naturopath; oculist; optician, including sale of lenses and frames; optometrist; osteopath; patent attorney; pharmacist; physician; physiotherapist; psychologist; surgeon; surveyor; veterinarian; each person . . .	55.00
Promoter: Entertainments, exhibits, shows, sports events, exhibitions, charity fund raising drives, liquidation or going-out-of business sales, requires city commission approval . . .	
156.00	
Public relations counsellor . . .	55.00

R

Radio, television, sound recording and reproducing:	
a. Rental: (see Equipment, rental)	
b. Sales: (see Merchant)	
Railroad . . .	117.00
Real estate, for each broker . . .	39.00
Recording studio . . .	39.00
Refuse collection and disposal . . .	47.00
Rental units, including hotels, motels, apartments, hospitals, convalescent or nursing homes, etc.:	
a. 3 to 5 units, per unit . . .	5.00
b. Over 5 units . . .	25.00
Plus, for each additional unit up to 19 . . .	3.00
c. 20 units . . .	70.00
Plus, for each additional unit up to 39 . . .	2.00
d. 40 units . . .	110.00
Plus, for each additional unit . . .	1.00
Repair and service . . .	31.00
Restaurant, snack bar, soda fountain, ice cream stand, concession stand, etc.:	
a. 1 to 25 seating capacity . . .	39.00
b. 26 to 50 seating capacity . . .	78.00
c. 51 to 100 seating capacity . . .	117.00
d. 101 or more seating capacity . . .	156.00
e. Stand or counter without seats . . .	31.00
License for any combination of above two (2) types of establishment will be issued at the highest fee specified for any one (1) type. Also requires each applicable license such as Beverage, Dancing, Entertainment, Merchant, etc. Unless connected with business requiring merchant's license, the first \$500.00 of merchandise for sale such as cigars, cigarettes, candy novelties, etc., shall be exempt.	
Riding academy . . .	39.00
Rink, skating, etc. . . .	39.00
Road stand, marketing seafood or agricultural products by other than the producer or grower thereof . . .	39.00