

TAB 2



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**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 08-15

Clement F. Flynn
154 New York Street
Palmetto, Florida 34221

Respondent.

NOTICE OF HEARING

Address of Violation:
154 New York Street
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 27th day of January, 2009, 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 October 6, 2008, and previously provided to you by Certified Mail/Return Receipt Requested on October 6, 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.

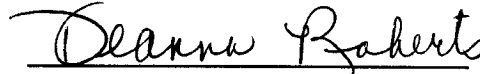
If you desire to appeal any decision of the CEB with respect to any matter considered at this Public Hearing, you will need a verbatim record of the proceedings and for that purpose, you need to insure that a verbatim record is made which includes the testimony, and evidence upon which the appeal is 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.

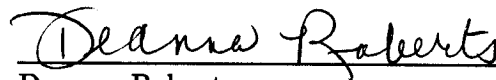
DATED: January 9, 2009

**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 9th day of January, 2009.



Deanna Roberts
Clerk of the Board

cc: Mark Barnebey, City Attorney
David P. Persson, Code Enforcement Board Attorney

Plan-checking fees: When the valuation of the proposed construction exceeds one thousand dollars (\$1,000.00) and a plan is required to be submitted, a plan-checking fee shall be paid to the building official at the time of submitting plans and specifications. Said plan-checking fee shall be equal to one-half ($\frac{1}{2}$) of the building permit fee for commercial, and one-fourth ($\frac{1}{4}$) for one- and two-family dwellings.

Miscellaneous:

Moving of any building or structure, each	\$300.00
Demolition of any building or structures, each	
Residential	50.00
Commercial	100.00
Courtesy inspections, each	40.00
Filing fees for contractors, each	25.00
Duplicate certificate of occupancy, each	25.00
Duplicate permit card, each	25.00
Permit extension, each	40.00
Re-inspection fees, each	30.00

All permit fees must be paid at the time of filing application. A nonrefundable plan review fee in the amount of twenty-five (25) percent of the total permit fee for residential and, fifty (50) percent of the total permit fee for commercial.

Fee waiver: Fees can be waived administratively for federal, state, and local units of government which are funded by ad valorem taxes. All other waiver requests shall be in accordance with applicable ordinances or resolutions adopted by the city council and established procedures.

(Ord. No. 525, § 1, 9-26-94; Ord. No. 02-01, § 1, 1-7-02)

Secs. 7-26—7-30. Reserved.

ARTICLE III. FLORIDA BUILDING CODE*

→ Sec. 7-31. Florida Building Code adopted by reference.

The city hereby acknowledges, adopts and incorporates within the Code of Ordinances the Florida Building Code as promulgated by the state building commission and adopted pursuant to F.S. chapter 553, part VII, which shall regulate, control and provide standards for building and construction activities including building, plumbing, electrical, mechanical and fuel gas

***Editor's note**—Ord. No. 02-01, §§ 2 and 6, amended the Code by repealing former art. III, §§ 7-31—7-35, and added a new art. III to read as herein set out. Former art. III pertained to building standards, and derived from the Code of 1975, § 7-17; Ord. No. 204, adopted February 6, 1984; Ord. No. 249, adopted October 7, 1985; Ord. No. 328, adopted September 8, 1987; Ord. No. 386, adopted November 6, 1989; Ord. No. 458, adopted August 5, 1991; Ord. No. 549, adopted October 6, 1995; and Ord. No. 625, adopted October 5, 1998.

State law reference—Minimum standards for buildings, F.S. § 553.73.

construction standards, hurricane construction standards, fairhousing guidelines, accessibility and energy efficiency standards for the city. Furthermore, as provided by state law, the applicability of the Florida Fire Prevention Code is also incorporated through its inclusion by reference in the Florida Building Code. At least one (1) copy of the Florida Building Code along with any amendments or revisions thereto as provided for by state law, shall remain on file in the office of the city clerk for public use and inspection as well as the office of the city building official. Revisions, amendments or additions to the Florida Building Code shall only be made and become effective as provided for by state statutory law.

(Ord. No. 02-01, §§ 2, 6, 1-7-02)

Secs. 7-32—7-50. Reserved.

ARTICLES IV—VI. RESERVED*

Secs. 7-51—7-150. Reserved.

ARTICLE VII. DANGEROUS AND UNSAFE BUILDINGS

Sec. 7-151. Definitions.

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

Abandoned means a dilapidated, deteriorated or decayed building or structure that is vacant and unsecured.

Dilapidated, deteriorated and decayed mean structures, dwellings, dwelling units, multiple dwellings, apartments or apartment houses, including garages, sheds and similar accessory structures and fences, which by reason of inadequate maintenance, obsolescence or abandonment are unsafe, unsanitary, constitute a fire hazard or are otherwise dangerous to human life or property or are no longer adequate for the purposes for which they were originally intended. (Code 1975, § 7-36)

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

***Editor's note**—Ord. No. 02-01, § 3—5, adopted January 7, 2002, amended the Code by repealing former arts. IV through VI, §§ 7-51—7-65 and 7-81—7-89, 7-111—7-116, and 7-131—7-135 respectively, in their entirety. Former art. IV pertained to electrical standards, and derived from Ord. No. 326, adopted August 17, 1987; Ord. No. 400, adopted March 19, 1990; Ord. No. 512, adopted March 21, 1994; and Ord. No. 589, adopted April 21, 1997. Art. V pertained to plumbing standards, and derived from the Code of 1975, §§ 20-16, 20-19, and 20-20; Ord. No. 201, adopted February 6, 1984; Ord. No. 250, adopted October 8, 1985; Ord. No. 385, adopted November 6, 1989; Ord. No. 458, adopted August 5, 1991; and Ord. No. 549, adopted October 6, 1995. Art. VI pertained to the mechanical code and the gas code, the Code of 1975, § 7-103; Ord. No. 202, adopted February 6, 1984; Ord. No. 252, adopted October 7, 1985; Ord. No. 384, adopted November 6, 1989; Ord. No. 458, adopted August 5, 1991; Ord. No. 549, adopted October 6, 1995; Ord. No. 625, adopted October 5, 1998.

number, shall be construed to refer to such chapter, section or provision of this code.

102.4 Referenced codes and standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

102.5 Reserved.

102.6 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, or the *Florida Fire Prevention Code*, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

102.7 Relocation of manufactured buildings.

(1) Relocation of an existing manufactured building does not constitute an alteration.

(2) A relocated building shall comply with wind speed requirements of the new location, using the appropriate wind speed map. If the existing building was manufactured in compliance with the *Standard Building Code* (prior to March 1, 2002), the wind speed map of the *Standard Building Code* shall be applicable. If the existing building was manufactured in compliance with the *Florida Building Code* (after March 1, 2002), the wind speed map of the *Florida Building Code* shall be applicable.

**SECTION 103
Reserved**

**SECTION 104
DUTIES AND POWERS OF BUILDING OFFICIAL**

104.1-104.8 Reserved.

104.9 Approved materials and equipment. Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

104.9.1 Used materials and equipment. The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

104.10 Reserved.

104.11 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. When alternate life safety systems are designed, the *SFPE Engineering Guide to Performance-Based Fire Protection Analysis and De-*

sign of Buildings, or other methods approved by the building official may be used. The building official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternative.

104.11.1 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

104.11.2 Tests. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

104.11.3 Accessibility. Alternative designs and technologies for providing access to and usability of a facility for persons with disabilities shall be in accordance with Section 11.2.2.

Florida Building Code

**SECTION 105
PERMITS**

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

105.1.1 Annual facility permit. In lieu of an individual permit for each alteration to an existing electrical, gas, mechanical, plumbing or interior nonstructural office system(s), the building official is authorized to issue an annual permit for any occupancy to facilitate routine or emergency service, repair, refurbishing, minor renovations of service systems or manufacturing equipment installations/relocations. The building official shall be notified of major changes and shall retain the right to make inspections at the facility site as deemed necessary. An annual facility permit shall be assessed with an annual fee and shall be valid for one year from date of issuance. A separate permit shall be obtained for each facility and for each construction trade, as applicable. The permit application shall contain a general description of the parameters of work intended to be performed during the year.

105.1.2 Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such records at all times or such records shall be filed with the building official as designated.

authorized to... shall not be... than advisory... decision of the... provisions of chapter 633.

(3) The commission may designate a commission member with demonstrated expertise in interpreting building plans to attend each meeting of the advisory council created in s. 553.512. The commission member may vary from meeting to meeting, shall serve on the council in a nonvoting capacity, and shall receive per diem and expenses as provided in s. 553.74(3).

(4) For educational and public information purposes, the commission shall develop and publish an informational and explanatory document which contains descriptions of the roles and responsibilities of the licensed design professional, residential designer, contractor, and local building and fire code officials. The State Fire Marshal shall be responsible for developing and specifying roles and responsibilities for fire code officials. Such document may also contain descriptions of roles and responsibilities of other participants involved in the building codes system.

(5) The commission may provide by rule for plans review and approval of prototype buildings owned by public and private entities to be replicated throughout the state. The rule must allow for review and approval of plans for prototype buildings to be performed by a public or private entity with oversight by the commission. The department may charge reasonable fees to cover the administrative costs of the program. Such approved plans or prototype buildings shall be exempt from further review required by s. 553.79(2), except changes to the prototype design, site plans, and other site-related items. As provided in s. 553.73, prototype buildings are exempt from any locally adopted amendment to any part of the Florida Building Code. Construction or erection of such prototype buildings is subject to local permitting and inspections pursuant to this part.

(6) The commission may produce and distribute a commentary document to accompany the Florida Building Code. The commentary must be limited in effect to providing technical assistance and must not have the effect of binding interpretations of the code document itself.

History.—s. 8, ch. 74-167; s. 4, ch. 75-85; s. 4, ch. 75-111; s. 3, ch. 77-365; s. 4, ch. 78-323; ss. 5, 8, ch. 79-152; ss. 3, 4, ch. 81-7; ss. 1, 4, ch. 82-46; s. 9, ch. 83-160; s. 2, ch. 83-265; s. 2, ch. 84-365; s. 1, ch. 86-135; s. 1, ch. 88-81; s. 9, ch. 89-139; s. 11, ch. 89-321; ss. 4, 5, 6, ch. 91-172; s. 5, ch. 91-429; s. 311, ch. 92-279; s. 55, ch. 92-326; s. 28, ch. 93-166; s. 51, ch. 95-196; ss. 45, 46, ch. 98-287; ss. 77, 78, 79, ch. 2000-141; ss. 26, 34, 35, ch. 2001-186.

553.781 Licensee accountability.—

(1) The Legislature finds that accountability for work performed by design professionals and contractors is the key to strong and consistent compliance with the Florida Building Code and, therefore, protection of the public health, safety, and welfare. The purpose of this section is to provide such accountability.

(2)(a) Upon a determination by a local jurisdiction that a licensee, certificateholder, or registrant licensed under chapter 455, chapter 471, chapter 481, or chapter 489 has committed a material violation of the Florida Building Code and failed to correct the violation within

a reasonable time, such local jurisdiction shall impose a fine of no less than \$500 and no more than \$1,000 for each material violation.

(b) If the licensee, certificateholder, or registrant disputes the violation within 30 days following notification by the local jurisdiction, the fine is abated. The local jurisdiction shall report the dispute to the Department of Business and Professional Regulation. The appropriate professional licensing board for the licensee, certificateholder, or registrant shall conduct any investigation and final disposition. If an administrative complaint is filed by the department or the professional licensing board against the certificateholder or registrant, the commission may intervene in the proceeding. Any fine imposed by the department or the professional licensing board, pursuant to a violation reported by the local jurisdiction to the department or the professional licensing board, shall be split equally between the board and the local jurisdiction which reported the violation.

(3) The Department of Business and Professional Regulation, as an integral part of the automated information system provided under s. 455.2286, shall establish, and local jurisdictions and state boards shall participate in, a system of reporting violations and disciplinary actions taken against licensees, certificateholders, and registrants under the Florida Building Code. Such information shall be made available electronically. Any fines collected by a local jurisdiction pursuant to subsection (2) shall be used to help set up the parts of the reporting system in which such local jurisdiction is responsible. Any remaining moneys shall be used solely for the purposes of the Florida Building Code, licensing activities under the Florida Building Code, or education and training under the Florida Building Code.

(4) Local jurisdictions shall maintain information readily accessible by the public, regarding violations and shall report such violations to the Department of Business and Professional Regulation through the reporting system provided in s. 455.2286.

For purposes of this section, a material violation is a violation that exists within a complete building structure, or facility which may reasonably be expected to result, in physical harm to a person or property or damage to the performance of a building or facility. Except when the fine is abated as provided in subsection (2), failure to pay the fine within 30 days shall result in a suspension of the licensee's, certificateholder's, or registrant's ability to obtain permits within the jurisdiction for such time as the fine is paid. Such suspension shall be reflected on the automated information system provided in s. 455.2286.

History.—s. 47, ch. 98-287; ss. 80, 81, ch. 2000-141; ss. 26, 34, 35, ch. 2001-186.

553.79 Permits; applications; issuance.—

(1) After the effective date of the Florida Building Code adopted as herein provided, it shall be unlawful for any person, firm, corporation, or other entity to construct, erect, alter, modify, repair, or finish any building within this state without first obtaining a permit from the local jurisdiction having jurisdiction over the building.

erefor from the appropriate enforcing agency persons as may, by appropriate resolution of the authorized state or local enforcing delegated authority to issue such permits, ment of such reasonable fees adopted by agency. The enforcing agency is empow- e any such permit upon a determination that the construction, erection, alter- (ion), repair, or demolition of the building ermit was issued is in violation of, or not with, the provisions of the Florida Building (ion), replacement, removal, or metering management control device is exempt from to be subject to the permit process and fees equired by this section.

as provided in subsection (6), an enforc- may not issue any permit for construction, (ation), modification, repair, or demolition of structure until the local building code of inspector has reviewed the plans and equired by the Florida Building Code, or ment thereto, for such proposal and found e in compliance with the Florida Building (ion). An enforcing agency may not issue d construction, erection, alteration, modifi- of demolition of any building until the esafety inspector certified pursuant to s. eviewed the plans and specifications e Florida Building Code, or local amend- (o) such proposal and found that the with the Florida Fire Prevention Code and y Code. Any building or structure which is a firesafety code shall not be required to eviewed by the firesafety inspector. Any (cture that is exempt from the local build- ocess may not be required to have its ed by the local building code administrator.

struction on sites where design, construc- esafety are supervised by appropriate ection professionals and which contain ouse fire departments and rescue mply subject to local government option, of plans and inspections, providing owners plicable codes and standards have been y appropriate approved drawings to local esafety inspectors. The enforcing e a permit to construct, erect, alter, or demolish any building or structure ns and specifications for such proposal e provisions of the Florida Building Code e Florida Fire Prevention Code and the Life e determined by the local authority in this chapter and chapter 633.

as provided in this chapter, the Florida after the effective date of adoption pur- ovisions of this part, shall supersede all construction codes or ordinances in the at the local or state level and whether ministrative regulation or by legislative ver, this subsection does not apply to of manufactured homes as defined by ing contained in this subsection shall nullifying or divesting appropriate state

or local agencies of authority to make inspections or to enforce the codes within their respective areas of jurisdiction.

(4) The Florida Building Code, after the effective date of adoption pursuant to the provisions of this part, may be modified by local governments to require more stringent standards than those specified in the Florida Building Code, provided the conditions of s. 553.73(4) are met.

(5)(a) The enforcing agency shall require a special inspector to perform structural inspections on a thresh- old building pursuant to a structural inspection plan pre- pared by the engineer or architect of record. The struc- tural inspection plan must be submitted to and approved by the enforcing agency prior to the issuance of a building permit for the construction of a threshold building. The purpose of the structural inspection plan is to provide specific inspection procedures and sched- ules so that the building can be adequately inspected for compliance with the permitted documents. The spe- cial inspector may not serve as a surrogate in carrying out the responsibilities of the building official, the archi- tect, or the engineer of record. The contractor's con- tractual or statutory obligations are not relieved by any action of the special inspector. The special inspector shall determine that a professional engineer who spe- cializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency. A fee simple title owner of a building, which does not meet the minimum size, height, occupancy, occupancy classification, or number-of-stories criteria which would result in classification as a threshold building under s. 553.71(7), may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code.

(b) The fee owner of a threshold building shall select and pay all costs of employing a special inspec- tor, but the special inspector shall be responsible to the enforcement agency. The inspector shall be a person certified, licensed, or registered under chapter 471 as an engineer or under chapter 481 as an architect.

(c) The architect or engineer of record may act as the special inspector provided she or he is on the Board of Professional Engineers' or the Board of Architecture and Interior Design's list of persons qualified to be spe- cial inspectors. School boards may utilize employees as special inspectors provided such employees are on one of the professional licensing board's list of persons qualified to be special inspectors.

(d) The licensed architect or registered engineer serving as the special inspector shall be permitted to send her or his duly authorized representative to the job site to perform the necessary inspections provided all required written reports are prepared by and bear the seal of the special inspector and are submitted to the enforcement agency.

(6) A permit may not be issued for any building con- struction, erection, alteration, modification, repair, or addition unless the applicant for such permit complies with the requirements for plan review established by the Florida Building Commission within the Florida Building Code. However, the code shall set standards