

TAB 5



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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 09-04

Timothy M. Carroll
Lucy M. Carroll
1102 23rd Avenue West
Palmetto, Florida 34221

Respondent.

NOTICE OF HEARING

**Address of Violation:
1102 23rd Avenue West
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 31st day of March, 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 February 3, 2009, and previously provided to you by Certified Mail/Return Receipt Requested on February 3, 2009. 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: March 11, 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 12th day of March, 2009.


Deanna Roberts
Clerk of the Board

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

Carroll

nuisance. Without in any way limiting the foregoing definition, the following conditions, substances and activities are hereby specifically declared to be a nuisance within the intent and meaning of this section:

- (1) Low places upon any lot, tract or parcel of land, improved or unimproved, within one hundred (100) feet of the boundary line of any improved property within the city to the extent and in the manner that such lot, tract or parcel of land is or may reasonably become a breeding place for mosquitoes, or may reasonably cause disease, or otherwise threatens or endangers the public health, safety or welfare, or is likely to adversely affect and impair the economic welfare of adjacent property.
- (2) The accumulation or maintenance of trash, filth, rubbish, garbage, dead animals or fish, improperly treated sewage or other materials in such manner and to the extent as to cause infestation by rodents and other wild animals, the breeding of mosquitoes and vermin, or that threatens or endangers the public health, safety or welfare, or is likely to adversely affect and impair the economic welfare of adjacent property.
- (3) The existence of excessive accumulation or untended growth of weeds, undergrowth or other dead or living plant life upon any body of water, lot, tract or parcel of land, improved or unimproved, within one hundred (100) feet of the boundary line of any improved property within the city to the extent and in the manner that such lot, tract or parcel of land is or may reasonably become infested or inhabited by rodents, vermin or wild animals, or may furnish a breeding place for mosquitoes, or threatens or endangers the public health, safety or welfare, or may reasonably cause disease, or is likely to adversely affect and impair the economic welfare of adjacent property.
- (4) Partition fences, buildings or other structures which have fallen into such a poor state of repair to the extent and in the manner that they may reasonably become infested or inhabited by rodents, vermin or wild animals, or may threaten or endanger the public health, safety or welfare, or is likely to adversely affect and impair the economic welfare of adjacent property.
- (5) The unauthorized accumulation or maintenance of lumber, stone, concrete, sand or any other building or construction material on a lot, tract or parcel when construction activity is not actively taking place on the property, in such manner and to the extent as to threaten or endanger the public health, safety or welfare.
- (6) Landscaping or other obstacles located in or protruding into a public right of way so as to create a traffic or pedestrian hazard, or otherwise threaten or endanger the public health, safety and welfare.
- (7) Any foul, offensive or unlawful emissions, odors or stenches and the causes thereof which threatens or endangers the public health, safety and welfare, or which is likely to adversely affect and impair the economic welfare of adjacent properties.
- (8) The pollution of any well, water body or drainage system by sewage, dead animals, industrial waste, debris or any other substance so as to threaten or endanger the public health, safety and welfare.

- (9) The partial or total blockage of any drainage inlets, outfalls, pipes, ditches, swales, canals, channels, culverts or streams so as to threaten or endanger the public health, safety and welfare.
 - (10) Tampering or interference with any public facilities maintained for the purpose of furnishing sewer, potable water, reclaimed water or telecommunication services to the public, so as to threaten or endanger the public health, safety and welfare.
 - (11) Any condition constituting a flood or fire hazard so as to threaten or endanger the public health, safety and welfare.
 - (12) Any activity or condition that is declared elsewhere in this Code of Ordinances or other applicable law to be a nuisance.
 - (13) Any trees, shrubs, or other landscaping material, or parts thereof, that threaten or endanger the public health, safety or welfare, or adversely affect and impair the economic welfare of adjacent properties, as a result of either of the following conditions:
 - a. A contagious disease or infestation is found on a tree, shrub or other landscaping material; or
 - b. Disease, vines, insects, age or other defect has caused a tree, shrub or other landscaping material, or part thereof, to be unstable such that there exists a reasonable likelihood that it will fall upon any sidewalk, street or building, or result in injury to person or property.
 - (14) Any unauthorized disturbance of land where a permit for such activity is required, including but not limited to alteration of the grade or contour of land, or the removal of vegetation from land, that may increase surface water runoff onto neighboring properties or otherwise threaten the public health, safety or welfare.
 - (15) Any activity or condition which is manifestly injurious to the morals or manners of the public, as described in F.S. § 823.01.
- (Ord. No. 05-843, §§ 2, 3, 4-4-05)

Sec. 16-27. Prohibition and enforcement.

- (a) Nuisances are hereby prohibited. It shall be unlawful for any person to cause such nuisance to come into existence anywhere within the city, or to permit the same to exist on property owned, leased, occupied or otherwise under the control of such person.
- (b) This article may be enforced against any violator, which may include the owner of the premises on which a nuisance exists, or the person or persons generating the nuisance.
- (c) This article shall be enforced as provided for by Florida law, including referral or citation to the city's code enforcement board, issuance of a citation as may be provided for by city ordinance, the entering onto the property and the abatement of the nuisance by the city, or the

ARTICLE VIII. FENCES*

Sec. 7-181. Short title.

This article shall be known and may be cited as the Palmetto Fence Ordinance.
(Ord. No. 391, § 1(1), 1-15-90)

Sec. 7-182. Definitions.

(a) *Barbed wire*: One (1) or more strands of wire or other material having intermittent sharp points of wire or metal that may puncture, cut, tear or snag persons, clothing or animals. The term "barbed wire" as used herein excludes razor ribbon.

(b) *Chain-link fence*: An open mesh fence made entirely of wire woven in squares of approximately one and one-half (1½) inches with vertical supports not less than one and one-half (1½) inches in diameter spaced not less than six (6) feet, and not more than eight (8) feet, apart.

(c) *Visibility triangle*: As defined in the zoning code, appendix B, article V, section 5.4(a) and (b), Palmetto Code of Ordinances.

(d) *Fence*: A free-standing structure made of metal, masonry, composition, wood, or a hedge, a free-standing wall, or any combination thereof, resting on or partially buried in the ground and rising above ground level and used for confinement, screening, partition, or ornamental purposes. Such structures are generally erected to divide a lot or parcel of land into distinct portions, or to separate two (2) contiguous lots or parcels.

(e) *Height*: For purposes of a fence that does not incorporate barbed wire, "height" means the distance from any point of natural ground level perpendicularly to the highest edge of the fence. However, from the purpose of a fence that does incorporate barbed wire, "height" means the distance from any point of natural ground level perpendicularly to the highest edge of the fence or barbed wire, whichever is higher.

(f) *Livestock*: For purpose of this article, "livestock" means horses or cattle.

(g) *Unsafe fence*: An unsafe fence means:

- (1) A dilapidated, deteriorated or decayed fence which by reason of inadequate maintenance, obsolescence or abandonment, poses a risk to human safety or property, or is no longer adequate to serve the purpose for which it was originally intended; or
- (2) A fence which, due to the manner of its construction or the materials used in its construction, poses a risk to human safety or property; or

***Editor's note**—Ord. No. 391, § 1(1)–(8), adopted Jan. 15, 1990, amended Art. VIII in its entirety to read as herein set forth. Prior to such amendment, Art. VIII, §§ 7-181–7-184, pertained to fences and was derived from Code 1975, §§ 7-54–7-57, 24-3.

Cross reference—Zoning code, App. B.

(b) *Roofs, gutters and downspouts.* All roofs and existing gutters and downspouts shall be maintained to prevent damage to the structure and adjoining properties and the public. Leaking roofs shall be repaired or replaced.

(Ord. No. 470, § 4, 12-16-91)

Sec. 7-241. Requirements for trash and receptacle areas.

There shall be no trash placed upon sidewalks or other areas open to the public except on those days when such trash is to be picked up by the city. All private trash receptacle areas shall be screened from the view of the public right-of-way, except where trash receptacle placement is authorized in alleyways. Such areas shall be kept neat and clean in appearance.

(Ord. No. 470, § 5, 12-16-91)

Sec. 7-242. Requirements for auxiliary structures.

(a) *Structures, fences, walls, etc.* Structures at the rear of buildings, whether attached or unattached to the principal commercial structure, which are structurally unsound shall be properly repaired or demolished. All fences, lighting devices and supports, retaining walls, nonstructural walls, outdoor service and seating areas, signs and their supporting elements shall be structurally sound, kept free of overgrowth, trash and debris and shall be repaired and painted to present a neat and clean appearance.

(b) No more than three (3) vending machines, including refrigerated vending or storage machines but not including newsracks, may be located outside any one business premises within the city and shall be placed immediately adjacent to such premises. Vending machines that exceed three (3) in number shall be kept and maintained inside such premises.

(c) All auxiliary and other structures including but not limited to buildings, fences, gates, nonstructural walls, retaining walls, fountains, parking areas, lighting devices and supports, outdoor service and seating areas, signs and their supporting elements, which are out-of-doors and exposed to the general public, shall be kept free of graffiti as defined herein.

(Ord. No. 470, § 6, 12-16-91; Ord. No. 480, § 1, 8-3-92; Ord. No. 578, § 2, 6-16-97)

Sec. 7-243. Requirements for sites.

(a) *Landscaping.* All areas (front, side and rear yards) shall be kept free of overgrowth, weeds, trash and debris. All dead tree limbs and dead trees shall be removed.

(b) *Vacant lots.* Where a vacant lot exists or is created through demolition, the owner must cover all areas not actively used for parking or loading with grass or other such ground cover. Such ground cover shall be maintained and the property kept free of trash and debris.

(c) *Parking lots.* All parking areas shall be constructed as provided in the city zoning code. Parking areas shall be well maintained and kept free of overgrowth, potholes, weeds, trash and debris. Paving and striping will be maintained in good repair and in a neat and clean appearance.