

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 09-29

Paul Dukor
Alicia Tice
701 17th Avenue West
Palmetto, FL 34221
Respondent.

NOTICE OF HEARING

Address of Violation:
701 17th 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 29th day of December, 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 November 23, 2009, and previously provided to you by Certified Mail/Return Receipt Requested on November 23, 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.

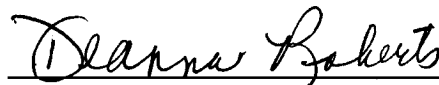
If you desire to appeal any decision of the CEB with respect to any matter considered at this Public Hearing, you will need a verbatim record of the proceedings and for that purpose, you need to insure that a verbatim record is made which includes the testimony, and evidence upon which the appeal is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

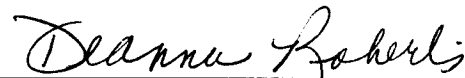
DATED: December 7, 2009

**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 7th day of December, 2009.



Deanna Roberts
Clerk of the Board

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

Chapter 6

ANIMALS*

Art. I. In General, §§ 6-1—6-25

Art. II. Livestock and Fowl, §§ 6-26—6-31

ARTICLE I. IN GENERAL

Sec. 6-1. Bird sanctuary.

(a) The entire area embraced within the corporate limits of the city is hereby designated as a bird sanctuary.

(b) It shall be unlawful for any person to trap, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob their nests; provided however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the city, then in such event the health authorities shall meet the representatives of the Audubon Society, garden club or humane society after having given at least three (3) days' notice of the time and place of the meeting to the representative of the club. If, as a result of the meeting, no satisfactory alternative is found to abate such nuisance, then said birds may be destroyed in such numbers and in such manner as is deemed advisable by the health authorities under the supervision of the chief of police.

(Code 1975, § 6-1)

Sec. 6-2. Adoption of county animal control ordinance.

(a) The city commission does hereby adopt Manatee County Ordinance No. 06-18, as amended from time to time, and authorizes the enforcement of said ordinance by Manatee County Animal Services Division within the city limits.

(b) The mayor and city clerk are hereby authorized to enter into an interlocal agreement between the Manatee County and the City of Palmetto providing for the applicability of and enforcement of Manatee County Ordinance No. 06-18 within the city.

(Code 1975, § 6-1.1; Ord. No. 422, § 1, 10-15-90; Ord. No. 06-883, § 2, 5-1-06)

Sec. 6-3. Noisy animals as nuisances.

The keeping of any animal which causes continuous or intermittent noise which disturbs the comfort and repose of persons in the vicinity of the animal is hereby declared to be a nuisance.

(Code 1975, § 6-6)

***Cross references**—Administration, Ch. 2; code enforcement board, § 2-81 et seq.; health and sanitation, Ch. 16; zoning, App. B.

State law references—Damage by dogs, F.S. Ch. 767; cruelty to animals, F.S. § 828.02 et seq.

Secs. 6-4—6-25. Reserved.

ARTICLE II. LIVESTOCK AND FOWL

Sec. 6-26. Livestock running at large.

It shall be unlawful for the owner of any livestock to permit the livestock to roam at large within the city.

(Code 1975, § 6-4)

State law reference—Livestock running at large, F.S. § 588.12 et seq.

Sec. 6-27. Fowl running at large.

(a) Any fowl kept within this city shall be securely fenced and confined to the premises.

(b) Fowl running at large within any residential district of the city, as defined by the zoning ordinance, are hereby declared to be a nuisance.

(Code 1975, §§ 6-5, 6-20)

Sec. 6-28. Swine and goats.

(a) It shall be unlawful for any person or entity to keep or maintain any hog or other swine upon land within the city, that is zoned residential, commercial or industrial according to the most recent zoning ordinance of the city. A hog or other swine may be kept or maintained only as provided in this section.

(b) Any person or entity desiring to keep or maintain a hog or other swine on land within the city must apply to and obtain prior permission from the city council. Any such permission by the city council must be based upon a finding that the purpose of keeping or maintaining such hog or other swine is for educational purposes, and, under the direction of a qualified instructor, and that the keeping or maintenance of such hog or other swine at the location in question would not be harmful to the health, safety and welfare of the residents and businesses located within the immediate area surrounding such husbandry activities, based on the following factors:

- (1) The number and size of hogs or swine to be kept or maintained at the subject location at any one time;
- (2) The length of time such hogs or swine will be kept or maintained at such location;
- (3) The dimensions of the pen or fence enclosure containing the hog or swine; and
- (4) The distance from the edge of the pen or fence enclosure to surrounding residences and businesses.

(c) Any swine kept or maintained within the city must be securely fenced and confined to the premises where kept or maintained by means of pens or fence enclosures. Such pens or fence enclosures must comply with the requirements and limitations set out in the Palmetto fence ordinance [chapter 7, article VIII].

(d) It shall be unlawful for any person to keep a goat within the city.
(Code 1975, §§ 6-17, 6-18; Ord. No. 376, § 1, 8-21-89)

Sec. 6-29. Sanitation of lots, stables, sheds.

All lots, stables, sheds, stalls, pens, fence enclosures or other structures or portions thereof in which any livestock, swine or fowl are kept shall be maintained in a sanitary condition and in compliance with the applicable provisions of the state sanitary code.

(Code 1975, § 6-19; Ord. No. 376, § 2, 8-21-89)

Cross reference—Health and sanitation, Ch. 16.

Sec. 6-30. Location restriction—Livestock.

(a) It shall be unlawful for the owner of any livestock to tie, pen or stake such livestock within the city, except at such place therein as shall be at least two hundred (200) feet from any residence.

(b) It shall be unlawful for any person to stake, tie, picket, or in any manner fasten any cow, calf, bull, horse or any other animal so that such animal may range within a distance of thirty (30) feet of any street or sidewalk within the city.

(Code 1975, § 6-21)

Sec. 6-31. Same—Fowl.

It shall be unlawful for any person to keep or maintain fowl in any area within fifty (50) feet of any residence without the consent of the owner or occupant of the residence.

(Code 1975, § 6-22)

Chapter 16

HEALTH AND SANITATION*

- Art. I. In General, §§ 16-1—16-25**
Art. II. Nuisances, §§ 16-26—16-45
Div. 1. Generally, §§ 16-26, 16-27
Div. 2. Sanitary Nuisances, § 16-28
Div. 3. Nuisance Abatement Procedures, §§ 16-29—16-45
Art. III. Control of Stormwater Discharge, §§ 16-46—16-48

ARTICLE I. IN GENERAL

Sec. 16-1. Reserved.

Editor's note—Formerly, § 16-1 adopted F.S. Ch. 381 as the sanitary code of the city. Inasmuch as reference to such statute is obsolete, the section has been deleted at the request of the city.

Secs. 16-2—16-25. Reserved.

ARTICLE II. NUISANCES†

DIVISION 1. GENERALLY

Sec. 16-26. Definition, enumeration of unlawful conditions or acts.

Every condition, substance or activity within the city which exists or occurs in such manner and to such extent as to threaten or endanger the public health, safety or welfare, or adversely affect and impair the economic welfare of adjacent property, is hereby declared to be a

***Cross references**—Administration, Ch. 2; code enforcement, § 2-81 et seq.; animals, Ch. 6; sanitation regulations for lots, stables, etc., where any livestock or fowl are kept, § 6-29; buildings and building regulations, Ch. 7; coastal areas and waterways, Ch. 10; garbage, trash and refuse, Ch. 15; housing, Ch. 17; junked, wrecked, abandoned property, Ch. 18; mobile homes, Ch. 21; streets, sidewalks and other public places, Ch. 25; utilities, Ch. 29.

State law references—Nuisances injurious to health, F.S. Ch. 386; mosquito control, F.S. Ch. 388.

†Editor's note—Ord. No. 05-843, §§ 2, 3, adopted April 4, 2005, repealed article II, §§ 16-26—16-31, in its entirety and replaced it with a new article II, §§ 16-26—16-33. Former article II pertained to hazardous conditions on land and derived from the Code of 1975, §§ 13-27—13-32; and Ord. No. 659, § 1, adopted Nov. 1, 1999.

Cross references—Housing, Ch. 17; junked, wrecked, abandoned property, Ch. 18; licenses and business regulations, Ch. 19; mobile homes, Ch. 21; planning and development, Ch. 23; streets, sidewalks and other public places, Ch. 25; subdivisions, Ch. 26.

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