

TAB 2

PALMETTO

516 8th Avenue West
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Palmetto, Florida 34220-1209
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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.

Kace W. King
Registered Agent for Palmetto Plantation HOA
4818 61st Avenue Terrace West
Bradenton, FL 34210

Case No. CEB 10-18

Respondent.

NOTICE OF HEARING

**Address of Violation:
No Assigned Address
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 26th day of October, 2010, 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 August 30, 2010, and previously provided to you by Certified Mail/Return Receipt Requested on August 30, 2010. 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.

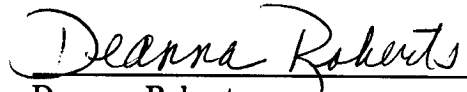
If you desire to appeal any decision of the CEB with respect to any matter considered at this Public Hearing, you will need a verbatim record of the proceedings and for that purpose, you need to insure that a verbatim record is made which includes the testimony, and evidence upon which the appeal is 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 1, 2010

**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 1st day of October, 2010.



Deanna Roberts
Clerk of the Board

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

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 stench 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

Chapter 7

BUILDINGS AND BUILDING REGULATIONS*

- Art. I. In General, §§ 7-1—7-24**
Art. II. Building-Related Fee Schedule, §§ 7-25—7-30
Art. III. Florida Building Code, §§ 7-31—7-50
Art. IV. Impact Fees, §§ 7-51—7-75
Div. 1. In General, §§ 7-51—7-69
Div. 2. General Government, Police, Parks and Recreation, and Road Impact Fees, §§ 7-70—7-75
Arts. V, VI. Reserved, §§ 7-76—7-150
Art. VII. Dangerous and Unsafe Buildings, §§ 7-151—7-180
Art. VIII. Fences, §§ 7-181—7-200
Art. IX. Advertising of Contractors, §§ 7-201—7-215
Art. X. Landscaping Requirements, §§ 7-216—7-236
Art. XI. Minimum Maintenance Standards and Guidelines, §§ 7-237—7-249

ARTICLE I. IN GENERAL

Sec. 7-1. Definitions.

The following words, terms and phrases, when used in this chapter or the code adopted in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Broad tipped indelible marker means any felt tip marker or similar implement which contains a fluid which is not water soluble and which has a flat or angled writing surface one-half inch or greater.

Building official and building inspector means the person authorized to review plans, issue permits, inspect buildings and enforce the provisions of this chapter.

Corporate counsel or city attorney means the city attorney of this city.

Graffiti means the placement of any writings, drawings, inscriptions, figures or marks of paint, chalk, dye or other similar substances upon any structure, wall, rock, bridge, building, fence, gate, roadway, tree or other real or personal property, either privately or publicly owned, located out-of-doors and exposed to the general public, which placement was done without the owner's notarized written consent or which was not otherwise permitted under the city's ordinances.

***Cross references**—Coastal areas and waterways, Ch. 10; seawalls, § 10-26 et seq.; community development, Ch. 11; fire prevention and protection, Ch. 13; floodplain management, Ch. 14; garbage, refuse and trash, Ch. 15; health and sanitation, Ch. 16; housing, Ch. 17; license and business regulations, Ch. 19; mobile homes, Ch. 21; planning and development, Ch. 23; subdivisions, Ch. 26; utilities, Ch. 29; impact fees, § 29-82 et seq.; zoning, App. B.

State law references—Minimum standards, building codes, F.S. § 553.73; thermal efficiency code, F.S. § 553.900 et seq.; inspection warrants, F.S. § 933.20 et seq.

(d) All natural features of a property including but not limited to rocks, trees and landscaping shall be kept free of graffiti as defined herein.
(Ord. No. 470, § 7, 12-16-91; Ord. No. 578, § 3, 6-16-97)

Sec. 7-244. Requirements for temporary coverings.

No temporary covering, including, but not limited to, a board covering a broken or missing window, on any part of a structure may remain more than fifteen (15) days after on-going construction has been completed or sixty (60) days total, whichever is longer.
(Ord. No. 470, § 8, 12-16-91)

Sec. 7-245. Applicability.

The minimum maintenance standards and guidelines shall be applicable to all unimproved and improved properties, both residential and nonresidential, within the geographic boundaries of the city. The minimum maintenance standards and guidelines shall be in addition to any other standards, codes, ordinances, rules, regulations or other statutory requirements applicable to such properties.
(Ord. No. 470, § 9, 12-16-91; Ord. No. 05-836, § 2, 1-24-05)

Sec. 7-246. Enforcement.

The minimum maintenance standards and guidelines shall be enforced pursuant to the provisions of chapter 2, article IV, section 2-81 through 2-90, inclusive, of this Code of Ordinances relating to the code enforcement board. The mayor shall designate the employee(s) to serve as the minimum maintenance standards official for purposes of enforcing compliance with these minimum maintenance standards. Such designated employee(s) shall assist property owners in an effort to achieve an understanding of and compliance with the minimum maintenance standards and guidelines.
(Ord. No. 470, § 10, 12-16-91)

Sec. 7-247. Correction of noncompliance.

Upon receipt of written notification from the minimum maintenance standards official of noncompliance with the minimum maintenance standards and guidelines, a property owner or his representative shall have ten (10) days to commence application for a certificate of review for approval of proposed correction of the cited deficiency. No building permit for the correction of a deficiency shall be issued until a certificate of review has been issued and approved by the minimum maintenance standards official. A failure to secure a certificate of review in any instance, including those in which no building permit is required, shall constitute a violation of this article, enforceable by the code enforcement board.
(Ord. No. 470, § 11, 12-16-91)

*** Sec. 7-252. Removal of graffiti.**

(a) The city shall notify the owner, lessee or agent for the owner of property of the existence of graffiti and shall provide seven (7) days for the owner, lessee or agent to remove or effectively obscure such graffiti as set forth in section 7-253 below. It shall be a violation of this article for any owner, lessee, or agent for the owner of property to fail to remove, cause the removal of or effectively obscure any graffiti from such property, or to fail or refuse to allow the city to so remove any graffiti, after receipt of notice from the city for such removal as provided in section 7-253.

(b) If the owner, lessee or agent for the owner of property fails to remove, cause the removal of or effectively obscure the graffiti in a timely manner, the city may cause the graffiti to be removed or effectively obscured. The city, in painting or obscuring the graffiti, shall not faint any more extensive area than the area where the graffiti is located. The city shall not be required to restore the obscured area to its original condition (i.e. texture and color, etc.) It is the city's intent to utilize white paint for this purpose. If an alternative color of paint is provided by the property owner, the city may utilize the provided color paint to obscure the area of the graffiti. The city shall not be responsible for storage of any paint provided by a property owner.

(Ord. No. 578, § 6, 6-16-97)

Sec. 7-253. Notice.

(a) When the city becomes aware of the existence of graffiti on property within the city, the city shall give, or cause to be given, written notice to the property owner, lessee and/or owner's agent to remove, cause the removal of or effectively obscure such graffiti or authorize the city to so remove as provided in section 7-252, within seven (7) days of receipt of notice as provided herein.

(b) Notice shall be given to the owner and if the owner is not in possession of the property, notice may also be given to the occupant or person in possession of the premises described in the notice. The notice may be personally delivered or deposited in the U.S. Mail, postage pre-paid addressed to the person or persons designated as the owner in the records of the property appraiser for Manatee County, or if no address is known, then to general delivery, and a copy of such notice shall be posted in a conspicuous place upon the property. The validity of the city's actions or any proceedings shall in no way be affected by the failure on the part of any property owner to actually receive said notice provided that the person mailing or posting such notice files an affidavit of mailing or posting.

(Ord. No. 578, § 7, 6-16-97)

Sec. 7-254. Enforcement.

This article may be enforced as provided by general law and city ordinance including but not limited to enforcement by the code enforcement board or through a duly adopted citation procedure, as same may be amended from time to time. In addition to establishing a penalty for a violation, the code enforcement board is empowered to order a violator to repay the city