

TAB 4



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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 11-04

Daniel W. Lynch
Cynthia J. Lynch
316 Crescent Court East
Bradenton, Florida 34208-1736

Respondent.

NOTICE OF HEARING

**Address of Violation:
1405 11th 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 March, 2011 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 17, 2011, and previously provided to you by Certified Mail/Return Receipt Requested on February 17, 2011. 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.

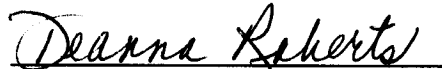
If you desire to appeal any decision of the CEB with respect to any matter considered at this Public Hearing, you will need a verbatim record of the proceedings and for that purpose, you need to insure that a verbatim record is made which includes the testimony, and evidence upon which the appeal is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

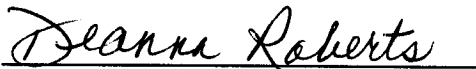
DATED: March 8, 2011

**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 8th day of March, 2011.



Deanna Roberts
Clerk of the Board

cc: Mark Barnebey, City Attorney
David P. Persson, Code Enforcement Board Attorney
Florida Default Law Group, P.L.
Wells Fargo

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

filing of an action in a court of competent jurisdiction to obtain civil remedies, including a restraining order, injunction and damages. Any enumeration of enforcement mechanisms set forth herein is supplemental and not exclusive.

(Ord. No. 05-843, §§ 2, 3, 4-4-05; Ord. No. 07-920, § 2, 4-16-07)

DIVISION 2. SANITARY NUISANCES

Sec. 16-28. Sanitary nuisance.

(a) A sanitary nuisance is the commission of any act, by an individual, municipality, organization, or corporation, or the keeping, maintaining, propagation, existence, or permission of anything, by an individual, municipality, organization, or corporation, by which the health or life of an individual, or the health or lives of individuals, may be threatened or impaired, or by which or through which, directly or indirectly, disease may be caused. Not all nuisances are sanitary nuisances.

(b) Abatement of sanitary nuisances shall occur in the same manner as provided for all other nuisances in division 3 of this article II, except that the city is required to give only ten (10) days' notice to abate the sanitary nuisance or request a hearing.

(Ord. No. 05-843, §§ 2, 3, 4-4-05; Ord. No. 07-920, § 3, 4-16-07)

DIVISION 3. NUISANCE ABATEMENT PROCEDURE*

Sec. 16-29. Notice.

(a) If the director of public works, or in his absence or unavailability, his designee, finds and determines that a nuisance exists, he shall so notify the record owner or owners of the property on which the nuisance exists in writing and demand that the owner cause the condition to be remedied. All notices required by this section shall be provided to the alleged violator either by:

- (1) Certified mail, return receipt requested, sent to a property owner at the address listed in the county tax collector's records for tax notices, and at any other address provided to the city by a property owner. Mailed notice to a person who is not owner of the property where the violation is located shall be to the street address of the property where the violation is located; or
- (2) Regular mail sent to a property owner at the address listed in the county tax collector's records for tax notices, and at any other address provided to the city by a property owner; and posting for at least ten (10) days in at least two (2) locations, one (1) of which shall be the property upon which the violation is alleged to exist and the other of which shall be at city hall. Mailed notice to a person who is not owner of the property where the violation is located shall be to the street address of the property where the

***Editor's note**—Section 4 of Ord. No. 07-920, adopted April 16, 2007, amended §§ 16-29—16-45 in their entirety to read as herein set out under a new Div. 3. Former §§ 16-29—16-33 pertained to similar subject matter and derived from Ord. No. 05-843, adopted April 4, 2005.

officers to ensure continuing compliance with the provisions of this article. In the event a violation of this article is discovered, the code inspector shall give written notice of the violation to the owner of the property who shall have ninety (90) days to correct the violation. Should the violation continue beyond ninety (90) days, the code inspector shall notify the code enforcement board and initiate a hearing under chapter 2, article IV, section 2-81, et seq., of this Code of Ordinances.

(Ord. No. 456, § 1 (10), 7-1-91)

Sec. 7-226. Authority of public works superintendent to create forms, lists and other helps.

The superintendent of the department of public works is authorized to create such forms, lists of suggested trees, accents, shrubs, ground covers and turf grasses, and such other details necessary to carry out the provisions of this article as he deems necessary in his sole discretion.

(Ord. No. 456, § 1 (11), 7-1-91)

Secs. 7-227–7-236. Reserved.

ARTICLE XI. MINIMUM MAINTENANCE STANDARDS AND GUIDELINES*

Sec. 7-237. Building front, side and rear walls abutting streets or public areas.

(a) Requirements:

- (1) All deteriorated or damaged structural and decorative elements visible from a public right-of-way, including signage, shall be repaired or replaced to match as closely as possible the existing or original materials and construction of the building, except that changes shall be permitted that are otherwise required or encouraged under this article.
- (2) Every such part of a structure visible from a public right-of-way or abutting a street shall be kept structurally sound. Rotten or weakened portions shall be removed, repaired or replaced in such a manner as to be compatible with the rest of the structure or to match the original materials and construction methods. All exposed wood shall be stained or painted. Every such part shall be free of graffiti, litter, dirt, mildew or other debris. Where surfaces are painted, once painted or normally painted, not more than ten (10) percent of such surface may be without paint. Painted surfaces must be maintained without peeling or chalking.
- (3) Walls shall be repaired and painted to present a neat and clean appearance. Side walls where visible from the street shall be finished or painted in a manner harmonious with the front of the building.

***Editor's note**—Ord. No. 470, adopted Dec. 16, 1991, amended Ch. 7 by adding the provisions set out above but did not provide the exact manner of their inclusion. Therefore, their codification as a new Art. XI, §§ 7-237–7-249 has been at the editor's discretion.

(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.