

TAB 3



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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 12-06**

Peter A. Whittaker  
Jean S. Whittaker  
6301 Merna Lane  
Lanham, Maryland 20706-2862  
**Respondent.**

### **NOTICE OF HEARING**

**Address of Violation:**  
2801 Trinidad Way  
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 July, 2012 at 6:00 P.M. in the Commission Chambers at City Hall, which is located at 516 8<sup>th</sup> 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 July 3, 2012 and previously provided to you by Certified Mail/Return Receipt Requested on July 3, 2012. 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".

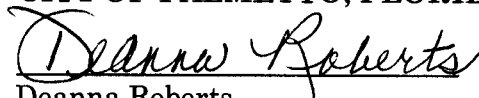
**If you desire to appeal any decision of the Code Enforcement Board (CEB) with respect to any matter considered at this Public Hearing, you will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS §286.0105).** 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.

The City of Palmetto does not discriminate on the basis of race, color, national origin, sex, religion, age, marital status or handicapped status in employment or in the provision of services. Handicapped individuals may receive special accommodation in services on forty-eight hours notice (FS §286.26). Anyone requiring reasonable accommodation for this meeting as provided for in the Americans with Disabilities Act should contact the Clerk of the Code Enforcement Board by telephone at 941-723-4570, fax 941-723-4576, or email [droberts@palmettofl.org](mailto:droberts@palmettofl.org)

**PLEASE GOVERN YOURSELF ACCORDINGLY.**

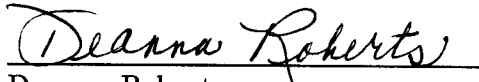
**DATED: July 9, 2012**

**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 Regular Mail and Certified Mail/Return Receipt Requested to the Respondent this 9<sup>th</sup> day of July, 2012.



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 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

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\***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.