

TAB 2



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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 13-02

Jeremy Nicholas
618 12th Avenue West
Palmetto, Florida 34221
Respondent.

NOTICE OF HEARING

Address of Violation:
618 12th 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 30th day of April, 2013 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 December 18, 2012 and previously provided to you by Certified Mail/Return Receipt Requested on December 18, 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".

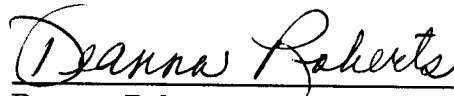
If you desire to appeal any decision of the Code Enforcement Board (CEB) with respect to any matter considered at this Public Hearing, you will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (*FS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

PLEASE GOVERN YOURSELF ACCORDINGLY.

DATED: April 8, 2013

**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 to the Respondent by Regular Mail and Certified Mail/Return Receipt Requested this 8th day of April, 2013.



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

***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.

→ **Sec. 17-28. Palmetto Property Maintenance Code.**

1. The below sections of the "International Property Maintenance Code, Edition 2006," as published by the International Code Commission, Inc. and amended from time to time, are hereby adopted by reference as if fully rewritten herein and shall be referred to as the Palmetto Property Maintenance Code.

Chapter 1 ADMINISTRATION

Section 108 Unsafe Structures And Equipment

108.1 General

108.1.1 Unsafe Structures

108.1.2 Unsafe Equipment

108.1.3 Structure Unfit For Occupancy

108.1.4 Unlawful Structure

108.2 Closing Vacant Structures

108.4 Placarding

108.5 Prohibited Occupancy

Chapter 2 DEFINITIONS

All Sections

Chapter 3 GENERAL REQUIREMENTS

Section 301 General

301.1 Scope

301.2 Responsibility

301.3 Vacant Structures & Land

Section 302 Exterior Property Areas

302.1 Sanitation

302.3 Sidewalks & Driveways

302.5 Rodent Harborage

302.6 Exhaust Vents

Section 304 Exterior Structure

→ 304.1 General

→ 304.2 Protective Treatment

304.4 Structural Members

→ 304.6 Exterior Walls

304.7 Roofs & Drainage

CHAPTER 3 GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

301.2 Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

301.3 Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.5 Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

SECTION 304 EXTERIOR STRUCTURE

→ **304.1 General.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

→ **304.2 Protective treatment.** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and watertight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.4 Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

→ **304.6 Exterior walls.** All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

- (i) Words not defined in section 3.2 shall have the meaning commonly assigned to them.

→ **Sec. 3.2. Definitions of terms.**

Unless otherwise expressly stated, for the purposes of this code, the following words, terms and phrases shall have the meaning herein indicated.

Abut: To physically touch or border upon; or to share all or part of a common lot line or parcel of land.

Accessory: Having a subordinate function. See also Building, accessory; Structure, accessory; and Use, accessory.

Adult entertainment establishment: Those business operations whose primary business is to provide adult entertainment predominantly involving "specified sexual activities" or "specified anatomical areas". Such establishment shall include, but shall not be limited to, cabarets, adult bookstores, adult theaters, and adult photographic studios, which terms are more specifically defined as follows:

- (a) *Adult bookstore:* An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals, printed matter, films, video tapes or photographic materials, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".
- (b) *Adult theater:* An enclosed building or an enclosed space within a building used for presenting either filmed or live material or performances which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- (c) *Adult photographic studio:* Any establishment which offers or advertises the use of its premises for the purpose of photographing or exhibiting "specified sexual activities" or "specified anatomical areas".
- (d) *Cabarets:*
 - (1) Any bar, dancehall, restaurant or other place of business at which food or beverages are served, which features nude dancing, topless or bottomless dancers, strippers or similar entertainers, topless waitresses; or
 - (2) Any such establishment which is advertised or identified through the use of a sign or signs employing the words "Adult", "Topless", "Bottomless" or other words of similar import; or
 - (3) Any such establishment which provides adult entertainment involving the exposure of "specified anatomical areas."
- (e) *Specified sexual activities* is defined as:
 - (1) Human genitals in a state of sexual stimulation or arousal;
 - (2) Acts of human masturbation, sexual intercourse or sodomy;

Office, business or professional: An establishment offering services or knowledge to the business community or to individuals. Such activities would include, by way of illustration, accounting, brokerage, insurance, physician, lawyer, dentist, architect and psychologist.

Open space: Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Open space, common: Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.

→ *Open storage:* The storage outside of a building, or within buildings with less than three (3) sides, of materials; supplies; merchandise; equipment; commercial, recreational, or domestic vehicles, boats and like items, but excluding junk.

Parking, accessory: Any garage, carport, or surface level lot designed to accommodate the parking of motor vehicles on the same lot as the principal use.

Parking, off-street: Space located outside of any street right-of-way or easement and designed to accommodate the parking of domestic vehicles.

Parking, principal: Any garage or surface level lot used as the principal use of the property, whether it operates for commercial or private purposes.

Personal services: An establishment that primarily provides services generally involving the care of a person or a person's apparel, including, but not limited to, barbershops, beauty salons, seamstress shops, shoe repair and shining shops, dry-cleaning and laundry pickup facilities, coin-operated laundry and dry-cleaning facilities and small dry cleaners.

Place of assembly: A place designed to accommodate the assembly of persons attending athletic events, musical performances, dramatic or dance performances, speeches or ceremonies, and other such entertainment events, and including, but not limited to, coliseums, athletic centers, concert halls, and auditoriums.

Planned development: Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations or phases. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans which include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings, as they are intended to be located, constructed, used, and related to each other, uses and improvements on the land as related to the buildings. A planned development includes a program for the provisions, operations, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

- (iv) Where a commercial vehicle is parked on public or private property whereon construction is underway, for which a current and valid building permit is properly displayed on the premises;
- (v) Where a commercial vehicle is parked in a residential district for the purpose of making a delivery or service call, provided that such parking is actually in the course of business deliveries or servicing as the case may be;
- (vi) Where an emergency vehicle is parked in a residential district, provided that the time parked is actually necessary for the emergency; or where an emergency vehicle is driven by a resident of the city and parked on that resident's private property; or
- (vii) Where a commercial vehicle becomes disabled and, as a result of such disablement is required to be parked within a residential district; however, any such vehicle shall be removed from the residential district within twenty-four (24) hours from the time it became disabled.

(Ord. No. 05-862, § 3, 8-29-05)

→ **Sec. 6.6. Screening of open storage.**

Open storage areas shall be screened from view of any street and from all residentially zoned land as follows:

- (a) When an open storage area abuts a collector or arterial street, the method of screening shall consist of solid masonry walls or solid wooden fences at least six (6) feet in height with access from said street only through solid gates which shall be closed except when in use. Screening shall run at least one hundred (100) feet back from the street property line unless an existing permanent structure shields the storage area.
- (b) When an open storage area abuts a residentially zoned district, the method of screening shall consist of solid wooden fences or masonry walls at least six (6) feet in height along the boundary of the storage areas and the residential district.
- (c) When an open storage area does not abut a collector or arterial street and is not within two hundred (200) feet of a residential district but is in view of a residential district, the method of screening from said residential district shall consist of walls or fences at least six (6) feet in height which shall be seventy-five (75) percent opaque.

Sec. 6.7. Swimming pools.

Swimming pools, both aboveground and belowground, are permitted accessory structures to residential or nonresidential structures, provided that the following requirements are met. Similar structures such as spas shall also meet these requirements.

- (a) *Location:* Swimming pools may be located within side, rear, or corner yards but shall not be allowed in the required front yards. Swimming pools shall be located a minimum of five (5) feet from any side, rear, or corner lot line as measured from the water's edge. Locational criteria are subject to the variance provisions of section 13.3 and section 13.6, appendix B, of this Code.