

TAB 5



City of Palmetto Agenda Item

Meeting Date

June 20, 2011

Presenter: Mark P. Barnebey

Department: City Attorney

Title: Ordinance 2011-15 Amending Notice Requirements

Background:

In 1995, Florida Statutes were amended to reduce the required statutory notices from 15 days, excluding Sundays and holidays, to 10 days for most notices. The City of Palmetto has never amended its Code to reflect this change.

Discussion:

This ordinance reflects the changes in the statutes. It also provides additional detail regarding the posting of signage related to site specific land use items.

Budgeted Amount: \$0.00 **Budget Page No(s):** **Available Amount:** \$0.00 **Expenditure Amount:** \$0.00

Additional Budgetary Information:

Funding Source(s): **Sufficient Funds Available:** Yes No **Budget Amendment Required:** Yes No **Source:**

City Attorney Reviewed: Yes No N/A **Advisory Board Recommendation:** For Against N/A **Consistent With:** Yes No N/A

Potential Motion/Direction Requested: I move to schedule a public hearing for Ordinance No. 2011-15 July 18, 2011.

Staff Contact:

Attachments: Ordinance No. 2011-15.

**CITY OF PALMETTO
ORDINANCE NO. 2011-15**

**AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA,
AMENDING THE CODE OF ORDINANCES TO REVISE THE
NOTICE REQUIREMENTS FOR CITY COMMISSION AND
PLANNING AND ZONING BOARD; PROVIDING FOR REPEAL
OF ORDINANCES IN CONFLICT; PROVIDING FOR
REAFFIRMATION AND RATIFICATION; PROVIDING FOR
SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions, and render municipal services; and,

WHEREAS, pursuant to the referenced provision of the Florida Constitution, a city may exercise any power for municipal purposes except as otherwise provided by law; and,

WHEREAS, Chapter 166, Florida Statutes, the “Municipal Home Rule Powers Act,” implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and,

WHEREAS, the City of Palmetto desires to amend its notice requirements for zoning amendments to maintain consistency with the notice requirements for zoning amendments set forth in Chapter 166, Florida Statutes.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION
OF THE CITY OF PALMETTO, FLORIDA, AS FOLLOWS:**

Section 1. **Findings of Fact.** The above “WHEREAS” clauses are adopted herein as findings of fact.

Section 2. **Appendix B Language Amendment.** Section 11.5 of the Zoning Code of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 11-5. Notice requirements for amendments.

- (a) *Planning and Zoning Board public hearing:* No recommendation for a zoning change or amendment to the restrictions or regulations to be enforced therein may be considered by the Planning and Zoning Board until public notice has been given of a public hearing. In case of a request for a zoning change or restrictions or regulations to be enforced therein affecting particular property or properties, notice of the public hearing shall include:
- (1) Notice in a newspaper of general circulation in the City of Palmetto at least ten (10) days prior to the public hearing;
 - (2) Notice shall be sent by regular mail at least ten (10) days prior to the public hearing to property owners, according to the latest ad valorem tax records, of every abutting or adjacent parcel of land excluding roads or streets, in all directions from the property line of the land upon which the applicant requests a change in the district zoning classification; and
 - (3) In the case of a request to rezone a parcel of land, a sign shall be posted at least ten (10) days before the planning and zoning board public hearing containing language as provided by the City of Palmetto.
 - (4) Public hearings related to Comprehensive Plan amendments shall be as provided in Chapter 163, Florida Statutes for the local planning agency. Additional notice for Future Land Use Map amendments shall be provided as set forth in Section 11.5(a) (2) and (3).
- (b) *City Commission public hearing—Property owner/agent initiated amendment:* No decision for a zoning change or amendment to this code shall be made by the City Commission until public notice has been given for the public hearing. Notice shall include:
- (1) Notice in a newspaper of general circulation in the City of Palmetto at least ten (10) days prior to the public hearing. The notice of proposed amendment shall state the date, time, and place of the public hearing, the title or titles of proposed amendments, and the place or places within the

City of Palmetto where such proposed amendments may be inspected by the public. The notice shall also advise that interested parties may appear at the public hearing and be heard with respect to the proposed amendment;

- (2) Notice shall be sent by regular or registered mail at least ten (10) days prior to the public hearing to property owners, according to the latest ad valorem tax records, of every abutting or adjacent parcel of land excluding roads and streets, in all directions from the property line of the land upon which the applicant requests a change in the district zoning classification; and
 - (3) In the case of a request to rezone a parcel of land, a sign shall be posted at least ten (10) days before the City Commission public hearing, containing a sign as provided by the City of Palmetto. Such sign shall be at or adjacent to the subject parcel and visible at eye level from the public right of way.
- (c) *City Commission public hearing—City initiated amendment:* Amendments that change the actual list of permitted, conditional or prohibited uses within a zoning category, or amendments initiated by the City of Palmetto that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to the following procedure:
- (1) Where the proposed amendment changes the actual zoning map designation of a parcel or parcels of land involving less than ten (10) contiguous acres of the City of Palmetto, the City Commission shall direct the city clerk to notify by regular mail each real property owner whose land the City of Palmetto will redesignate by enactment of the amendment and whose address is known by reference to the latest ad valorem tax records. Notice by the city clerk shall state the substance of the proposed amendment as it affects that property owner and shall set a time and place for one or more public hearings on such amendment. Such notice shall be given at least thirty (30) days prior to the date set for the public hearing, and a copy of the notice shall be kept available for public inspection during the regular business hours of the office of the city clerk. The City Commission shall hold a public hearing on the proposed amendment and may, upon the conclusion of the hearing, immediately adopt the amendment.
 - (2) Where the proposed amendment changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving ten (10) contiguous acres or more of the City of Palmetto, the City Commission shall provide for public notice and hearings as follows:

- (3) The City Commission shall hold two (2) advertised public hearings on the proposed amendment. At least one public hearing shall be held after 5 p.m. on a weekday, unless the City Commission, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least seven (7) days after the day that the first advertisement is published. The second public hearing shall be held at least ten (10) days after the first public hearing and shall be advertised at least five (5) days prior to the public hearing; and
 - (4) The required advertisements shall be published in a newspaper of general circulation in the City of Palmetto and shall use the procedures established in Chapter 166, Florida Statutes.
- (d) Amendments related to Comprehensive Plan amendments shall be provided in Chapter 163, Florida Statutes. Future Land Use Map amendments shall have additional notices provided as set forth in Sections 11-5(b) (2) and (3).

Section 3. **Section 23-1 Amendment.** The definition of “Due public notice” in Section 23-1 is hereby amended to read as follows:

Due public notice, as used in the phrase “public hearing” or “hearings with due public” notice shall be as provided in Section 11.5 Appendix B of the Zoning Code of the City of Palmetto Code of Ordinances, as appropriate.

Section 4. **Repeal of Ordinance.** This Ordinance hereby repeals any and all provisions of ordinances in conflict herewith to the extent of such conflict.

Section 5. **Reaffirmation and Ratification.** To the extent that previously adopted ordinances may have been noticed to comply with the provisions provided herein, the City Commission reaffirms and ratifies the adoption of such ordinances.

Section 6. **Severability.** If any section, sub-section, paragraph, sentence, clause or phrase in this Ordinance shall be held invalid by a court of competent jurisdiction, then such invalidity shall not affect the remaining portions hereof.

Section 7. **Effective Date.** This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor, or if disapproval occurs, upon

reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes of the City Commission.

PASSED AND DULY ADOPTED, by the City Commission, in open session, with a quorum present and voting, this 1st day of August, 2011.

First Reading: July 18, 2011
Publication: July 22, 2011
Second Reading and
Public Hearing: August 1, 2011

CITY OF PALMETTO, FLORIDA,
BY AND THROUGH THE CITY
COMMISSION OF THE CITY OF
PALMETTO

By: _____
SHIRLEY GROOVER BRYANT,
MAYOR

ATTEST: James R. Freeman
City Clerk

By: _____
City Clerk/Deputy Clerk.