



**CITY OF SOUTH DAYTONA
SPECIAL MASTER CODE ENFORCEMENT
Minutes**

November 4, 2021 at 9:00 AM

CITY COUNCIL CHAMBERS

1672 S. Ridgewood Avenue, South Daytona, Florida

SPECIAL MASTER: Attorney Matthew Branz, Esquire

STAFF:

Josh McEnany, Code Compliance Manager

Bret Steele, Code Compliance Officer

Beverly Abrahamson, Code Compliance Officer

Matt Miavez, Code Compliance Officer – Rental Housing

Becky Witte, Deputy City Clerk

I. **CALL TO ORDER:** Special Master Matthew Branz called the City of South Daytona's Special Master Code Enforcement Hearing to Order at South Daytona's City Hall, City Council Chambers, 1672 S. Ridgewood Ave, South Daytona, Florida at 9:00 am.

Special Master Branz welcomed those in attendance to the City of South Daytona Code Enforcement Special Master hearing. He said that today's proceedings are quasi-judicial in nature. Formal rules of evidence do not apply, but fundamental due process will be observed and govern all proceedings, he explained. Mr. Branz said that all testimony is under oath and will be recorded. There is no "public comment" portion of these proceedings and all participants must have an active role in the case such as staff, respondent, and/or witness, he said.

Special Master Branz continued to explain that at the conclusion of each hearing, he shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted to the Code Enforcement Special Master. The order may include a notice that it must be complied with by a specified date, and that a fine may be imposed, he said.

Special Master Branz advised that if any party decides to appeal any decision made at this meeting, they will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based, per section 286.0105, Florida Statutes.

II. PLEDGE OF ALLEGIANCE

III. OATHS OF THE CITY OFFICIAL, RESPONDENTS AND WITNESSES:

Executed by Deputy City Clerk, Becky Witte

IV. APPROVAL OF MINUTES FOR: October 14, 2021.

Attorney Branz approved the minutes as submitted by Deputy City Clerk Becky Witte.

OFFICIAL BUSINESS:

NEW BUSINESS:

Case # 21-000266

Location: 2710 S. Ridgewood Ave, South Daytona

Owner: A P Enterprises of Daytona, LLC

VIOLATION(S):

1. City of South Daytona Code of Ordinances 7-6(d), Garbage and trash storage facilities and enclosures

Comments: Damaged trash enclosure on property.

2. City of South Daytona Land Development Regulations 8.2(D), Signage Permit Required
Comments: Remove all temporary signage on property, i.e. feather flag, sign on trash enclosure and signs on bollards.

3. City of South Daytona Code of Ordinances 5-216 (17), Conditions constituting public nuisance: Care of premises

Comments: Remove all exterior debris on property, i.e. sandbags, junk, disabled gas pump.

4. City of South Daytona Land Development Regulations 8.4(C), South Ridgewood Avenue Corridor Design Guidelines

Comments: Newspaper dispensers do not comply with CRA Guidelines. Section 4.6 Site Furnishings, Sub Section 4.6.5 Newspaper Dispensers

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Bret Steele, Code Compliance Officer presented the case and requested that the respondent be found in violation.

Respondent Radj Jen, tenant of the property was in attendance and discussed the case with the Special Master.

Special Master Branz found the respondent in violation of:

1. City of South Daytona Land Development Regulations Section 7.6 (d): Responsibility of owner. It shall be the responsibility of the owner and business operator to maintain the facilities in good order and in accordance with this chapter at all times.

2. City of South Daytona Land Development Regulations Section 8.2(D): Permits required. Any person wishing to construct, erect, alter, move or post a sign in the City of South Daytona shall first secure a permit after submitting plans and specifications to the community development department (hereinafter known as the "department"). An application form provided by the department shall require the applicant to include the following information: size, type, structure, heights, proximity to building, rights-of-way, streets and general location.

3. City of South Daytona Code of Ordinances Section 5-216 (17). Conditions constituting public nuisance. It is a public nuisance for any person owning, leasing, occupying, or having charge of any commercial premises in this city to maintain, or permit to exist, such

premises in such a manner that any one (1) or more of the following conditions exist thereon:
(17) Care of premises. It shall be unlawful for the owner or occupant of a commercial building, structure, or property to utilize the premises for the open storage of any abandoned motor vehicle, ice box, refrigerator, stove, glass, building material, building rubbish or similar items except as allowed by the zoning regulations. It shall be the duty and responsibility of every such owner or occupant to keep the premises of the property clean and to remove from same all such abandoned items as listed above, including, but not limited to, weeds, dead trees, trash, garbage, etc., upon notice from the code enforcement officer. Premises shall be kept free from health hazards, including debris accumulation and breeding conditions for mosquitoes.

4. City of South Daytona Land Development Regulations Section 8.4 (C): Guidelines: The South Ridgewood Avenue Corridor Design Guidelines establish standards for driveways, parking areas, pedestrian circulation, stormwater ponds, site lighting, signage, landscaping, building design and the placement of buildings and accessory structures on a site. The specific guideline provisions are adopted by resolution of the South Daytona City Council and included herein by reference

Special Master Branz ordered a compliance date of November 29, 2021 and failure to comply will result in a fine of \$250.00 per day until the violations are corrected as well as authorization for the city to abate with a \$125.00 administrative fee plus any costs incurred during the abatement process.

Next hearing set for December 9, 2021.

Special Master Branz signed the Findings of Fact, Conclusion of Law and Order.

Case # 21-000305

Location: 608 Ridge Blvd, South Daytona
Owner: Figgins, Scot Alan

VIOLATION(S):

1. International Property Maintenance Code 302.4, Weeds

Comments: PROPERTY NEEDS MAINTAINED ON A REGULAR BASIS. PROPERTY HAS OVERGROWN TREES AND GRASS

2. International Property Maintenance Code 302.8, Motor vehicles

Comments: VEHICLE ON PROPERTY DOES NOT HAVE A CURRENT TAG

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Josh McEnany, Code Compliance Manager presented the case and requested that the respondent be found in violation.

Respondent was not in attendance.

Special Master Branz found the respondent in violation of:

1. International Property Maintenance Code Section 302.4: Premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.
2. International Property Maintenance Code Section 302.8, Motor Vehicles. Except as provided for in other regulations, inoperative or unlicensed motor vehicles shall not be parked, kept or stored on any premises, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Special Master Branz ordered a compliance date of November 14, 2021 and failure to comply will result in a fine of \$125.00 per day until the violations are corrected as well as authorization for the city to abate with a \$125.00 administrative fee plus any costs incurred during the abatement process.

Next hearing set for December 9, 2021.

Special Master Branz signed the Findings of Fact, Conclusion of Law and Order.

Case # 21-000310

Location: 309 Olive Street, South Daytona

Owner: Nelson Investment Properties LLC

VIOLATION(S):

1. International Property Maintenance Code 302.1, Sanitation
Comments: Premises has junk, debris and construction material on side yards and back yard.
2. International Property Maintenance Code 304.7, Roofs and drainage
Comments: Roof is leaking into bedroom; Holes in roof and soffit area
3. International Property Maintenance Code 604.3, Electrical System Hazards
Comments: Main electrical box is not labeled; bedroom lighting not wired correctly and does not turn on
4. International Property Maintenance Code 304.13, Windows, skylight and door frames
Comments: Back door frame is not fastened; Window is cracked on rear side of property
5. International Property Maintenance Code 304.14, Insect screens
Comments: Windows on property do not have screens
6. International Property Maintenance Code 504.1, General; plumbing fixtures
Comments: Main kitchen shut off valve leaking; master bath leaking
7. International Property Maintenance Code 602.3, Heat Supply
Comments: Tenants only supplied with a Window Unit Air Conditioner; No heat available to structure

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Josh McEnany, Code Compliance Manager presented the case and requested that the respondent be found in violation.

Respondent was not in attendance.

Special Master Branz found the respondent in violation of:

1. International Property Maintenance Code Section 302.1: Exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.
2. International Property Maintenance Code Section 304.7: 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 down spouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
3. International Property Maintenance Code Section 604.3. Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.
4. International Property Maintenance Code Section 304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.
5. International Property Maintenance Code Section 504.1 General. Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.
6. International Property Maintenance Code Section 602.3 Heat supply. Every owner and operator of any building who rents, leases, or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from November 15th to March 15th sufficient to maintain a temperature of not less than 68 degrees Fahrenheit in all habitable rooms, bathrooms, and toilet rooms.

Special Master Branz ordered a compliance date of November 29, 2021 and failure to comply will result in a fine of \$250.00 per day until the violations are corrected as well as authorization for the city to abate with a \$125.00 administrative fee plus any costs incurred during the abatement process.

Next hearing set for December 9, 2021.

Special Master Branz signed the Findings of Fact, Conclusion of Law and Order.

Case # 21-000322

Location: 1967 Menger Circle, South Daytona

Owner: Lavallee, Eugene E. Jr.

VIOLATION(S):

City of South Daytona Land Development Regulations 7.5(B)(10)(c)(2), Miscellaneous parking regulations MRE

Comments: All MREs must be parked on side yard behind front plane of house, or in garage or carport.

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Josh McEnany, Code Compliance Manager presented the case and requested that the respondent be found in violation.

Respondent Eugene E. Lavallee Jr, 1967 Menger Circle, was in attendance and discussed the case with the Special Master.

Special Master Branz found the respondent in violation of:

City of South Daytona Land Development Regulations Section 7.5(B)(10)(c)(2): Major recreational vehicles and equipment including recreational vehicles, boats, and utility trailers: Major recreational equipment (MRE) may be parked or stored outdoors in a residentially zoned district provided the following conditions are met: MRE may be parked or stored in the rear yard, an enclosed garage, carport, or side yard behind the front plane of the house. The ground beneath any MRE stored behind the front plane of the house must be maintained in compliance with city regulations.

Special Master Branz ordered a compliance date of November 14, 2021 and failure to comply will result in a fine of \$50.00 per day until the violations are corrected as well as authorization for the city to abate with a \$125.00 administrative fee plus any costs incurred during the abatement process.

Next hearing set for December 9, 2021.

Special Master Branz signed the Findings of Fact, Conclusion of Law and Order.

VI. REQUEST FOR REDUCTION OF FINES:

Case # 19-000148

Location: 2919 S. Ridgewood Avenue, South Daytona

Owner: Singleton, Donald Craig

Status: Compliant

Request for reduction of fines

Bret Steele, Code Compliance Officer presented the case and said the respondent requested a reduction of fines.

Representative Attorney Barry Hughes, 900 Big Tree Road, was in attendance and discussed the case with the Special Master.

Special Master Branz reduced the fines to \$600 on or before December 6, 2021.

Case # 21-00153

Location: 2279 S. Ridgewood Avenue, South Daytona
Owner: Lai Lam Van

Status: Compliant
Request for reduction of fines

Respondent was not in attendance and Special Master Branz continued this request to December 9, 2021.

VII. OLD BUSINESS:

Case # 20-000701

Location: 2448 Anastasia Dr, South Daytona
Owner: Tunstall, James H

VIOLATION(S): International Property Maintenance Code 304.7, Roofs and drainage
Status: Request Order of Compliance

Bret Steele, Code Compliance Officer presented that this case came on for public hearing before the Special Master on September 16, 2021, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated September 16, 2021, the property was found in violation.

Based on the testimony and evidence received, the Special Master finds that the property was in Compliance by November 1, 2021.

Special Master Branz signed the Order of Compliance, and no fines shall be imposed.

Case # 21-000101

Location: 700 Ridge Blvd, South Daytona
Owner: Smyser, Pamela L

VIOLATION(S): International Property Maintenance Code 304.7, Roofs and drainage
Status: Request Amended Findings of Fact

Beverly Abrahamson, Code Compliance Officer presented the case.

Respondent Pamela Smyser, 700 Ridge Blvd, was in attendance and discussed the case with the Special Master.

Special Master Branz ordered a compliance date of December 30, 2021 and failure to comply will result in a fine of \$100.00 per day until the violations are corrected as well as authorization for the city to abate with a \$125.00 administrative fee plus any costs incurred during the abatement process.

Next hearing set for January 6, 2022.

Special Master Branz signed the Findings of Fact, Conclusion of Law and Order.

Case # 21-000216

Location: 2569 Anastasia Drive, South Daytona

Owner: GE Renovation Services Inc

VIOLATION(S): International Property Maintenance Code 302.4, Weeds

Status: Request Order of Compliance

Josh McEnany, Code Compliance Manager presented that this case came on for public hearing before the Special Master on September 16, 2021, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated September 16, 2021, the property was found in violation.

Based on the testimony and evidence received, the Special Master finds that the property was in Compliance by September 26, 2021.

Special Master Branz signed the Order of Compliance and with a one time fine of \$246.30.

Case # 21-000281

Location: 550 Dorset Circle, South Daytona

Owner: Mitchell, Joseph R

VIOLATION(S): City of South Daytona Land Development Regulations 5.6(A)(5)(b), Prohibited Structure

Comments: Prohibited accessory structure on property.

Status: Request Order of Compliance

Bret Steele, Code Compliance Officer presented that this case came on for public hearing before the Special Master on October 14, 2021, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated October 14, 2021, the property was found in violation.

Based on the testimony and evidence received, the Special Master finds that the property was in Compliance by November 1, 2021.

Special Master Branz signed the Order of Compliance and no fines shall be imposed.

Case # 21-000284

Location: 2425 S. Ridgewood Ave, South Daytona

Owner: Realty Income Properties 19

VIOLATION(S):

1. City of South Daytona Code of Ordinances 14-36(a), Maintain ROW including mowing, edging, cutting & trimming

Comments: Not maintained right-of-ways, violation height weeds and grass.
2. City of South Daytona Land Development Regulations 7.3(E)(3)(a), Maintenance
Comments: Not maintained, overgrown water retention areas.
Status: Request Order of Non- Compliance

Bret Steele, Code Compliance Officer presented that this case came on for public hearing before the Special Master on October 14, 2021, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated October 14, 2021, the property was found in violation.

Attorney Kevin David 6100 Greenland Road, Jacksonville, Florida discussed the case with the Special Master. John Sobol, 546 Tradewinds Circle, Deltona, Dollar Tree Manager, presented pictures to the Special Master.

Based on the testimony and evidence received, the Special Master finds that substantial progress has been made and continued the case until December 9, 2021.

Case # 21-000286

Location: 716 Boston Ave, South Daytona
Owner: Capaldo, Michael A

VIOLATION(S):

1. International Property Maintenance Code 302.1, Sanitation
Comments: Any and all junk, trash and rubbish throughout the exterior property.
 2. International Property Maintenance Code 302.4, Weeds
Comments: Overgrown grass, weeds and plants.
 3. International Property Maintenance Code 302.7, Accessory structures
Comments: Fence has trees growing through it
 4. International Property Maintenance Code 304.2, Protective Treatment
Comments: Exterior surfaces shall be maintained in good condition. Staining or discoloration shall be removed.
 5. International Property Maintenance Code 304.7, Roofs and drainage
Comments: Roof shall be maintained in good repair and free from obstructions.
 6. City of South Daytona Land Development Regulations 7.6(E)(6)(a)(2), Tree protection criteria for removal
Comments: Remove or top off to safe level dead and dangerous tree in front yard.
- Status:** Request Order of Non-Compliance

Beverly Abrahamson, Code Compliance Officer presented that this case came on for public hearing before the Special Master on October 14, 2021, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated October 14, 2021, the property was found in violation.

Michael Capaldo, owner and resident of 716 Boston Avenue discussed the case with the Special Master.

Based on the testimony and evidence received, the Special Master finds that the property was not in Compliance but substantial progress has been made and Special Master Branz continued the case until December 9, 2021.

Case # 21-000284

Location: 2425 S. Ridgewood Ave, South Daytona
Owner: Realty Income Properties 19

Attorney Kevin David 6100 Greenland Road, Jacksonville, Florida discussed the violations with the Special Master and input from Code Compliance Manager Josh McEnany.

VIII. NEXT MEETING: December 9, 2021

IX. ADJOURNMENT

The meeting was adjourned at 10:44 a.m.

Respectfully submitted,



Becky Witte, Deputy City Clerk