



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

October 14, 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

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 9:01 am on September 16, 2021.

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: September 16, 2021.

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

OFFICIAL BUSINESS:

V. NEW BUSINESS:

Case # 21-000184

Location: 1959 S. Ridgewood Ave, South Daytona

Owner: ARC Cafeusa001 LLC

VIOLATION(S): City of South Daytona Land Development Regulations 8.2(G)(2)(a)(4)(b), Window signs coverage

Comments: Window signage exceeds allowable coverage.

Status: Non-compliance. Findings of Fact, Conclusions of Law and Order

Bret Steele, Code Compliance Officer presented the case and said the in compliance.

Respondent was not in attendance.

Special Master Branz said from the testimony of Officer Steele the property was in compliance by October 12, 2021 and no further action will be taken.

Case # 21-000251

Location: 2047 Brian Ave, South Daytona

Owner: Whedbee, Billy J

VIOLATION(S):

1. City of South Daytona Code of Ordinances 14-36(a), Maintain ROW including mowing, edging, cutting & trimming
Comments: Street gutter and driveway require edging.
2. International Property Maintenance Code 302.4, Weeds
Comments: Overgrown grass/weeds/trees/shrubs, vines growing on sides of house.
3. International Property Maintenance Code 302.7, Accessory structures
Comments: Improperly maintained fence.
4. International Property Maintenance Code 304.7, Roofs and drainage
Comments: Tree debris and vegetation on the roof and in the gutters.

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 Billy Whedbee (owner and resident of 2047 Brian Avenue) and representative Cathy McCarty (1948 Lynda Ave, Ormond Beach) was in attendance and discussed the case with the Special Master.

Special Master Branz found the respondent in violation of:

City of South Daytona Code of Ordinances 14-36(a), Maintain ROW including mowing, edging, cutting & trimming: It shall be the duty and responsibility of every owner of real property within the city to at all times maintain those areas of parkage abutting their property. These duties and responsibilities shall include cutting and mowing grass and weeds, edging of sidewalks and curbs, maintaining irrigation systems installed by adjoining property owners and cutting and trimming flowers, vines, shrubbery, and trees so as to keep the sidewalk and roadway safe and clear from obstruction and maintain a neat, trim appearance in such areas, and to keep the parkage area free from debris, refuse, landscape material, rock or other material that could be an obstruction to the road or sidewalk or otherwise constitute a safety concern. More specifically, grass shall be mowed to within three (3)

inches of the ground at least once a month during the months of May through October and at least once every two (2) months during the remaining period of the year. Weeds shall be removed at least once every two (2) months.

304.7 International Property Maintenance Code: 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.

Special Master Branz ordered a compliance date of December 8, 2021 at noon and failure to comply will result in a fine of \$200.00 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 # 21-000279

Location: 2560 Yale Rd, South Daytona

Owner: Lemansky, Katharine F

VIOLATION(S):

1. International Property Maintenance Code 304.7, Roofs and drainage
Comments: Temporary tarp on roof.
2. International Property Maintenance Code 302.8, Motor vehicles
Comments: Inoperable vehicle on property

Status: Non-compliance, Findings of Fact, Conclusions of Law and Order

Bret Steele, Code Compliance Officer presented the case and stated the property is now in compliance.

Respondent Katharine Lamansky was in attendance and discussed the case with Special Master Branz.

Special Master Branz found the respondent was in compliance by October 11, 2021 and no further action will be taken.

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: 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 Joseph Mitchell 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 5.6(A)(5)(b), Prohibited Structure. Accessory structures shall be of the same building material, color, shape and dimension as the principal structure on the same property, unless the city manager or designee approves a variation. In reviewing a request for a variation the following will not be permitted: b. Any structure that is inconsistent and/or incompatible with the surrounding structures. Examples of such structures would include but not limited to: Igloos, domes or geodesic domes, teepees, log cabins, western "false fronts", medieval castles, caves and other structures of a similar architectural oddity. Special Master Branz ordered a compliance date of November 1, 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 November 4, 2021.

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

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: 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 Representative Kevin Davis, Mintzer, Sarowitz, Zeris, Ledva & Meyers LLP, 6100 Greenland Road, Suite 104, Jacksonville, Counsel for Dollar Tree as well as John Sobel 546 Tradewinds Drive, Daytona Beach, Manager for Dollar Tree were in attendance and presented updated pictures to the Special Master.

Special Master Branz found the respondent in violation of

1. City of South Daytona Code of Ordinances 14-36(a), Maintain ROW including mowing, edging, cutting & trimming: It shall be the duty and responsibility of every owner of real property within the city to at all times maintain those areas of parkage abutting their property. These duties and responsibilities shall include cutting and mowing grass and weeds, edging of sidewalks and curbs, maintaining irrigation systems installed by adjoining property owners and cutting and trimming flowers, vines, shrubbery, and trees so as to keep the sidewalk and roadway safe and clear from obstruction and maintain a neat, trim appearance in such areas, and to keep the parkage area free from debris, refuse, landscape material, rock or other material that could be an obstruction to the road or sidewalk or otherwise constitute a safety concern. More specifically, grass shall be mowed to within three (3) inches of the ground at least once a month during the months of May through October and at least once every two (2) months during the remaining period of the year. Weeds shall be removed at least once every two (2) months.

2. City of South Daytona Land Development Regulations 7.3(E)(3)(a), Maintenance of retention ponds, drainage systems, and other stormwater management facilities on private property: (a) It is the responsibility of the private property owner to properly maintain private stormwater management facilities on the private property. This includes homeowners' associations in private subdivisions. Maintenance includes, but is not limited to, aquatic weed control and keeping the banks of retention ponds and drainage easements free from overgrowth; it also includes keeping these facilities free from trash, debris, litter, and other contaminants.

Special Master Branz ordered a compliance date of November 1, 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 November 4, 2021.

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

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: 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 302.1, Sanitation: 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 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.
3. International Property Maintenance Code 302.7: Accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.
4. International Property Maintenance Code 304.2 : Exterior surfaces, including but not limited to, doors, door and windows 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. 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 water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and 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.
5. International Property Maintenance Code 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.
6. 7.6(E)(6)(a)(2) City of South Daytona Land Development Regulations: The tree is diseased, injured, in danger of falling, too close to existing or proposed structures, interferences with existing utility services, creates unsafe vision clearance or conflicts with other ordinances or regulations.

Special Master Branz ordered a compliance date of November 1, 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 November 4, 2021.

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

VI. REQUEST FOR REDUCTION OF FINES: None for this meeting

VII. OLD BUSINESS:

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 Order of Non-compliance

Josh McEnany, Code Compliance Manager, presented that this case came on for public hearing before the Special Master on June 15, 2021, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated June 15, 2021, where the property was found in violation.

Based on the testimony and evidence received, the Special Master finds that the property was not in Compliance by the order date of August 6, 2021 and remains out of compliance.

304.7 International Property Maintenance Code: 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.

Special Master Branz asked to have the case presented on November 4, 2021 for an Amendment Finding of Fact, Conclusions of Law and Order based on a scrivener's error in the original Finding of Fact, Conclusions of Law and Order dated June 15, 2021.

Case # 21-000155

Location: 2955 Foxcroft Lane, South Daytona

Owner: IH3 Property Florida LP

VIOLATION(S): City of South Daytona Land Development Regulations 7.6(E)(6)(a)(2), Tree protection criteria for removal

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, where 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 20, 2021.

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

Case # 21-000189

Location: 1834 Segrave Street, South Daytona

Owner: Wagenbaugh, Christopher

VIOLATION(S):

1. International Property Maintenance Code 302.4, Weeds
2. International Property Maintenance Code 302.1, Sanitation

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, where the property was found in violation.

Based on the testimony and evidence received, the Special Master finds that the property was in Compliance by October 10, 2021.

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

Case # 21-000205

Location: 2507 Bishop Ct, South Daytona

Owner: Chilovi, Michael

VIOLATION(S):

1. International Property Maintenance Code 304.2, Protective Treatment
2. International Property Maintenance Code 304.7, Roofs and drainage
3. International Property Maintenance Code 308.2.1, Rubbish storage facilities

Status: Request Order of Non-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 not in Compliance by October 10, 2021.

The property remains in violation and accordingly, a fine of \$250.00 per day for violation of the following shall be imposed:

1. 304.2 International Property Maintenance Code: Exterior surfaces, including but not limited to, doors, door and windows 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. 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 water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and 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.
2. 304.7 International Property Maintenance Code: 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. 308.2.1 International Property Maintenance Code: The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

These fines shall begin on October 11, 2021 and continue to accrue against the property 2507 Bishop Ct, South Daytona, FL 32119 until said property is brought into compliance.

Special Master Branz signed the Order Imposing Fine/Lien.

Case # 21-000211

Location: 2100 Green Street, South Daytona

Owner: Crawhorn, Amy

VIOLATION(S): City of South Daytona Land Development Regulations 7.6(E)(6)(a)(2), Tree protection criteria for removal

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 27, 2021.

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

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 Non-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 not in Compliance by September 26, 2021. But is currently in compliance.

302.4 International Property Maintenance Code: 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.

The City took abatement action and the property is not in violation today, no further fines except for the cost of abatement and should the property owner fail to take over the responsibility, staff can bring to the Special Master and request a repeat violation.

Special Master Branz set this item for November 4, 2021 to issue the Order Imposing Fine/Lien.

Case # 21-000218

Location: 2317 Green Street, South Daytona

Owner: Behrens, Patricia E.

VIOLATION(S): International Property Maintenance Code 304.2, Protective Treatment

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 October 7, 2021.

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

Case # 21-000247

Location: 1917 James Street, South Daytona

Owner: Barnes, Michael

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

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 September 26, 2021.

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

Case # 21-000252

Location: 2260 Sherwood Drive, South Daytona

Owner: Taylor, Esther

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

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 September 26, 2021.

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

Case # 21-000267

Location: 2033 Anastasia Drive, South Daytona

Owner: Handee Food Store / Patel, Shakuntala

VIOLATION(S): City of South Daytona Land Development Regulations 8.2(F)(6)(s), Rope lighting prohibited

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 October 7, 2021.

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

Case # 21-000271

Location: 309 Olive Street, South Daytona

Owner: Nelson Investment Properties, LLC

VIOLATION(S):

1. International Property Maintenance Code 302.1, Sanitation
2. International Property Maintenance Code 302.4, Weeds
3. International Property Maintenance Code 304.7, Roofs and drainage
4. City of South Daytona Code of Ordinances 16-11, Business Tax Receipt required

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 October 4, 2021.

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

VIII. NEXT MEETING: November 4, 2021

IX. ADJOURNMENT

The meeting was adjourned at 10:24 a.m.