



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

November 3, 2022 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, Beverly Abrahamson, Code Compliance Officer, Matt Miavez, 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 9:04 am.

II. PLEDGE OF ALLEGIANCE.

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 a 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.

III. **APPROVAL OF MINUTES FOR: September 8, 2022.** Attorney Branz approved the minutes with as provided by Deputy City Clerk.

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

Executed by Deputy City Clerk, Becky Witte

V. NEW BUSINESS: None

VI. OLD BUSINESS:

Case # 22-000004

Owner: BUI KIM CHUNG

Location: 1035 Sheri Blvd, South Daytona

VIOLATION:

City of South Daytona Land Development Regulations Sec. 5.6. R Shipping Containers, Shipping Containers

Comments: SHIPPING CONTAINERS ON PROPERTY DO NOT MEET REQUIREMENTS OF CITY CODE. SHIPPING CONTAINERS MUST BE REMOVED FROM THE PROPERTY.

Status: Request Order Imposing Fine/Lien

Josh McEnany, Code Compliance Manager said this case came before the Special Master on April 14, 2022 where the property was found in violation. Mr. McEnany requested that the case be continued to the January 12, 2023 hearing. He discussed Ms. Bui's progress made on the site.

Respondent, Kim Bui (1035 Sheri Blvd) was in attendance and provided testimony. She explained she has relocated 4 containers but 7 shipping containers still remain on the property.

Special Master Branz granted a continuance to January 12, 2023.

Case # 22-000193

Owner: MILLMAN BENJAMIN

Location: 1694 Biscayne Avenue, South Daytona

VIOLATION(S):

1. South Daytona Code of Ordinances 4-13, Number of Dogs, Cats

Comments: NUMBER OF ANIMALS AT HOUSE EXCEEDS THE REQUIREMENTS OF THE CODE

2. City of South Daytona Code of Ordinances 4-47, Animal License

Comments: Any person owning, keeping, harboring or having custody of any dog or cat over six (6) months of age within this city must obtain a license as herein provided.

3. South Daytona Code of Ordinances 4-78, Mandatory Spay and Neuter

Comments: (c)Spaying, neutering of dogs and cats.(1)Requirement. No person may harbor a dog or cat six (6) months of age or older within the city limits that has not been spayed or neutered unless such person holds an unaltered animal permit for each unaltered dog or cat, unless the dog or cat is otherwise exempt under this section.

Status: Request Order Imposing Fine/Lien

Josh McEnany, Code Compliance Manager presented that the case came on for public hearing before the Special Master on September 8, 2022, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated September 8, 2022, where the property was found in violation.

Respondent representative, Shelley McClellen (1694 Biscayne Avenue) was in attendance and provided testimony.

Based on the testimony and evidence received, the Special Master found that the property was not in compliance by September 12, 2022. The property remains in violation of the following:

1. City of South Daytona, Code of Ordinances, Chapter 4, Animals and Fowl, Sec. 4-47. Required. Any person owning, keeping, harboring or having custody of any dog or cat over six (6) months of age within this city must obtain a license as herein provided.

2. City of South Daytona, Code of Ordinances, Chapter 4, Animals and Fowl, Sec. 4-78. Mandatory spay and neuter.

(a) Purpose. The city has determined that the unintended or uncontrolled breeding of dogs and cats within the city leads to many dogs, cats, puppies, and kittens being unwanted, becoming strays,

suffering privation and death, being impounded and euthanized at great expense to the community, and constituting a public nuisance and public health hazard. It is, therefore, declared that every feasible means of reducing the number of unwanted dogs, cats, puppies, and kittens be encouraged. Spaying, neutering of dogs and cats.

Requirement. No person may harbor a dog or cat six (6) months of age or older within the city limits that has not been spayed or neutered unless such person holds an unaltered animal permit for each unaltered dog or cat, unless the dog or cat is otherwise exempt under this section.

Special Master Branz said accordingly, a fine of \$100.00 per day for violations listed above shall be imposed. These fines shall begin September 13, 2022 and continue to accrue against the property until said property is brought into compliance.

Case # 22-000204 **Owner:** CONFIDENTIAL DATA F.S.119.071
Location: 2865 Oak Lea Drive, South Daytona

VIOLATION(S):

1. International Property Maintenance Code 304.1, General
Comments: Mildew on exterior wall of structure.

Status: Request Order Imposing Fine/Lien

Josh McEnany, Code Compliance Manager presented the case came on for public hearing before the undersigned Special Master on September 8, 2022, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated September 8, 2022, where the property was found in violation. Mr. McEnany said the property was brought into compliance by September 27, 2022.

Respondent was not in attendance.

Based on the testimony and evidence received, the Special Master found that the property was in Compliance by September 27, 2022 for violation of the following:

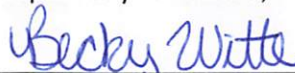
1. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 304.1, General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

The Special Master declared the property to be in compliance and that pending violation proceedings before the Special Master are concluded with no fines due.

VIII. NEXT MEETING: December 8, 2022 (*note December meeting was cancelled*)

IX. ADJOURNMENT. Hearing adjourned at 9:40 am.

Respectfully submitted,



Becky Witte, Deputy City Clerk