



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

September 8, 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 9:00 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: August 11, 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

Case #: 21-000356

Owner: YELVINGTON BIG TREE LLC

Address: 802 BIG TREE ROAD, SOUTH DAYTONA

VIOLATION:

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

Comments: SHIPPING CONTAINERS LOCATED ON PROPERTY DO NOT MEET REQUIRED CRITERIA.

Case #: 21-000357 **Owner:** YELVINGTON BIG TREE LLC
Address: 802 BIG TREE ROAD, SOUTH DAYTONA

VIOLATION:

1. Section: City of South Daytona Land Development Regulations Sec. 5.6. R Shipping Containers, Shipping Containers
Comments: EXISTING SHIPPING CONTAINERS DO NOT MEET REQUIREMENTS

Special Master Branz said the cases were continued from February 2022 and that closing statements were received and reviewed. Special Master Branz said that the case will be called after 10:00am. He said procedural issues will be addressed at the time.

V. NEW BUSINESS:

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: 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 based on the case and testimony presented that the property is found in violation of:

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 ordered that the Respondent correct the violation on or before September 12, 2022. If the Respondent fails to comply with this Order, a fine of \$100.00 per day will be imposed for each day the violation continues past the date as prescribed.

A hearing to impose fine will be scheduled for October 13, 2022.

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: 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 based on the case and testimony presented that the property is found in violation of:

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.

Special Master Branz ordered that the Respondent correct the violation on or before October 12, 2022. If the Respondent fails to comply with this Order, a fine of \$100.00 per day will be imposed for each day the violation continues past the date as prescribed.

A hearing to impose fine will be scheduled for October 13, 2022.

Case # 22-000217 **Owner: SHOEBOX SALOON LLC**
Location: 1903 Ridgewood Avenue, South Daytona

VIOLATION(S):

1. Land Development Regulation 5-4 (e), Uses not permitted by right.
Land Development Regulation 5.7 (c) (12), Operations which are in the business of providing locations
Comments: SPECIAL EXCEPTION HAS NOT BEEN GRANTED FOR STORAGE, PARKING, OR RENTING OF SEMI-TRUCKS AND/OR SEMI-TRAILERS.

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Josh McEnany, Code Compliance Manager requested the case be dismissed as compliance has been reached.

Respondent was not in attendance.

Special Master Branz dismissed the case.

VI. OLD BUSINESS:

Case # 20-000324

Owner: BANNISTER BRENDA KAY

Location: 538 LAMBRIGHT RD , SOUTH DAYTONA FL 32119

VIOLATION(S):

1. Section: International Property Maintenance Code 304.13, Windows, skylight and door frames

Comments: Damaged windows on structure.

Status: Request Order of Compliance

Josh McEnany, Code Compliance Manager presented that this case came for public hearing before Special Master J. Peyton Quarles on December 10, 2020, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated December 10, 2020, where the property was found in violation.

Respondent was not in attendance.

Based on the testimony and evidence received, the Special Master finds that the property was in Compliance by October 24, 2021 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 Section 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 statins shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Special Master Branz ordered that the Respondent was in compliance and that pending violation proceedings before the Special Master are concluded.

A fine of **\$71,750.00** is due for **287 days of non-compliance**.

Case # 21-000360

Owner: HEIDERSCHIED ROSE A

Location: 1951 PAPAYA DR , SOUTH DAYTONA FL 32119

VIOLATION(S):

1. International Property Maintenance Code 304.1, General

Comments: Mildew on exterior wall of structure.

2. International Property Maintenance Code 304.6, Exterior walls

Comments: Rotting wood on exterior wall of structure.

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

This case was continued from the August 11, 2022 Hearing.

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

Respondent, Rose Heiderscheid (1951 Papaya Drive), was in attendance and provided testimony.

Special Master Branz continued the case until the October 13, 2022 Hearing.

Case # 22-000174

Owner: SCHMIDT ROBERT R & JEAN M CAPPADORA

Location: 1968 MENDER CIR , SOUTH DAYTONA FL 32119

VIOLATION(S):

1. City of South Daytona Code of Ordinances 16-19(13)(a), Rental dwellings BTR required

Comments: Rental dwelling BTR required.

2. International Property Maintenance Code 302.1, Sanitation

Comments: Fence panels laying against the house.

3. International Property Maintenance Code 302.4, Weeds

Comments: Vines of vegetation growing up the side and rear of the house and the shrubs/plants in the front and side yards are overgrown.

4. International Property Maintenance Code 304.2, Protective Treatment

Comments: Staining / discoloration on the house, chimney and shed.

5. International Property Maintenance Code 304.3, Address Identification

Comments: House numbers are unidentifiable.

Status: Request Order of Compliance

Beverly Abrahamson, Code Compliance Officer presented that this case came for public hearing before the Special Master on August 11, 2022, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated August 11, 2022, where the property was found in violation. The property reached compliance on August 16, 2022.

Respondent, Robert Schmidt (1968 Menger Circle) was in attendance and provide testimony.

Based on the testimony and evidence received, the Special Master finds that the property was in Compliance by **August 16, 2022** for violation of the following:

1. City of South Daytona Code of Ordinances Section 16-19 (13) Rental dwellings. a. Local business tax receipt required: It shall be unlawful for any owner of residential property to rent or lease, or offer to rent or lease (throughout this subsection (13) the terms "rent" and "lease" are synonymous; as are the terms "to rent or lease" and "to offer to rent or lease") therein any dwelling or dwelling unit(s), whether single-family, duplex, triplex, multi-family, apartment, condominium, or more than one (1) room, etc., unless a current local business tax receipt therefore has been issued by the city, a copy of which is to be available at the structure in which the dwelling unit(s) is located. There is no

requirement for there to be a written lease or any evidence on monetary payment to establish a rental arrangement. A rental arrangement shall be presumed to exist when someone is residing in a residential structure who is not the owner of the property and someone with an ownership interest is also not residing in said structure at the same time.

2. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. 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.
3. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. 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.
4. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code Section 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 statins shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.
5. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code Section 304.3 Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

Special Master Branz ordered that the Respondent is in compliance and that pending violation proceedings before the Special Master are concluded with no fines due.

Case # 22-000181

Owner: VAN LARSON JEREMIAH

Location: 1719 Caldwell Road, South Daytona, Florida 32119

VIOLATION(S):

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

Comments: HAVE BOAT AND TRAILERS MOVED BEHIND THE FRONT PLANE OF THE HOUSE
Status: Non-compliance **Findings of Fact, Conclusions of Law and Order**

Josh McEnany, Code Compliance Manager presented the case came for public hearing on August 11, 2022, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated August 11, 2022, where the property was found in violation.

Respondent was not in attendance.

Based on the testimony and evidence received, the Special Master finds that the property was not in compliance by September 5, 2022. The property remains in violation and accordingly, a fine of \$100.00 per day for violation of the following shall be imposed:

1. 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.

These fines shall begin September 6, 2022 and continue to accrue against the property 1719 Caldwell Road, South Daytona, FL 32119 until said property is brought into compliance.

Case # 22-000184 **Owner: MONTAGUE KEMP**
Location: 2240 Granada Drive, South Daytona FL 32119

VIOLATION(S):

1. International Property Maintenance Code 302.7, Accessory structures
Comments: THE FENCE IS DILAPIDATED AND NOT IN GOOD CONDITION.

Status: Non-compliance **Findings of Fact, Conclusions of Law and Order**
This case was continued from the August 11, 2022 Hearing.

Josh McEnany, Code Compliance Manager asked the case be dismissed as compliance was met.

Respondent was not in attendance.

Special Master Branz found based on the case and testimony presented that matter shall be dismissed as the property has been brought into compliance.

Case # 22-000187 **Owner: CONFIDENTIAL DATA F.S.119.071**
Location: 2930 LANTERN DR , SOUTH DAYTONA FL 32119

VIOLATION(S):

1. International Property Maintenance Code 302.1, Sanitation
Comments: No outside storage of ladders, lawn equipment, planting materials, etc.
2. International Property Maintenance Code 304.2, Protective Treatment
Comments: Exterior walls are required to be maintained with a clean appearance.
3. International Property Maintenance Code 304.6, Exterior walls
Comments: Exterior walls are required to be maintained with a clean appearance.

4. International Property Maintenance Code 308.1, Accumulated rubbish or garbage
Comments: No outside storage of ladders, lawn equipment, planting materials, etc.

Status: Request Order of Compliance

Beverly Abrahamson, Code Compliance Officer presented the case came for public hearing on August 11, 2022, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated August 11, 2022, where the property was found in violation. Ms. Abrahamson said all violations were corrected by August 23, 2022.

Respondent was in attendance.

Special Master Branz ordered that the Respondent is in compliance and that pending violation proceedings before the Special Master are concluded with no fines due.

VII. CONTINUED CASES:

Case #: 21-000356 **Owner:** YELVINGTON BIG TREE LLC
Address: 802 BIG TREE ROAD, SOUTH DAYTONA

VIOLATION:

2. Section: City of South Daytona Land Development Regulations Sec. 5.6. R Shipping Containers, Shipping Containers
Comments: SHIPPING CONTAINERS LOCATED ON PROPERTY DO NOT MEET REQUIRED CRITERIA.

Case #: 21-000357 **Owner:** YELVINGTON BIG TREE LLC
Address: 802 BIG TREE ROAD, SOUTH DAYTONA

VIOLATION:

2. Section: City of South Daytona Land Development Regulations Sec. 5.6. R Shipping Containers, Shipping Containers
Comments: EXISTING SHIPPING CONTAINERS DO NOT MEET REQUIREMENTS

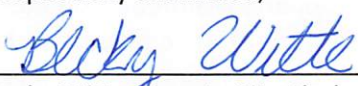
City of South Daytona Attorney Garrett Olsen and Respondents Attorney Frank Rapprich requested to proceed with hearing but finding of the Special Master be delivered in writing.

City of South Daytona Attorney Garrett Olsen requested the order be held until after September 28, 2022.

VIII. NEXT MEETING: October 13, 2022

IX. ADJOURNMENT. Hearing adjourned at 10:18 am.

Respectfully submitted,


Becky Witte, Deputy City Clerk