



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

August 17, 2023 at 9:00 AM
CITY COUNCIL CHAMBERS

1672 S. Ridgewood Avenue, South Daytona, Florida

SPECIAL MASTER: Attorney Matthew Branz, Esquire

STAFF:

Josh McEnany, Economic Development Director, Robert Kuhn, 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 9:01 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: July 20, 2023 Special Master Hearing.** Attorney Branz approved the minutes 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:

Case # 23-000167 **Owner: VELAZQUEZ ROSA**
Location: 2111 ANASTASIA DRIVE, SOUTH DAYTONA FL 32119

VIOLATION(S):

1.City of South Daytona Code of Ordinances 13.21, Vehicles, vessels, etc. must be operational and registered

Comments: Please repair, register or remove vehicle from the driveway.

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Robert Kuhn, Code Compliance Officer 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 Section 13-21. - Unregistered or inoperable motor vehicles, vessels, trailers, etc., prohibited. It shall be unlawful to locate, store or otherwise place any motor vehicle, vessel, trailer or any other item of personal property which is capable of being licensed or registered under the laws of the State of Florida and which does not bear a current license plate or registration; or which is not capable of being operated because of damage, disassembly or deterioration, provided, however, that no such item of personal property located on private property shall be considered in violation if the item is kept within a garage or similar enclosed structure.

Special Master Branz ordered that the Respondent correct the violation on or before August 28, 2023. If the Respondent fails to comply with this Order, a fine of \$50.00 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 September 14, 2023.

Case # 23-000207 **Owner: BOZKURT SEMA**
Location: 1890 MAGNOLIA , SOUTH DAYTONA FL 32119

VIOLATION(S):

1.International Property Maintenance Code 302.1, Sanitation

Comments: MUST REMOVE ALL THE STORE ITEMS FROM BEHIND TRAILER

2.International Property Maintenance Code 308.1, Accumulated rubbish or garbage

Comments: MUST REMOVE ALL TRASH DEBRIS AND ITEMS FROM BEHIND TRAILER

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

Comments: MUST PARK TRAILER IN SIDE YARD BEHIND FRONT PLANE OF HOUSE OR BACK YARD OR REMOVE FROM PROPERTY

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Josh McEnany, Economic Development Director 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, 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.
2. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 308.1, Accumulated rubbish or garbage. Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.
3. 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 that the Respondent correct the violation on or before August 28, 2023. If the Respondent fails to comply with this Order, a fine of \$150.00 per day will be imposed for each day the violation continues past the date as prescribed.

A hearing to impose fines is scheduled for September 14, 2023.

Case # 23-000228 **Owner: CHRISTOFFERSEN ERIC W & GLORIA**

Location: 910 BIG TREE RD # 303, SOUTH DAYTONA FL 32119

VIOLATION(S):

1. International Property Maintenance Code 111.1.3, Structure unfit for human occupancy

Comments: Property is not connected to water or power

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

Comments: Owner has not obtained a rental license

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Josh McEnany, Economic Development Director 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, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 111.1.3, Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.
2. 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.

Special Master Branz ordered that the Respondent correct the violation on or before August 28, 2023. If the Respondent fails to comply with this Order, a fine of \$250.00 per day will be imposed for each day the violation continues past the date as prescribed.

A hearing to impose fines is scheduled for September 14, 2023.

Case # 23-000234 **Owner: BRAY CHRISTOPHER**
Location: 2932 CARRIAGE DR , SOUTH DAYTONA FL 32119
VIOLATION(S):

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

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Robert Kuhn, Code Compliance Officer 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 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.

Based on the testimony, Special Master Branz found the property did not come into compliance in a timely manner but at the date of the hearing was in compliance.

Special Master said that the Respondent is declared to be in compliance and that pending violation proceedings before the Special Master are concluded with no fines assessed.

Case # 23-000236 Owner: KOLAROVSKI ADRIAN

Location: 2100 POPE AVENUE, SOUTH DAYTONA FL 32119

VIOLATION(S):

1. International Property Maintenance Code 302.7, Accessory structures

Comments: structure is dilapidated and needs repaired or removed

2. International Property Maintenance Code 305.4, Stairs and Walking Surfaces

Comments: Decking is dilapidated. Needs repaired or removed

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Josh McEnany, Economic Development Director, said the property has reached compliance and requested the case be dismissed.

Respondent was not in attendance.

Special Master Branz granted the request and dismissed the case.

VI. OLD BUSINESS:

Case #: 23-000003 Owner: GASCON DAVID A

Address: 2261 KENILWORTH , SOUTH DAYTONA FL 32119

Status: Request Order of Compliance

Josh McEnany, Economic Development Director, presented the case which came on for public hearing before the undersigned Special Master on February 9, 2023, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated February 9, 2023, where the property was found in violation. A continuance was granted at the March 9, 2023 Hearing.

Based on the testimony and evidence received, the Special Master finds that the property was not in compliance by May 1, 2023 for the following:

1. City of South Daytona, Code of Ordinances, Chapter 4, Animals and Fowl, Article II. Licenses, Division 2. Licenses to Keep Dogs and Cats. 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, 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.

The Special Master ordered that the Respondent is declared to be in compliance and that pending violation proceedings before the Special Master are concluded.

A fine of \$14,250 is due for 57 days of non-compliance.

Case # 23-000033 Owner: BARNETTE PAUL E
Address: 2640 ANASTASIA DR , SOUTH DAYTONA FL 32119

VIOLATION:

1. Section: International Property Maintenance Code 302.1, Sanitation
Comments: outside of home is stained and does not reflect a fresh and neat appearance
2. Section: International Property Maintenance Code 305.3, Interior surfaces
Comments: interior surfaces shall be maintained in a good, clean and sanitary condition
3. Section: City of South Daytona Code of Ordinances 16-19(13)(a), Rental dwellings BTR required
Comments: RENTAL LICENSE REQUIRED TO RENT PROPERTY

Status: Request Order of Compliance

Josh McEnany, Economic Development Director, presented the case which came on for public hearing before the undersigned Special Master on March 9, 2023, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated March 9, 2023, where the property was found in violation.

Respondent Paule and Johnna Barnett (1560 Lighthouse Road, Virginia) were in attendance and provided testimony.

Based on the testimony and evidence received, the Special Master finds that the property was in Compliance by July 25 2023, 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 305.3 Interior surfaces. Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected. Window coverings not manufactured specifically as window treatments, including, but not limited to; fabric/material, sheets, blankets, paper, cardboard, plastic, aluminum, garbage bags, trellis, wood, wire, etc are prohibited.
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 302.1: 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.

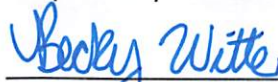
Special Master ordered that the Respondent is declared to be in compliance and that pending violation proceedings before the Special Master are concluded.

A fine of \$28,000 is due for 112 days of non-compliance.

VIII. NEXT MEETING: September 14, 2023

IX. ADJOURNMENT. Hearing adjourned at 9:44 am.

Respectfully submitted,



Becky Witte, Deputy City Clerk