



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

February 9, 2023 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, 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: January 12, 2023.** 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:

Case # 22-000282 Owner: SHOEBOX SALOON LLC
Location: 1903 S RIDGEWOOD , SOUTH DAYTONA FL 32119

VIOLATION(S):

1.Code of Ordinances 3.5-128, Gambling Machines
Comments: Gambling machines must be removed from property

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.

Paul Nelson, City of South Daytona Fire Marshal provided testimony. He said the machines had been removed on February 8, 2023.

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 3.5 Amusements and Entertainments, Article II. Simulated Gambling, Sec. 3.5-128. - Prohibition of simulated gambling devices: It shall be unlawful in the City of South Daytona for any person to manage, maintain, own, possess, operate or use one or more simulated gambling devices in a commercial or nonprofit establishment, or to knowingly lease, operate or maintain any premises for the use of simulated gambling devices.

The Special Master said the property did not come into compliance in a timely manner but at the date of the hearing was in compliance.

Special Master ordered that the property was in violation, but is in compliance prior to the hearing and that pending violation proceedings before the Special Master are concluded with no fines assessed. Any future violations of the same manner may be determined a repeat violation.

Case # 23-000003

Owner: GASCON DAVID A

Location: 2261 KENILWORTH , SOUTH DAYTONA FL 32119

VIOLATION(S):

- 1.City of South Daytona Code of Ordinances 4-47, Animal License
Comments: dog(s) on premises must be licensed by visiting the South Daytona Police Department to begin the process
- 2.International Property Maintenance Code 302.1, Sanitation
Comments: PROPERTY SHOULD BE CLEAR OF JUNK, DEBRIS AND TRASH. EXTERIOR PROPERTY SHOULD REFLECT A NEAT AND FRESH APPEARANCE.

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, David Gascon (2261 Kenilworth Avenue, South Daytona) was in attendance and provided testimony.

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, 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.

Special Master Branz ordered that the Respondent correct the violation on or before March 5, 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 fine will be scheduled for March 9, 2023.

Case # 23-000018 Owner: PATEL SHAKUNTALA
Location: 2033 ANASTASIA DR , SOUTH DAYTONA FL 32119

VIOLATION(S):

1.City of South Daytona Code of Ordinances 16-11, Business Tax Receipt required
Comments: OPERATING A BUSINESS WITHOUT A LICENSE

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.

Respondents/tenants Phil McCloud and Evelyn Jones provided testimony.

Respondent, Myan Patel (son of owner Shakuntala Patel) provided testimony.

Lieutenant Kevin Pedri, South Daytona Police Department provided testimony and submitted the body camera footage from Officer Scott Diamond.

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 Section 16-11: Compliance required. It shall be unlawful for any person, either directly or indirectly, to conduct any business or nonprofit enterprise, or to use in connection therewith any vehicle, premises, machine, or device, in whole or in part, for which a local business tax receipt or permit is required by any law or ordinance of this city without a local business tax receipt or permit therefor being first procured and kept in effect at all times as required by this article.

Special Master Branz ordered that the Respondent correct the violation on or before March 6, 2023 by 5:00 pm. 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 fine will be scheduled for March 9, 2023.

Case # 23-000019 **Owner: MOUNT DOME APARTMENTS LLC**
Location: 2018 S. Ridgewood Avenue, South Daytona, FL 32119

VIOLATION(S):

1. City of South Daytona Code of Ordinances 5-217 - The minimum standards for the maintenance of commercial properties (2) All parts of any building and/or structure shall be structurally sound. Rotten or weakened sections shall be repaired, replaced, or removed.

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, Kayden Schaper (Property Manager, Benchmark Properties, Ormond Beach) was in attendance and provided testimony.

Fire Marshal Paul Nelson was in attendance and provided testimony.

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 Section 5-217. Minimum standards. The minimum standards for the maintenance of commercial properties are as follows: (7) All retaining walls, seawalls, nonstructural walls, dumpster enclosures, fences, lighting devices and supports, outdoor service and seating areas, and signs and their supporting elements shall be structurally sound and kept free of graffiti, overgrowth, trash and debris, and shall be maintained to present a painted, rust-free, neat and fresh appearance.

Special Master Branz ordered that the Respondent correct the violation on or before March 6, 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 fine will be scheduled for March 9, 2023.

Case # 23-000014 **Owner: MCCUSKEY GEORGE H**
Location: 625 AURORA ST , SOUTH DAYTONA FL 32119

VIOLATION(S):

1. VIOLATION: Section: International Property Maintenance Code 302.1, Sanitation
Comments: EXTERIOR OF PROPERTY SHALL BE PAINTED AND CLEANED TO PRESENT A FRESH APPEARANCE.

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, 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.

Based on the above Findings of Fact and Conclusions of Law, the Special Master finds the property did not come into compliance in a timely manner but at the date of the hearing was in compliance.

Special Master Branz ordered that the Respondent correct the violation on or before February 26, 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 fine will be scheduled for March 9, 2023.

VI. OLD BUSINESS:

Case # 22-000004

Owner: BUI KIM CHUNG

Location: 1035 SHERI BLVD , SOUTH DAYTONA FL 32119

VIOLATION(S):

1. Section: 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 of Imposing Fine/Lien

Josh McEnany, Code Compliance Manager presented the case and that it came on for public hearing before the undersigned Special Master on April 14, 2022, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated April 14, 2022, where the property was found in violation of the following:

1. City of South Daytona Land Development Regulations Sec. 5.6, R . Shipping Containers. Shipping containers placed on a parcel for more than 14 days shall be governed by the following regulations:
 - i. Shipping containers shall only be permitted within the Business Heavy Commercial (BHC) zoning district or in conjunction with an existing non-conforming use that would be permitted within the BHC zoning district.
 - ii. Shipping containers shall be prohibited within the Community Redevelopment Area.
 - iii. Shipping containers shall only be permitted in conjunction with a principal use, provided that they are recognized as clearly incidental and subordinate to the principal use.
 - iv. The site shall have a minimum lot size of one (1) acre with a limit of two shipping container units per acre with a maximum of four shipping containers units per parcel.
 - v. All shipping containers shall comply with the Florida Building Code and Florida Fire Prevention Code.

- vi. A 4" concrete slab is required prior to placement of a shipping container and the slab shall meet or exceed the minimum requirements per the Florida Building Code.
- vii. Shipping containers shall require screening with a three-sided enclosure consisting of an eight (8) foot masonry wall with a rounded top or decorative cap finished with stucco and painted to match the colors of a principal structure. The masonry wall shall meet or exceed the minimum requirements per the Florida Building Code.
- viii. Shipping containers shall be located behind the front plane of a principal structure and shall not be located within the principal rear and side yard setbacks of the BHC zoning district.
- ix. Shipping containers shall not be located within any easement.
- x. Shipping containers shall be freshly painted to match the color of the principal structure and containers shall be maintained in good condition at all times.
- xi. Shipping containers shall not be permitted for any advertising purpose and shall be kept clean of all alpha-numeric signage and writing except where markings, labels and placards may be required in accordance with the United States Department of Transportation Emergency Response Guide.
- xii. Shipping containers shall be used for storage purposes only and shall not be permitted or retrofitted as living quarters or office workspace.
- xiii. No plumbing, electric, or air conditioning shall be permitted inside of a shipping container.
- xiv. Material stored within shipping containers are subject to review by the Chief Building Official and the Fire Chief.
- xv. Shipping containers shall not be rented out or leased.
- xvi. Shipping containers shall be stand-alone steel units without fabrication including but not limited to roofs, overhangs, porches, additional doors or windows and internal partitions.
- xvii. In the instance where more than one shipping container may be permitted, they shall not be stacked.
- xviii. Shipping containers shall not occupy required off-street parking spaces, vehicular accesses or drive aisles, pedestrian facilities or landscape areas for a site.

Josh McEnany, Code Compliance Manager explained the property was in compliance by February 7, 2023 and staff requests and Order of Compliance with no fine due.

Respondent, Kim Bui (1035 Sheri Blvd) provided testimony.

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.

Case # 22-000247 Owner: TJP PROPERTIES LLC
Location: 1848 Palmetto Avenue, South Daytona

VIOLATION(S):

1. International Property Maintenance Code 302.1, Sanitation
Comments: exterior of property should be free of trash, junk, and debris
2. International Property Maintenance Code 308.1, Accumulated rubbish or garbage

Comments: exterior of property should be free of trash, junk, and debris

Status: Request Order of Compliance

Josh McEnany, Code Compliance Manager presented the case and that it came on for public hearing before on January 12, 2023, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated January 12, 2023, where the property was found in 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 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*.

Josh McEnany, Code Compliance Manager explained the property was in compliance by January 27, 2023 and staff requests and Order of Compliance with no fine due.

Respondent was not in attendance.

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.

Case # 22-000263 Owner: SAI RAM ENTERPRISES INC
Location: 901 Big Tree Road, South Daytona

VIOLATION(S):

1. Code of Ordinances 3.5-128, Gambling Machines
Comments: Gambling Machines discovered during inspection of Fire Marshal

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Josh McEnany, Code Compliance Manager presented the case and that it came on for public hearing before on January 12, 2023, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated January 12, 2023, where the property was found in violation of the following:

1. City of South Daytona, Code of Ordinances, Chapter 3.5 Amusements and Entertainments, Article II. Simulated Gambling, Sec. 3.5-125. Definitions.
2. City of South Daytona, Code of Ordinances, Chapter 3.5 Amusements and Entertainments, Article II. Simulated Gambling, Sec. 3.5-128. - Prohibition of simulated gambling devices: It shall be unlawful in the City of South Daytona for any person to manage, maintain, own, possess, operate or use one or more simulated gambling devices in a commercial or nonprofit establishment, or to knowingly lease, operate or maintain any premises for the use of simulated gambling devices.

Josh McEnany, Code Compliance Manager explained the property was in compliance by January 27, 2023 and staff requests and Order of Compliance with no fine due.

Respondent was not in attendance.

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.

Case # 22-000264 Owner: MICH & JIMS ENTERPRISES INC
Location: 2027 S. Ridgewood Avenue, South Daytona

VIOLATION(S):

1. Code of Ordinances 3.5-128, Gambling Machines
Comments: Gambling Machines discovered during inspection of Fire Marshal

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Josh McEnany, Code Compliance Manager presented the case and that it came on for public hearing before on January 12, 2023, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated January 12, 2023, where the property was found in violation of the following:

1. City of South Daytona, Code of Ordinances, Chapter 3.5 Amusements and Entertainments, Article II. Simulated Gambling, Sec. 3.5-125. Definitions.
2. City of South Daytona, Code of Ordinances, Chapter 3.5 Amusements and Entertainments, Article II. Simulated Gambling, Sec. 3.5-128. - Prohibition of simulated gambling devices: It shall be unlawful in the City of South Daytona for any person to manage, maintain, own, possess, operate or use one or more simulated gambling devices in a commercial or nonprofit establishment, or to knowingly lease, operate or maintain any premises for the use of simulated gambling devices.

Josh McEnany, Code Compliance Manager explained the property was in compliance by January 27, 2023 and staff requests and Order of Compliance with no fine due.

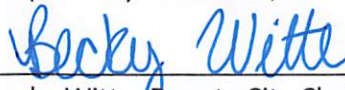
Respondent was not in attendance.

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: March 9, 2023

IX. ADJOURNMENT. Hearing adjourned at 10:09 am.

Respectfully submitted,



Becky Witte, Deputy City Clerk