



CIVIL CITATIONS SPECIAL MAGISTRATE OF
THE CITY OF ST. PETERSBURG, FLORIDA

RULES OF PROCEDURE

I. JURISDICTION

The Special Magistrate has jurisdiction over City Codes of the City of St. Petersburg, Florida as provided in the City Code and Florida Statutes. When these Rules of Procedure conflict with any provision of the City Code, Florida Statute or other law, the City Code, Florida Statute or other law shall prevail.

II. OFFICERS AND STAFF

The Special Magistrate serves by appointment of the City Council and the City Clerk's Office shall serve as the clerk to the Special Magistrate.

III. MEETINGS

A. Regular Meetings

Regular meetings shall be held once a month. The Special Magistrate and Codes Compliance Department may set special meetings if necessary. Regular meetings shall be held on the Tuesday of each month immediately preceding the regular Wednesday Code Enforcement Board meeting at 8:30 a.m. in City Council Chambers, City Hall, 175 Fifth Street North (second floor), St. Petersburg, Florida unless otherwise scheduled.

B. Notice

Notice of all meetings shall be included on the City's Weekly Meeting Schedule.

C. Conflict of Interest

The Special Magistrate should avoid conflicts of interest and the appearance of conflicts of interest. The Special Magistrate shall conduct themselves in accordance with the Code of Ethics for Public Officers as set forth in Chapter 112, Florida Statutes, as amended, and as that chapter is interpreted by the Commission on Ethics. The Special Magistrate shall also be subject to restrictions of City Council Resolution 2004-374 (as subsequently amended).

Special Magistrate may request the City Attorney's Office to provide guidance in this area.

D. Attendance

1. The Magistrate shall notify the Codes Compliance Director or the Director's Designee as far in advance as possible if he or she cannot attend a meeting.
2. If a Magistrate misses two of three successive meetings without good cause, the Magistrate will be subject to removal from service. The vacancy shall be filled by appointment by the City Council.

E. Alternate Special Magistrate

Whenever possible, at least one alternate Special Magistrate shall be appointed by City Council to conduct meetings and issue orders in the event that the primary Special Magistrate is unable to serve at any given meeting.

IV. ORDER OF BUSINESS

A.

1. Pledge of Allegiance
2. Special Magistrate Opening Statement
3. Swearing in of Witnesses
4. Hearing of cases
5. Certification of Liens for Delinquent Fines
4. Next Hearing Date
5. Adjournment

- B. The order of business may be suspended or changed by the Special Magistrate with good cause.

V. INITIATION OF ACTIONS BEFORE THE SPECIAL MAGISTRATE

All cases before the Special Magistrate(s) shall be initiated by a petitioner who wants to challenge the existence of a violation which generated the issuance of a civil citation by the Codes Compliance Assistance Department pursuant to the St. Petersburg City Code, Chapter 9.

VI. HEARING PROCEDURES

All cases before the Special Magistrate which could result in the imposition of a statutory penalty and administrative costs are quasi-judicial. The following procedures should be used in Quasi-Judicial Proceedings.

- A. Swearing in of witnesses. Representatives of the City, including the Codes Investigator, the petitioner and any person with relevant information about the notice of violation who wish to testify at the hearing must declare that he or she will testify truthfully by taking an oath or affirmation in the following form:

“Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?”

The oath or affirmation will be administered after the Special Magistrate’s opening statement and will be administered en masse by the clerk to the Special Magistrate to all those who wish to testify. Persons who have not been previously sworn must be sworn prior to testifying.

- B. At any time during each case, the Special Magistrate may ask questions of the City’s Code Inspectors, Administration, or the petitioner and petitioner’s witnesses.
- C. During each case, the Special Magistrate shall review the photographic or electronic images.
- D. At the conclusion of each case, the Special Magistrate shall determine whether a violation of the St. Petersburg City Code has occurred, in which case the Special Magistrate shall uphold or dismiss the violation, and issue a final administrative order. If the violation is upheld, the final administrative order shall order the petitioner to pay the original penalty amount of the Civil Citation and shall also order the petitioner to pay administrative costs of \$50. The Special Magistrate has no authority to reduce or waive the Civil Citation amount and the administrative costs of \$50. The administrative costs shall be reviewed by City Administration every six months and the City Attorney’s Office will revise these procedures to reflect any changes in the amount of the administrative costs. The Special Magistrate may give the petitioner time to pay the fine amount and administrative costs if a violation is upheld, provided, however that such time shall not exceed 90 days.

- E. The final administrative order(s) shall be provided to the petitioner at the conclusion of each appeal hearing.
- F. Conducting the Hearing
 - 1. City presentation (which includes the case history and/or photographic or electronic images).
 - 2. Petitioner presentation and any cross examination or rebuttal of the City's presentation.
 - 3. City administration cross examination and/or rebuttal.
 - 4. Witnesses. Any other person who has testimony which is relevant to the specific facts of the case before the Special Magistrate.
 - 5. Issue Final Administrative Order – Upholding or Dismissing the violation
- G. Additional Procedural Considerations of the Special Magistrate

The purpose for establishing these procedures is to provide fundamental fairness to the parties at the hearing. Formal rules of evidence do not apply, but due process shall be observed and govern the proceedings. Should the Special Magistrate decide to grant any party additional time to conduct a presentation or other consideration during the hearing, he or she should also provide the same amount of time to the other parties. Failure to strictly adhere to these procedures shall not invalidate any action of the Special Magistrate.

- H. Advance Distribution of Hearing Calendar
 - 1. The agenda package for a regular meeting will normally be distributed to the Special Magistrate by deposit in the mail, or otherwise, on Tuesday (seven calendar days) before the meeting date. Materials from the Codes Compliance Director, City Attorney, or City Administrator may be distributed on a different date when warranted by the circumstances.
 - 2. A person wishing to submit letters, memoranda, drawings, or other materials relevant to an item of business before the Special Magistrate may have such materials distributed with the agenda package if such person:
 - a) Prepares four (4) complete copies of such materials, sorted and stapled or otherwise bound, with the property address and/or case number conspicuous on the top page. City employees shall have no duty to copy, sort, staple or bind materials not originating from the Code Compliance office.

- b) Delivers four (4) complete copies of such materials to the Codes Compliance office not later than Monday of the week before the meeting (that is, eight calendar days before the meeting).
 - c) Pays the City the additional postage for the extra weight for each copy of the agenda package mailed, if one complete copy of such materials is heavier than two (2) ounces.
- I. A person who misses the deadline for distribution of materials with the agenda package may bring such materials to the hearing and present them to the Special Magistrate during the appeal hearing. Such materials shall be retained by the clerk to the Special Magistrate as part of the case file.
- J. No person who has any interest in any item of business before the Special Magistrate shall make “ex parte” communication with the Special Magistrate. “Ex parte” communication includes but is not necessarily limited to delivering materials to the Special Magistrate prior to the commencement of the hearing, except as provided herein. The Special Magistrate shall not read materials delivered to them in violation of this rule. If the Special Magistrate does read materials delivered in violation of this rule, or is otherwise the recipient of an “ex parte” communication, the Special Magistrate shall disclose such fact in public at the next meeting and shall identify the substance of the communication and which materials the Special Magistrate read. Any materials under this rule that are read by a Special Magistrate must be read aloud during the hearing and become part of the public record. Any materials delivered to the Special Magistrate in violation of this rule which were not read by the Special Magistrate shall not be deemed part of the record but instead shall be delivered to the City Attorney’s Office.
- K. A copy of the hearing calendar shall be open and available for public inspection in the City Clerk’s Office.

VII. ENFORCEMENT OF ORDERS

If the petitioner fails to appear at the hearing or if the petitioner fails to comply with the final administrative order of the Special Magistrate upholding the violation within the time provided, the clerk to the Special Magistrate may order the delinquent fines and costs be certified as a lien against the real and personal property of the petitioner at a future Civil Citation Special Magistrate hearing

VIII. MISCELLANEOUS

- A. For state enabling legislation, see Florida Statutes, Chapter 162. For City Ordinance providing for the appointment of the Special Magistrate and powers, see Chapter 9 of the City Code.
- B. These Rules of Procedure may be temporarily waived at any meeting by the Special Magistrate for good cause provided due process and the protocols of quasi-judicial proceedings are still observed.
- C. The provisions of these Rules of Procedure shall be reviewed by the Special Magistrate and City Attorney's Office not less frequently than annually.
- D. All meetings, regular or special, and all hearings shall be open to the public in accordance with the provisions of the Florida "Sunshine Law" (Chapter 286, Florida Statutes).
- E. All records of the Special Magistrate shall be open to public examination, inspection and copying in accordance with the provisions of the Florida "Public Records Law" (Chapter 119, Florida Statute). The records of the Special Magistrate shall be kept and maintained by and in the office of the City Clerk.