



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

The Special Magistrate holds office by appointment of the City Council, and the City shall provide a Recording Secretary.

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 same Wednesday as the Code Enforcement Board meeting and shall begin at 1pm 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 provided to the City Administration for inclusion on the City's schedule of meetings and events.

C. 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 (2) of three (3) 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. (See Chapter 9, City Code, and Chapter 162, Florida Statutes.)

D. 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.

E. Conflict of Interest

The Special Magistrates should avoid conflicts of interest and the appearance of conflicts of interest. Special Magistrates 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. Special Magistrates shall also be subject to restrictions of City Council Resolution 2004-374 (as subsequently amended). Special Magistrates may request the City Attorney's office to provide guidance in this area.

IV. ORDER OF BUSINESS

- A. 1. Pledge of Allegiance.
 - 2. Special Magistrate's Opening Statement.
 - 3. Hearing of Lien Certification Cases
 - 4. Other Business, including Lien Release Agenda
 - 5. Next Meeting Date.
 - 6. Adjournment.
- B. The order of business may be suspended by the Special Magistrate with good cause.

V. INITIATION OF ACTIONS BEFORE THE SPECIAL MAGISTRATE

- A. All actions before the Special Magistrate shall be initiated by the Findings of Fact and Conclusions of Law of the Code Enforcement Board.
- B. If the respondent does not bring the property into compliance with City Code by the date set by the Code Enforcement Board or the Special Magistrate, the Special Magistrate may certify a lien as allowed by law at the same daily rate, or at a

lesser daily rate, as established by the Code Enforcement Board for failure to comply within the time required by the Board.

VI. HEARINGS

Proceedings of the Code Enforcement Board or Special Magistrate regarding any code violation which could result, or has resulted, in the imposition of a lien are quasi-judicial. The following procedures should be used in Quasi-Judicial Proceedings.

- A. Swearing in of witnesses. Representatives of city administration, property owner/violator and members of the public (witnesses) 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 prior to the presentation or testimony and will be administered en masse 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 the proceeding, the Special Magistrate may ask questions of witnesses, the property owner/violator and city administration.

- C. Procedures

1. City administration presentation.
2. Property owner/violator 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.

- D. Additional Procedural Considerations of the Special Magistrate

The purpose for establishing these procedures is to provide fundamental fairness to the parties at the hearing. Should the 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.

E. Advance Distribution of Materials to the Special Magistrate

1. The agenda package for a regular meeting will normally be distributed to the Special Magistrate by deposit in the mail, or otherwise, on Wednesday (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.
3. 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 hearing of the item of business. Such materials shall be retained by the Recording Secretary as part of the case file.
4. 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 a Special Magistrate prior to the commencement of the hearing, except as provided herein for the advance distribution of materials with the agenda package. Special Magistrates shall not read materials delivered to them in violation of this rule. If a Special Magistrate does read materials delivered in violation of this rule, or is otherwise the recipient of an “ex parte”

communication, the 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 Legal Department.

5. At least one complete copy of an agenda package that is distributed, or ready for distribution, to the Board shall be open and available for public inspection in the Codes Compliance office.

VII. LIEN CERTIFICATION

If a violator fails to comply with a Code Enforcement Board Findings of Fact and Conclusions of Law that one or more violations exist and ordering the violator to bring the property into compliance by a specified time, the case may be brought before the Special Magistrate to consider imposing a fine and certifying a lien. In such cases, the Special Magistrate is acting under authority of Chapter 162, F.S and Chapter 9, City Code.

- A. A fine may be imposed for each day the violation continues past the date set for compliance. The order imposing a fine, when recorded in the public records of the County, imposes a lien to the extent authorized by Florida law.
- B. The violator will be given notice and an opportunity to be heard before a fine may be imposed.
- C. At this hearing, the relevant issues before the Special Magistrate include:
 1. Whether the violation continued past the date set for compliance;
 2. If so, how long the violation continued;
 3. Whether there is any reason to reduce the *per diem* fine imposed in light of attempts by the violator to comply; and
 4. In determining the amount of the fine, the Special Magistrate shall consider the following factors:

- a) The gravity of the violation;
 - b) Any actions taken by the violator to correct the violation; and
 - c) Any previous violations committed by the violator.
- D. At the time of this hearing, the Code Enforcement Board will have already determined that one or more violations exist on the property and will have recorded this determination in its Findings of Fact and Conclusions of Law. At the hearing on the issue of imposing a fine and certifying a lien, the core issue of whether a violation exists is no longer an issue for the Special Magistrate to determine. The hearing may be limited to a consideration of only the issues enumerated in this Rule VII.

VIII. CONSIDERATION OF LIEN RELEASE BY THE SPECIAL MAGISTRATE

The Code Enforcement Board has the discretionary authority to reduce liens, pursuant to Florida Statutes Section 162, and City Code Chapter 9, as amended. An entity requesting a release of lien has no right to the release or reduction of a lien.

- A. 1. The application deadline for lien release requests is 3:00 p.m. on the Tuesday 2 weeks prior to the Special Magistrate meeting date. Only the first twelve (12) requests received by the person officially designated shall be processed for each meeting.
- 2. Pursuant to Section 12-11(9) of the St. Petersburg City Code, a fee of \$50 will be charged for the second and all successive lien release requests made by the same owner for the same property.
- B. In evaluating requests for liens to be released or reduced, the Special Magistrate will consider the following:
 - 1. Whether the property for which the lien was placed has active code cases or current violations;
 - 2. Whether the entity requesting the release owns other properties in the City which have active code cases, current violations or Code Enforcement liens;
 - 3. Whether the entity requesting the release owned the property for which the lien was placed at the time the lien was placed;

4. Whether the entity requesting the release took proactive action to correct the violations for which the lien was placed;
 5. Whether the violations have been corrected or will be corrected, with such assurances as the Special Magistrate deems appropriate;
 6. Any other specific information which is available about the property or the entity requesting the release;
 7. Any other factors which may show a hardship on the entity requesting the release which may provide a reasonable basis for the relief requested.
- C. Lien release requests heard by either the Code Enforcement Board or the Special Magistrate will not be re-heard by either entity for a 180-day period, unless the property ownership changes or unless there is sufficient documentation of new information not previously available.
- D. Entities requesting consideration of lien release who fail to appear to present their request at the scheduled meeting will be rescheduled for the next available meeting only if adequate documentation of an extenuating circumstance which prevented their presence at the scheduled meeting is presented. Failing presentation of such documentation, the lien release request will not be accepted for 180 days from the scheduled meeting date.

IX. ENFORCEMENT OF ORDERS

After the Findings of Fact and Conclusions of Law have been issued by the Code Enforcement Board with a scheduled date for compliance, the Codes Investigator shall make an inspection to determine if the violation(s) has (have) been corrected. If the property is still in violation, the case may be set for hearing before the Special Magistrate who may order that a lien be certified and filed against the land on which the violation exists and upon any other real or personal property owned by the violator.

X. MISCELLANEOUS

- A. For state enabling legislation, see Florida Statutes, Chapter 162. For City Ordinance creating the Board and the position of Special Magistrate, see Chapter 9 of the City Code.

- B. These Rules of Procedure may be altered, in a manner not inconsistent with the City Code, during a regular meeting of the primary Special Magistrate, provided notice of a date certain to review and adopt the proposed change is given in a preceding regularly scheduled meeting and the City Legal Department concurs with the proposed changes. These Rules of Procedure may be temporarily waived at any meeting by the Special Magistrate for good cause provided due process and the protocol of quasi-judicial proceedings are still observed.
- C. The provisions of these Rules of Procedure shall be reviewed by the primary Special Magistrate and City Legal Department 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 Recording Secretary.

Adopted 6/22/2016