



AGENDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF PORT ORANGE

Meeting Date: Wednesday, May 24, 2023

Time: 9:00 AM

Type of Meeting: Regular

Location: Council Chambers
City Hall, 1000 City Center Circle

A. CALL TO ORDER

1. Attorney Overview of Special Magistrate Code Enforcement Process
2. Consideration of Minutes - May 10, 2023

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 23-0373

Respondent: Stephen Stewart

Address of Violation: 717 Dove Avenue, Port Orange, FL 32129

Code Officer: Bailey Hornbuckle

First Notified: 3/27/2023

Compliance: No

Cited for violation(s) - Chapter 6 (Mechanical and Electrical Requirements), Section 601 (General), 601.2 (Responsibility), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of the Port Orange Code of Ordinances.

4. **CEB Case No.:** 23-0335

Respondent: Hung Minh Nguyen

Address of Violation: 101 Sand Pebble Circle, Port Orange, FL 32129

Code Officer: Dena Joseph

First Notified: 3/16/2023

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances, (h) Abutting property owner maintenance of parkages.

C. ORDER IMPOSING FINE/LIEN

5. CEB Case No.: 23-223

Respondent: Gil Lichtenstein

Address of Violation: 907 Second Street, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 2/21/2023

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) and (h) Abutting property owner maintenance of parkages of the City of Port Orange Code of Ordinances.

Chapter 70 (Traffic), Article II (Stopping, Standing, and Parking), Section 70-49 (Restrictions on abandoned or disabled vehicles), (c) Restrictions, (1) (a), (b) and (2) of the City of Port Orange Code of Ordinances.

6. CEB Case No.: 23-261

Respondent: Gil Lichtenstein

Address of Violation: 907 Second Street, Port Orange, FL 32129

Code Officer: Scott Allman

First Notified: 2/21/2023

Compliance: No

Cited for violation(s) - City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance, (b) All fences shall be maintained in their original upright condition & (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

7. CEB Case No.: 23-273

Respondent: Adam Baxter

Address of Violation: 1211 Vagabond Drive, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 2/27/2023

Compliance: No

Cited for violation(s) - Chapter 1 (Scope and Administration), Section 111 (Unsafe Structures and Equipment), 111.1.3 (Structure unfit for human occupancy) of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the

City of the Port Orange Code of Ordinances.

Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 505 (Water System), 505.1 (General), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, 505.3 Supply.

Chapter 6 (Mechanical and Electrical Requirements), Section 601 (General), 601.2 (Responsibility), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chapter 6 (Mechanical and Electrical Requirements), Section 604 (Electrical Facilities), 604.1 (Facilities Required), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chapter 3 (General Requirements), Section 308 (Rubbish and Garbage), 308.1 (Accumulation of rubbish or garbage) of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chapter 42 (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-32 (Storage of vehicles, furniture, etc.) of the City of Port Orange Code of Ordinances.

Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses and Structures), (d) Size Limitations, of the City of Port Orange Land Development Code: Any residential accessory structure in a residential zoning district shall be required to comply with the following conditions: (4), (5).

D. ADJOURNMENT

NOTICES — PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.



FOR SPECIAL ACCOMMODATIONS, PLEASE NOTIFY THE CITY CLERK'S OFFICE (PHONE: 386-506-5563) AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE.



HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771.

Code Enforcement Special Magistrate Meeting

Wednesday, May 24, 2023

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UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

CODE ENFORCEMENT SPECIAL MAGISTRATE
MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
MAY 10, 2023

THE CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING of the City of Port Orange was called to order by Special Magistrate David Fuller at 9:00 a.m.

PRESENT: David Fuller, Special Magistrate

ALSO PRESENT: Dennis J. Boehmer, Jr., Code Enforcement Officer
Amanda Bonin, Code Enforcement Manager

Oaths

Code Enforcement Officer Dennis J. Boehmer, Jr. was sworn in by Special Magistrate Fuller.

CALL TO ORDER

1. Attorney Overview of Special Magistrate Code Enforcement Process

Special Magistrate Fuller provided an overview of the code enforcement process as there were members of the public present.

2. Consideration of Minutes - April 26, 2023

Special Magistrate Fuller approved the April 26, 2023 meeting minutes as presented.

FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 23-0241

Respondent: Bernie E. Martin

Betty B. Martin

Address of Violation: 1110 3rd Street, Port Orange, FL 32129

Code Officer: Dena Joseph

First Notified: 2/24/2023

Compliance: Yes

Cited for violation(s) - Chapter 42, (Nuisances), Article II, (Garbage, Junk and Undergrowth), Section 42-26, (Cleanliness of Property Generally-duty of owner), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

Code Enforcement Special Magistrate Meeting

May 10, 2023

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City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance, (b) All fences shall be maintained in their original upright condition & (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

Dennis Boehmer, Jr., Code Enforcement Officer, was sworn in by Special Magistrate Fuller and requested a dismissal of the case as it is in compliance. Special Magistrate Fuller granted the dismissal request.

4. **CEB Case No.:** 23-0078

Respondent: Patsy J. Richardson

Address of Violation: 3633 S. Peninsula Drive, Port Orange, FL 32127

Code Officer: Dennis Boehmer, Jr.

First Notified: 1/19/2023

Compliance: No

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 42 (Nuisances), Article III (Sanitary Conditions), Sec. 42-59 (Location of vehicles used for human occupancy)

Chapter 42 (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-32 (Storage of vehicles, furniture, etc.), of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II, (Garbage, Junk and Undergrowth), Section 42-26, (Cleanliness of Property Generally-duty of owner), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance, (b) All fences shall be maintained in their original upright condition & (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

Mr. Boehmer, Jr. testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected by April 15, 2023 by 1.) the person residing in the camper located on the property needs to vacate or the camper needs to be removed from the property, 2.) properly storing outside stored items (including but not limited to boards, lumber, etc., around the camper and alongside the property) inside and enclosed building or remove from the property, and 3.) cleaning up the junk, trash, and debris (including old planting boxes and broken pottery) and remove from the property. An inspection on May 5, 2023, found the outside storage, trash and debris had been removed from the property.

Mr. Boehmer, Jr. recommended the property owners be found in violation of the above

referenced codes with the violations to be corrected by May 20, 2023 by removing the person residing out of the camper along with all of his personal belongings or removing/relocating the camper off the property. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a daily fine in the amount of \$100.00 per day shall be imposed. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Mr. Boehmer, Jr. requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$37.95 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

David and Jinie Morris, neighbors and complainants, were sworn in by Special Magistrate Fuller and testified as to the condition of the property. Mrs. Morris showed videos from her cell phones of the person in the camper being disruptive and loud. Mr. and Mrs. Morris explained they have called the police before because they felt threatened. Greg and Kathleen Jordan, also neighbors, were sworn in by Special Magistrate Fuller and testified as to the condition of the property. Both sets of neighbors expressed they feel the person living in the camper is retaliating against them for filing a complaint. They also noted that Patsy Richardson, the property owner, is a friend and they believe she has no control over the situation due to the person's unstable behavior.

Special Magistrate Fuller granted the recommendation as presented. The property owner has until May 20, 2023 to remove the person residing out of the camper along with all of his personal belongings or remove/relocate the camper off the property or a daily fine in the amount of \$100.00 per day shall be imposed. Costs in the amount of \$37.95 were awarded to the City.

ADJOURNMENT – 9:29 a.m.

Special Magistrate David Fuller

Case Cost Sheet Log

Case No. 23-0373

Name	Activity	Activity_Date	Status	Cost
Stephen Stewart	Cost to mail Notice of Violation and Notice of Hearings	04/14/2023	Certified returned Unclaimed	\$8.70
Clerk of Court	Cost to record Finding of Fact	05/24/2023		\$29.25
Stephen Stewart	Cost to mail Finding of Fact	05/24/2023		\$8.70

Total: \$46.65



NOTICE OF VIOLATION AND NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 23-0373

To: Stephen Stewart
41 Seaview Drive
Ormond Beach, FL 32176

Re: 717 Dove Avenue
Port Orange, FL 32129
Parcel ID: 6305-05-05-0080

LEGAL DESCRIPTION: LOT 8 LAURELWOOD MOBILE EST UNIT 5 MB 35 PG 15 PER OR 3734 P
G 1122 PER OR 6586 PG 2251 PER OR 7455 PGS 0789-0791 INC PER
OR 7821 PG 3394
Volusia County Public Records
Volusia County, FL

An inspection of the premises on March 27, 2023, indicates that certain violation(s) of the City of Port Orange Code exists.

The property owner was notified of the violations noted below and given 7 days to correct. Re-inspection completed on April 3, 2023, and April 6, 2023, resulted in non-compliance.

This correspondence will serve as official notification that the below-stated violation(s) **must be corrected by April 30, 2023, by doing the following:**

1.) The electricity to the property must be reconnected and in good working condition.

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the above specified time for correction given by the undersigned Code Enforcement Officer (Code Compliance Inspector), the case shall be presented to the Special Magistrate on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Enforcement Officer to determine whether the property is in compliance. Briefly stated, the property is in violation of the following:

1. **Chapter 6 (Mechanical and Electrical Requirements), Section 601 (General), 601.2 (Responsibility), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of the Port Orange Code of Ordinances:** The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that does not comply with the requirements of this chapter.
- The initial inspection of this property revealed that the home did not have any electricity connected.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate May 24, 2023, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged above and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Officer. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 8.70 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **May 24, 2023**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Special Magistrate on **June 28, 2023, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Special Magistrate will consider setting the fine lien on the above-referenced case at said PUBLIC HEARING. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Officer. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Enforcement Officer at **(386) 506-5645**.

DATED this 13th day of April, 2023.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: [Signature]
Bailey Hornbuckle, Code Enforcement Officer

☐ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to: Stephen Stewart, 41 Seaview Drive, Ormond Beach, FL 32176, RE: 717 Dove Avenue, Port Orange, FL, 32129, was

☐ Hand-delivered

Recipient of hand-delivered documents: _____

☒ Posted at the property

this 13th day of April, 2023.

Time: approx. 10:05am

[Signature]
Bailey Hornbuckle, Code Enforcement Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to: Stephen Stewart, 41 Seaview Drive, Ormond Beach, FL 32176, RE: 717 Dove Avenue, Port Orange, FL, 32129, was

☒ Posted at City Hall

☐ Sent via certified and regular

this 14 day of April, 2023.

Time: approx. 1:15pm

[Signature]
Secretary, Special Magistrate

RIGHT TO APPEAL

PURSUANT TO SECTION 162.11 OF THE FLORIDA STATUTES, ANY DECISION BY THE SPECIAL MAGISTRATE MAY BE APPEALED TO THE CIRCUIT COURT AND MUST BE FILED WITHIN THIRTY (30) DAYS OF THE EXECUTION OF THE ORDER. SUCH AN APPEAL SHALL BE LIMITED TO APPELLATE REVIEW OF THE TESTIMONY AND EVIDENCE OF THE PROCEEDING CREATED BEFORE THE SPECIAL MAGISTRATE.

RECORD OF PROCEEDINGS

PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT THE HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.

ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

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Case Cost Sheet Log

Case No. 23-0335

Name	Activity	Activity_Date	Status	Cost
Hung Minh Nguyen	Cost to mail Notice of Violation and Notice of Hearings	04/14/2023	Certified receipt signed	\$8.70
Clerk of Court	Cost to record Finding of Fact	05/24/2023		\$29.25
Hung Minh Nguyen	Cost to mail Finding of Fact	05/24/2023		\$8.70

Total: \$46.65



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 23-0335

To: Hung Minh Nguyen
3916 Gallows Road
Annandale, VA 22003

Re: 101 Sand Pebble Circle
Port Orange, FL 32129
Parcel ID: 6305-03-00-0010

LEGAL DESCRIPTION: LOT 1 BAREFOOT PK REPLAT MB 31 PG 103 PER OR 2063 PG 0455 PER OR 5502 PG 2375
PER OR 5569 PGS 4860-4862 INC PER OR 6744 PG 4677 PER OR 6852 PG 3551 PER OR 7383 PG 1594 PER OR 7437
PG 0123

Volusia County Public Records
Volusia County, FL

An inspection of the premises on March 16, 2023, indicates that certain violation(s) of the City of Port Orange Code exists.

The property owner was notified of the violations noted below and given 10 days to correct. A re-inspection was done on April 10, 2023, resulting in non-compliance.

This correspondence will serve as official notification that the below-stated violation(s) **must be corrected by April 23, 2023**, by doing the following: The entire property needs to be mowed, weed-eated, all undergrowth removed, and all debris blown back onto the property.

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the above specified time for correction given by the undersigned Code Enforcement Officer (Code Compliance Inspector), the case shall be presented to the Special Magistrate on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Enforcement Officer to determine whether the property is in compliance. Briefly stated, the property is in violation of the following:

- Chapter 42 (Nuisances), Article II (Garbage, junk, and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances:** The owner of an improved lot in a residential zone shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than ten inches within such natural areas. **(h) Abutting property owner maintenance of parkages:** It shall be the duty of every owner of real property within the city to at all times cause to be cut and mowed the grass and weeds, and to cause to be cut and trimmed the flowers, vines, shrubbery, and trees not exceeding six feet in height, in a manner that protects and promotes the public health, safety and welfare and presents an aesthetically pleasing appearance in those areas of the parkage most nearly abutting their properties. Parkages abutting improved residential or commercial lots shall be maintained as provided in subsection (d) of this section for improved residential

lots. Packages abutting unimproved residential lots shall be maintained as provided in subsection (e) of this section for the maintained portion of unimproved residential lots. "Package" is that space between the private property lot or survey line of the property owner and the paved or graded portion of the public street adjacent thereto and includes that area between a sidewalk and street. Every property owner shall also have the duty of removing any refuse or other debris existing within the adjacent package, but the placement of refuse for collection in a manner and in containers specified by other provisions of this Code is not prohibited.

- The initial inspection of this property found high weeds and grass.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

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If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 8.70 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **May 24, 2023**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Special Magistrate on **June 28, 2023, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Special Magistrate will consider setting the fine lien on the above-referenced case at said PUBLIC HEARING. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Officer. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Enforcement Officer at **(386) 506-5645**.

DATED this 12th day of April, 2023.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: 
Dena Joseph, Code Enforcement Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Hung Minh Nguyen, 3916 Gallows Road, Annandale, VA 22003, Re: 101 Sand Pebble Circle, Port Orange, FL 32129, RE: 101 Sand Pebble Circle, Port Orange, FL 32129, was

☐ Hand-delivered

Recipient of hand-delivered documents: _____

☒ Posted at the property

this 12th day of April, 2023.

Time: approx. 12:15pm

Dena Joseph
Dena Joseph, Code Enforcement Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to: Hung Minh Nguyen, 3916 Gallows Road, Annandale, VA 22003, Re: 101 Sand Pebble Circle, Port Orange, FL 32129, RE: 101 Sand Pebble Circle, Port Orange, FL 32129, was

☒ Posted at City Hall

☐ Sent via certified and regular

this 14 day of April, 2023.

Time: approx. 1:15pm

Stacy
Secretary, Special Magistrate

RIGHT TO APPEAL

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PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT THE HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.

ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

Case Cost Sheet Log

Case No. 23-223

Name	Activity	Activity_Date	Status	Cost
Gil Lichtenstein	Cost to mail Notice of Violation and Notice of Hearings	03/07/2023	Regular and Certified returned Unable to Forward/Vacant	\$8.70
Clerk of Court	Cost to record Finding of Fact	04/12/2023		\$29.25
Gil Lichtenstein	Cost to mail Finding of Fact	04/12/2023	Regular and Certified Returned Unable to Forward/Vacant	\$8.70
Clerk of Court	Fee to record Order Imposing/Fine and Lien	05/24/2023		\$46.25
Gil Lichtenstein	Cost to mail Order Imposing/Fine and Lien	05/24/2023		\$8.70

Total: \$101.60



**NOTICE OF REPEAT VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 23-223

To: Gil Lichtenstein
907 Second Street
Port Orange, FL 32129

Re: 907 Second Street
Port Orange, FL 32127
Parcel ID: 6304-02-07-0060
LEGAL DESCRIPTION: N 30 FT OF LOT 5 & S 45 FT OF LOT 6 BLK 7 PORTONA PER OR 5240 PG 0975
Volusia County Public Records
Volusia County, FL

An inspection of the premises on February 21, 2023, indicates that certain violation(s) of the City of Port Orange Code exist. This correspondence will serve as official notification that the below-stated violation(s) must be corrected immediately, by doing the following:

- 1.) The property must be mowed, all high weeds trimmed, and all debris blown back on the property.
- 2.) The two unregistered/inoperable vehicles must be removed from the property, covered with approved vehicle covers, or stored in an enclosed garage.

Briefly stated, the property is in violation of the following:

1. **Chapter 42 (Nuisances), Article II (Garbage, junk, and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances:** The owner of an improved lot in a residential zone shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than ten inches within such natural areas. **(h) Abutting property owner maintenance of parkages:** It shall be the duty of every owner of real property within the city to at all times cause to be cut and mowed the grass and weeds, and to cause to be cut and trimmed the flowers, vines, shrubbery, and trees not exceeding six feet in height, in a manner that protects and promotes the public health, safety and welfare and presents an aesthetically pleasing appearance in those areas of the parkage most nearly abutting their properties. Parkages abutting improved residential or commercial lots shall be maintained as provided in subsection (d) of this section for improved residential lots. Parkages abutting unimproved residential lots shall be maintained as provided in subsection (e) of this section for the maintained portion of unimproved residential lots. "Parkage" is that space between the private property lot or survey line of the property owner and the paved or graded portion of the public street adjacent thereto and includes that area between a sidewalk and street. Every property owner shall also have the duty of removing any refuse or other debris existing within the adjacent parkage, but the placement of refuse for collection in a manner and in containers specified by other provisions of this Code is not prohibited.
 - The initial inspection of this property found high weeds, grass, and undergrowth.

2. **Chapter 70 (Traffic), Article II (Stopping standing and parking), Section 70-49 (Restrictions on abandoned or disabled vehicles), (c) Restrictions, (1) (a), (b) and (2) of the City of Port Orange Code of Ordinances:** (1) No disabled or abandoned vehicle shall remain on residentially-zoned or agriculturally-zoned private property unless such vehicle is: (a) Within a completely enclosed garage; or (b) parked in a carport, parking space or city-approved parking area and covered solely with a standard vehicle cover in good repair, so long as any portion of the vehicle which is not covered is not in a state of disrepair. (2) No disabled or abandoned vehicle parked on residentially-zoned or agriculturally-zoned private property shall be covered by material other than a standard vehicle cover in good repair unless such vehicle is parked inside a completely enclosed garage.

- The initial inspection of this property found two unregistered/inoperable motor vehicles stored on the property.

You have previously (within the past five years) been found by the Special Magistrate to have violated the above-referenced code section(s) on May 27, 2020 under Case No. 20-0301.

A fine up to \$5,000 per day per violation for a repeat violation may be assessed by the Special Magistrate beginning from the date of this Notice.

Once you have caused the violation(s) to be corrected, you must request a re-inspection by the Code Enforcement Officer (Code Compliance Inspector) to determine whether the property is in compliance.

This case shall be presented to the Special Magistrate even if the violation(s) has been corrected prior to the scheduled hearing date below.

NOTICE OF HEARING AS TO REPEAT VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate April 12, 2023 at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged in the notice of repeat violation above, and shall issue a Final Order affording the proper relief which may include a per diem fine of up to \$5,000 for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code enforcement officer (code inspector). A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Officer. Please govern yourself accordingly.

A certified copy of the order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation(s) was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 8.70 as indicated on the cost sheet submitted into evidence. The respondent shall be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **April 12, 2023**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Special Magistrate on **May 24, 2023, at 9:00 a.m.**, or

as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Special Magistrate will consider setting the fine lien on the above-referenced case at said PUBLIC HEARING. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Officer. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Enforcement Officer at **(386) 506-5641**.

DATED this 7 day of March, 2023.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: J. Scott Allman
J. Scott Allman, Code Enforcement Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Gil Lichtenstein, 907 Second Street, Port Orange, FL 32129, RE: 907 Second Street, Port Orange, FL 32129, was

☐ Hand-delivered

Recipient of hand-delivered documents: _____

☒ Posted at the property

this 7 day of March, 2023.

Time: approx. 11:10 am

J. Scott Allman
J. Scott Allman, Code Enforcement Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Gil Lichtenstein, 907 Second Street, Port Orange, FL 32129, RE: 907 Second Street, Port Orange, FL 32129, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 7 day of March, 2023.

Time: approx. 8:35 AM

W. Cody
Secretary, Special Magistrate

RIGHT TO APPEAL

PURSUANT TO SECTION 162.11 OF THE FLORIDA STATUTES, ANY DECISION BY THE SPECIAL MAGISTRATE MAY BE APPEALED TO THE CIRCUIT COURT AND MUST BE FILED WITHIN THIRTY (30) DAYS OF THE EXECUTION OF THE ORDER. SUCH AN APPEAL SHALL BE LIMITED TO APPELLATE REVIEW OF THE TESTIMONY AND EVIDENCE OF THE PROCEEDING CREATED BEFORE THE SPECIAL MAGISTRATE.

RECORD OF PROCEEDINGS

PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT THE HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.

ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY

CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 23-223**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

GIL LICHTENSTEIN
907 SECOND STREET
PORT ORANGE, FL 32129
PARCEL ID: 6304-02-07-0060

Respondent.

_____ /

**FINDING OF FACT, CONCLUSION OF LAW AND ORDER
(THIS DOES NOT CONSTITUTE A LIEN)**

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on April 12, 2023 after due notice to the Respondent(s), and the Special Magistrate having heard testimony under oath, received evidence and heard argument from Staff thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondents, GIL LICHTENSTEIN, whose mailing address is 907 SECOND STREET, PORT ORANGE, FL 32129 is the owner of the property located at 907 SECOND STREET, PORT ORANGE, FL 32129, and more particularly described as:

N 30 FT OF LOT 5 & S 45 FT OF LOT 6 BLK 7 PORTONA PER OR 5240 PG 0975

B. The violation was to be corrected by mowing the entire property, by trimming all high weeds and by blowing all debris back onto the property and by removing all unregistered vehicles, storing them in an enclosed garage or by covering said vehicles with approved vehicle covers. This condition was first observed at the real property described above on February 21, 2023; re-inspection was conducted on March 29, 2023 and confirmed the condition as being the same. Respondent received notice via posting at City Hall and regular and certified mail on March 7, 2023, as well as posted on the property on March 1, 2023 that the aforesaid conditions constituted a violation of Chapter 42 (Nuisances), Article II (Garbage, junk, and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances, (h) Abutting property owner maintenance of parkages and Chapter 70 (Traffic), Article II (Stopping standing and parking), Section 70-49

(Restrictions on abandoned or disabled vehicles), (c) Restrictions, (1) (a), (b) and (2) of the City of Port Orange Code of Ordinances and was to be corrected immediately.

C. At the time of the hearing, the violations cited above: ☒ continued to exist, or ☐ remained non-compliant until _____ [Date].

D. ☒ The condition described above presents a serious threat to the public health, safety and welfare or is irreparable or irreversible.

E. You have previously (within the past five years) been found by the Special Magistrate to have violated the above-referenced code section(s) on May 27, 2020 under Case No. 20-0301.

CONCLUSION OF LAW:

Respondent(s), by reason of the foregoing, has/have violated the above-referenced code(s) in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions as stated in the notice of violation is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

ORDER:

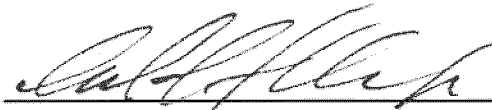
A. Respondent(s) shall correct the aforesaid violation by mowing the entire property, by trimming all high weeds and by blowing all debris back onto the property and by removing all unregistered vehicles, storing them in an enclosed garage or by covering said vehicles with approved vehicle covers, immediately. ("Compliance Date"). In the event that the property is not brought into compliance on or before the Compliance Date, and/or not maintained in a state of compliance, a daily fine of \$100.00 per day will be assessed for each day the property is in violation beyond the Compliance Date. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to subsection (a)." The cost to date is \$46.65 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

B. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing

Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 12 day of April, 2023.

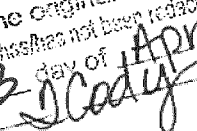
Attest: 
Secretary, Code Enforcement Special Magistrate

By: 
Code Enforcement Special Magistrate

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), GIL LICHTENSTEIN, 907 SECOND STREET, PORT ORANGE, FL 32129 by Certified and Regular Mail this 12 day of April, 2023.


Secretary, Code Enforcement Special Magistrate

The Findings of Fact and Conclusions of Law set forth in the Order of the Special Magistrate constitute a final administrative order which may be appealed by filing a notice of appeal with the Circuit Court within 30 days of the signing of this order.

CITY OF PORT ORANGE, FLORIDA
I HEREBY CERTIFY the foregoing is a true copy
of the original filed in this office.
This document has/had not been redacted pursuant to Florida Law.
This 13 day of April, 2023
By: 

Case Cost Sheet Log

Case No. 23-261

Name	Activity	Activity_Date	Status	Cost
Gil Lichtenstein	Cost to mail Notice of Violation and Notice of Hearings	03/07/2023	Regular and Certified returned Vacant	\$8.70
Clerk of Court	Cost to record Finding of Fact	04/12/2023		\$29.25
Gil Lichtenstein	Cost to mail Finding of Fact	04/12/2023	Regular and Certified Returned Unable to Forward/Vacant	\$8.70
Clerk of Court	Fee to record Order Imposing/Fine and Lien	05/24/2023		\$46.25
Gil Lichtenstein	Cost to mail Order Imposing/Fine and Lien	05/24/2023		\$8.70

Total: \$101.60



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 23-261

To: Gil Lichtenstein
907 Second Street
Port Orange, FL 32129

Re: 907 Second Street
Port Orange, FL 32127
Parcel ID: 6304-02-07-0060
LEGAL DESCRIPTION: N 30 FT OF LOT 5 & S 45 FT OF LOT 6 BLK 7 PORTONA PER OR 5240 PG 0975
Volusia County Public Records
Volusia County, FL

An inspection of the premises on February 21, 2023, indicates that certain violation(s) of the City of Port Orange Code exists.

Code Enforcement e-mailed the owner who is believed to be living in Israel. There was no response from the owner. A re-inspection was conducted on February 27, 2023, resulting in non-compliance.

This correspondence will serve as official notification that the below-stated violation(s) **must be corrected by March 20, 2023**, by doing the following: 1.) All damaged sections of fence must be repaired so that the fence is in its original and upright condition.

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the above specified time for correction given by the undersigned Code Enforcement Officer (Code Compliance Inspector), the case shall be presented to the Special Magistrate on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Enforcement Officer to determine whether the property is in compliance. Briefly stated, the property is in violation of the following:

- 1. City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance: (b)** All fences shall be maintained in their original upright condition. **(d)** Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

- The initial inspection of this property found a damaged stockade fence on the property.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate April 12, 2023, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged above and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Officer. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 8.70 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **April 12, 2023**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate on May 24, 2023, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will consider setting the fine lien on the above-referenced case at said PUBLIC HEARING. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Officer. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Enforcement Officer at **(386) 506-5641**.

DATED this 1 day of March, 2023.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: J. Scott Allman
J. Scott Allman, Code Enforcement Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to: Gil Lichtenstein, 907 Second Street, Port Orange, FL 32129, Re: 907 Second Street, Port Orange, FL 32127, RE: 907 Second Street, Port Orange, FL 32127, was

☐ Hand-delivered

Recipient of hand-delivered documents: _____

☒ Posted at the property

this 1 day of March, 2023.

Time: approx. 11:05 AM

J. Scott Allman
J. Scott Allman, Code Enforcement Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to: Gil Lichtenstein, 907 Second Street, Port Orange, FL 32129, Re: 907 Second Street, Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 7 day of March, 2023.

Time: approx. 10:15 Am

J Cody
Secretary, Special Magistrate

RIGHT TO APPEAL

PURSUANT TO SECTION 162.11 OF THE FLORIDA STATUTES, ANY DECISION BY THE SPECIAL MAGISTRATE MAY BE APPEALED TO THE CIRCUIT COURT AND MUST BE FILED WITHIN THIRTY (30) DAYS OF THE EXECUTION OF THE ORDER. SUCH AN APPEAL SHALL BE LIMITED TO APPELLATE REVIEW OF THE TESTIMONY AND EVIDENCE OF THE PROCEEDING CREATED BEFORE THE SPECIAL MAGISTRATE.

RECORD OF PROCEEDINGS

PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT THE HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.

ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 23-261**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

GIL LICHTENSTEIN
907 SECOND STREET
PORT ORANGE, FL 32127
PARCEL ID: 6304-02-07-0060

Respondent.

_____ /

**FINDING OF FACT, CONCLUSION OF LAW AND ORDER
(THIS DOES NOT CONSTITUTE A LIEN)**

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on April 12, 2023 after due notice to the Respondent(s), and the Special Magistrate having heard testimony under oath, received evidence and heard argument from Staff thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondents, GIL LICHTENSTEIN, whose mailing address is 907 SECOND STREET, PORT ORANGE, FL 32129, is the owner of the property located at 907 SECOND STREET, PORT ORANGE, FL 32129, and more particularly described as:

N 30 FT OF LOT 5 & S 45 FT OF LOT 6 BLK 7 PORTONA PER OR 5240 PG 0975

B. The violation was to be corrected by repairing or removing all damaged fencing. This condition was first observed at the real property described above on February 21, 2023; re-inspection was conducted on March 29, 2023 and confirmed the condition as being the same. Respondent received notice via posting at City Hall and regular and certified mail on March 7, 2023, as well as posted on the property on March 1, 2023 that the aforesaid conditions constituted a violation of City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance: (b) All fences shall be maintained in their original upright condition.(d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality and was to be corrected by March 20, 2023.

C. At the time of the hearing, the violations cited above: ☒ continued to exist, or ☐ remained non-compliant until _____ [Date].

D. ☒ The condition described above presents a serious threat to the public health, safety and welfare or is irreparable or irreversible.

CONCLUSION OF LAW:

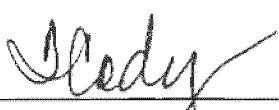
Respondent(s), by reason of the foregoing, has/have violated the above-referenced code(s) in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions as stated in the notice of violation is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

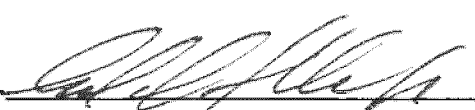
ORDER:

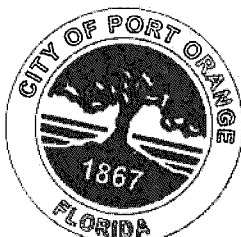
A. Respondent(s) shall correct the aforesaid violation by repairing or removing all damaged fencing on the property and if the fence is repaired, it's required to be repaired to its original and upright condition, on or before April 26, 2023. ("Compliance Date"). If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to subsection (a)." The cost to date is \$46.65 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

B. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 12 day of April, 2023.

Attest: 
Secretary, Code Enforcement Special Magistrate

By: 
Code Enforcement Special Magistrate



I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), GIL LICHTENSTEIN, 907 SECOND STREET, PORT ORANGE, FL 32129 by Certified and Regular Mail this 12 day of April, 2023.



Secretary, Code Enforcement Special Magistrate

The Findings of Fact and Conclusions of Law set forth in the Order of the Special Magistrate constitute a final administrative order which may be appealed by filing a notice of appeal with the Circuit Court within 30 days of the signing of this order.

CITY OF PORT ORANGE, FLORIDA

I HEREBY CERTIFY the foregoing is a true copy of the original filed in this office.

This document has/has not been rejected pursuant to Florida Law.

This 13 day of April, 2023
By: [Signature]

Case Cost Sheet Log

Case No. 23-273

Name	Activity	Activity_Date	Status	Cost
Adam Baxter	Hand Delivery of Notice of Violation/Notice of Hearing	03/08/2023		\$0.00
Clerk of Court	Cost to record Finding of Fact	04/12/2023		\$29.25
Adam Baxter	Cost to mail Finding of Fact	04/12/2023	Certified returned Unclaimed	\$8.70
Clerk of Court	Fee to record Order Imposing/Fine and Lien	05/24/2023		\$46.25
Adam Baxter	Cost to mail Order Imposing/Fine and Lien	05/24/2023		\$8.70

Total: \$92.90



NOTICE OF VIOLATION AND NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 23-273

To: Adam Baxter
1211 Vagabond Drive
Port Orange, FL 32127

Re: 1211 Vagabond Drive
Port Orange, FL 32127
Parcel ID: 6316-01-07-0420
LEGAL DESCRIPTION: LOT 42 BLK 7 HALIFAX MOBILE ESTS UNREC PLAT 147 PER OR 3666
PG 0391 PER OR 4396 PGS 1965-1966 PER OR 6068 PGS 3848-3850
INC PER OR 6575 PGS 1657-1658 PER OR 7439 PG 0959 PER OR 762
Volusia County Public Records
Volusia County, FL

An inspection of the premises on February 27, 2023, indicates that certain violation(s) of the City of Port Orange Code exists. The property owner was notified that the condition of the home was unsanitary and per city code, the home could not be occupied until the violations are abated and the water and electricity are reconnected.

This correspondence will serve as official notification that the below-stated violation(s) **must be corrected by March 24, 2023**, by doing the following:

- 1). All unsanitary conditions must be corrected.
- 2). The water to the property must be reconnected and in good working condition.
- 3). The electricity to the property must be reconnected and in good working condition.
- 4). All garbage, trash, and debris must be removed from the interior and exterior of the property.
- 5). All outdoor stored items must be removed from the property or placed in an enclosed building.
- 6). The shed in the backyard may not be used as a guest house, apartment, or other residential quarters.

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the above specified time for correction given by the undersigned Code Enforcement Officer (Code Compliance Inspector), the case shall be presented to the Special Magistrate on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Enforcement Officer to determine whether the property is in compliance. Briefly stated, the property is in violation of the following:

1. **Chapter 1 (Scope and Administration), Section 111 (Unsafe Structures and Equipment), 111.1.3 (Structure unfit for human occupancy) of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of the Port Orange Code of Ordinances:** A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful, or because of the lack of 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.

- The initial inspection of this property found the property to have unsanitary conditions unfit for human occupancy.
2. **Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 505 (Water System), 505.1 (General), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of the Port Orange Code of Ordinances:** Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs, and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code. **[P] 505.3 Supply.** The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices, and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.
- The initial inspection of this property found no active water account, which was corroborated by the owner.
3. **Chapter 6 (Mechanical and Electrical Requirements), Section 601 (General), 601.2 (Responsibility), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of the Port Orange Code of Ordinances:** The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that does not comply with the requirements of this chapter.
- Chapter 6 (Mechanical and Electrical Requirements), Section 604 (Electrical Facilities), 604.1 (Facilities Required), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of the Port Orange Code of Ordinances:** Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.
- The initial inspection of this property found people living in the home without electricity, which was corroborated by the owner.
4. **Chapter 3 (General Requirements), Section 308 (Rubbish and Garbage), 308.1 (Accumulation of rubbish or garbage) of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of the Port Orange Code of Ordinances:** Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.
- The initial inspection of this property found garbage, trash, and debris on the interior and exterior of the property.
5. **Chapter 42 (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-32 (Storage of vehicles, furniture, etc.), of the City of Port Orange Code of Ordinances:** No owner of property within the city shall permit the storage of vehicles or parts of vehicles, furniture, appliances or other personal property upon the premises, except in an enclosed building.
- The initial inspection of this property found various items stored outside.
6. **Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses & Structures), (d) Size Limitations, of the City of Port Orange Land Development Code: Any residential accessory structure in a residential zoning district shall be required to comply with the following conditions: (4) No accessory residential structure shall be used as a guest house, apartment, or other residential quarters unless otherwise permitted by this code. (5) No accessory residential structure shall be used in any manner for a home occupation, except for the storage of customary homeowner tools and equipment.**
- The initial inspection of this property found someone living in a shed on the back of the property.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate April 12, 2023, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged above and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Officer. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 0.00 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **April 12, 2023**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate on May 24, 2023, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will consider setting the fine lien on the above-referenced case at said PUBLIC HEARING. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Officer. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Enforcement Officer at **(386) 506-5641**.

DATED this 8 day of March, 2023.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: J. Scott Allman
J. Scott Allman, Code Enforcement Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to: Adam Baxter, 1211 Vagabond Drive, Port Orange, FL 32127, RE: 1211 Vagabond Drive, Port Orange, FL 32127, was
☒ Hand-delivered Recipient of hand-delivered documents: Adam Baxter
☐ Posted at the property

Time: approx. 10:30 AM

this 8 day of March, 2023.

J. Scott Allman
J. Scott Allman, Code Enforcement Officer

☐ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to: Adam Baxter, 1211 Vagabond Drive, Port Orange, FL 32127, RE: 1211 Vagabond Drive, Port Orange, FL 32127, was

☒ Posted at City Hall

☐ Sent via certified and regular

this 8 day of March, 2023.

Time: approx. 3:30 P.M.

Wody
Secretary, Special Magistrate

RIGHT TO APPEAL

PURSUANT TO SECTION 162.11 OF THE FLORIDA STATUTES, ANY DECISION BY THE SPECIAL MAGISTRATE MAY BE APPEALED TO THE CIRCUIT COURT AND MUST BE FILED WITHIN THIRTY (30) DAYS OF THE EXECUTION OF THE ORDER. SUCH AN APPEAL SHALL BE LIMITED TO APPELLATE REVIEW OF THE TESTIMONY AND EVIDENCE OF THE PROCEEDING CREATED BEFORE THE SPECIAL MAGISTRATE.

RECORD OF PROCEEDINGS

PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT THE HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.

ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 23-273**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

ADAM BAXTER
1211 VAGABOND DRIVE
PORT ORANGE, FL 32127
PARCEL ID: 6316-01-07-0420

Respondent.

**FINDING OF FACT, CONCLUSION OF LAW AND ORDER
(THIS DOES NOT CONSTITUTE A LIEN)**

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on April 12, 2023 after due notice to the Respondent(s), and the Special Magistrate having heard testimony under oath, received evidence and heard argument from Staff thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondents, ADAM BAXTER, whose mailing address is 1211 VAGABOND DRIVE, PORT ORANGE, FL 32129 is the owner of the property located at 1211 VAGABOND DRIVE, PORT ORANGE, FL 32129, and more particularly described as:

LOT 42 BLK 7 HALIFAX MOBILE ESTS UNREC PLAT 147 PER OR 3666 PG 0391 PER OR 4396 PGS 1965-1966 PER OR 6068 PGS 3848-3850 INC PER OR 6575 PGS 1657-1658 PER OR 7439 PG 0959 PER OR 762

B. The violation was to be corrected by abating all unsanitary conditions, by reconnecting to the city water system, by reconnecting to the electrical system, by removing all outdoor stored items from the property and by removing the tenant from the shed in the backyard. This condition was first observed at the real property described above on February 27, 2023; re-inspection was conducted on April 6, 2023 and confirmed the condition as being the same. Respondent received notice via posting at City Hall on March 8, 2023, as well as hand delivered on site at 1211 Vagabond Drive, Port Orange, FL 32127 to Adam Baxter on March 8, 2023 that the aforesaid conditions constituted a violation of Chapter 1 (Scope and Administration), Section 111 (Unsafe Structures and Equipment), 111.1.3 (Structure unfit for human occupancy) of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of the Port Orange Code of Ordinances.

Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 505 (Water System), 505.1 (General), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, [P] 505.3 Supply.

Chapter 6 (Mechanical and Electrical Requirements), Section 601 (General), 601.2 (Responsibility), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chapter 6 (Mechanical and Electrical Requirements), Section 604 (Electrical Facilities), 604.1 (Facilities Required), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chapter 42 (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-32 (Storage of vehicles, furniture, etc.) of the City of Port Orange Code of Ordinances.

Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses and Structures), (d) Size Limitations, of the City of Port Orange Land Development Code: Any residential accessory structure in a residential zoning district shall be required to comply with the following conditions: (4), (5), and was to be corrected by March 24, 2023.

C. At the time of the hearing, the violations cited above: ☒ continued to exist, or ☐ remained non-compliant until _____ [Date].

D. ☐ The condition described above presents a serious threat to the public health, safety and welfare or is irreparable or irreversible.

CONCLUSION OF LAW:

Respondent(s), by reason of the foregoing, has/have violated the above-referenced code(s) in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions as stated in the notice of violation is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

ORDER:

A. Respondent(s) shall correct the aforesaid violation by abating all unsanitary conditions, by reconnecting to the city water system, by reconnecting to the electrical system, by removing all outdoor stored items from the property and by removing the tenant from the shed in the backyard, on or before May 10, 2023. ("Compliance Date"). In the event that the property is not brought into compliance on or before the Compliance Date, and/or not maintained in a state of compliance, a daily fine of \$100.00 per day will be assessed for each day the property is in violation beyond the Compliance Date. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to subsection

(a)." The cost to date is \$37.95 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

B. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 12 day of April, 2023.

Attest: _____

Secretary, Code Enforcement Special Magistrate



By: _____

Code Enforcement Special Magistrate

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), ADAM BAXTER, 1211 VAGABOND DRIVE, PORT ORANGE, FL 32127 by Certified and Regular Mail this 12 day of April, 2023.

Secretary, Code Enforcement Special Magistrate

The Findings of Fact and Conclusions of Law set forth in the Order of the Special Magistrate constitute a final administrative order which may be appealed by filing a notice of appeal with the Circuit Court within 30 days of the signing of this order.

CITY OF PORT ORANGE, FLORIDA
I HEREBY CERTIFY the foregoing is a true copy
of the original filed in this office.
This document has/has not been redacted pursuant to Florida Law.
This 13 day of April, 2023
By: _____