AGENDA

CODE ENFORCEMENT SPECIAL MAGISTRATE

CITY OF PORT ORANGE

Meeting Date: Wednesday, September 13, 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 - August 23, 2023

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 22-0077
Respondent: Barbara N. Bond
Address of Violation: 723 Horseman Drive, Port Orange, FL 32127
Code Officer: Dennis Boehmer, Jr.
First Notified: 12/22/2022

Compliance: Yes

Cited for violation(s) - 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.

4. **CEB Case No.:** 23-0710
Respondent: Everett Wicker
Address of Violation: 711 Fieldstone Avenue, Port Orange, FL 32129
Code Officer: Sherry Schimizzi
First Notified: 7/7/2023

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 and (h) Abutting property owner maintenance of parkages.

5. **CEB Case No.:** 23-0798
   Respondent: 2017-2 IH Borrower LP
   Address of Violation: 3855 Sunset Cove Drive, Port Orange, FL 32129
   Code Officer: Bailey Hornbuckle
   First Notified: 7/27/2023

   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. 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.

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
AUGUST 23, 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:	Amanda Bonin, Code Enforcement Manager Bailey Hornbuckle, Code Enforcement Officer

Oaths

Code Enforcement Officer Bailey Hornbuckle and Amanda Bonin Code Enforcement Manager were sworn in by Special Magistrate Fuller.

CALL TO ORDER

1. Attorney Overview of Special Magistrate Code Enforcement Process

Special Magistrate Fuller dispensed with the overview of the code enforcement process as there were no members of the public present.

2. Consideration of Minutes - August 9, 2023

Special Magistrate Fuller approved the August 9, 2023 meeting minutes as presented.

FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 23-229
   Respondent: Peggy A. Brandt
   Address of Violation: 6114 Palmas Drive, Port Orange, FL 32127
   Code Officer: Scott Allman
   First Notified: 2/16/2023

   Compliance: No

Cited for violation(s) - 2020 Florida Building Code, 7th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 8, Article I of the City of Port Orange Code of Ordinances: Failure to Obtain a Building Permit.

Amanda Bonin, Code Enforcement Manager, was sworn in by Special Magistrate Fuller and requested a continuation of the case until September 27, 2023. Special Magistrate Fuller granted the continuation request.

4. **CEB Case No.:** 23-0721
   Respondent: Gil Lichtenstein
   Address of Violation: 907 Second Street, Port Orange, FL 32129
   Code Officer: Sherry Schimizzi
   First Notified: 7/11/2023

   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), (d) (Maintenance of improved residential lots), (h) (Abutting property owner maintenance of parkages) of the City of Port Orange Code of Ordinances.

Ms. Bonin requested a dismissal of the case as it is in compliance. Special Magistrate Fuller granted the dismissal request.

5. **CEB Case No.:** 23-0626
   Respondent: Geraldine Jones Life Estate
   Address of Violation: 1237 Edna Drive, Port Orange, FL 32129
   Code Officer: Bailey Hornbuckle
   First Notified: 6/8/2023

   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), (h) (Abutting property owner maintenance of parkages) and (f) Garbage, waste, trash, etc. 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.

Bailey Hornbuckle was sworn in by Special Magistrate Fuller and 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 immediately by mowing the entire property, removing all weeds and undergrowth, blowing all debris back onto the property, cleaning up and removing all garbage, trash, and debris from the property, and properly storing all outside storage in an enclosed building.

Mrs. Hornbuckle recommended the property owners be found in repeat violation of the above referenced codes with the violations to be corrected immediately by mowing the entire property, removing all weeds and undergrowth, blowing all debris back onto the property, cleaning up and removing all garbage, trash, and debris from the property, and properly storing all outside storage in an enclosed building. 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, the City of Port Orange shall have the option to abate the violations as this is a health and safety concern. 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. Mrs. Hornbuckle requested any future violations under this ordinance be considered repeat, and that the property be deemed a health and safety concern. The cost sheet in the amount of $47.57 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented and deemed the property a health and safety violation. The property owner has immediately to mow the entire property, remove all weeds and undergrowth, blow all debris back onto the property, clean up and remove all garbage, trash, and debris from the property, and properly store all outside storage in an enclosed building. Costs in the amount of $47.57 were awarded to the City.

ADJOURNMENT – 9:10 a.m.

_____
Special Magistrate David Fuller

Case Cost Sheet Log

Case No. 22-0077

Name	Activity	Activity_Date	Status	Cost
Barbara N. Bond	Cost to mail Notice of Violation and Notice of Hearings	07/27/2023	Certified returned Unclaimed/Unable to Forward	$9.16
Clerk of Court	Cost to record Finding of Fact	09/13/2023		$29.25
Barbara N. Bond	Cost to mail Finding of Fact	09/13/2023		$9.16

Total: $47.57

9/13
10/25

NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 22-0077

To: Barbara N. Bond
723 Horseman Drive
Port Orange, FL 32127

Re: 723 Horseman Drive
Port Orange, FL 32127
Parcel ID: 6309-04-02-0620
LEGAL DESCRIPTION: LOT 62 SLEEPY HOLLOW SUB UNIT II MB 34 PG 131 PER OR 5248 PGS 4417-4418
Volusia County Public Records
Volusia County, FL

An inspection of the premises on December 22, 2022, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given 2 weeks to correct. A re-inspection was done on July 23, 2023, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by doing the following by **August 7, 2023**: Completely remove the rest of the outside stored items from the driveway.

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 per violation for a first violation, $5,000.00 per day per violation for a repeat violation, and up to $15,000.00 per day per violation if the code enforcement board or special magistrate finds the violation to present an imminent threat to the public, health, safety or welfare and/or 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 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 on the driveway.

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 September 13, 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 $ 9,16 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 **September 13, 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 **October 25, 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) 506-5643**.

DATED this 26 TH day of JULY, 2023.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: _____
Dennis A. Boehmer, Jr., 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 Barbara N. Bond, 723 Horseman Drive, Port Orange, FL 32127, RE: 723 Horseman Drive, Port Orange, FL 32127, was

☐ Hand-delivered Recipient of hand delivered documents: _____
☒ Posted at the property 7/26/2023 (date)
☒ Posted at City Hall 7/26/2023 (date)

D. A. Boehmer
Dennis A. Boehmer, 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 Barbara N. Bond, 723 Horseman Drive, Port Orange, FL 32127, RE: 723 Horseman Drive, Port Orange, FL 32127, was sent via certified and regular mail this 26 day of July, 2023.

Cindy
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.

Sec. 42-32. - Storage of vehicles, furniture, etc.

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.

(Code 1981, § 10-7)

Case Cost Sheet Log

Case No. 23-0710

Name	Activity	Activity_Date	Status	Cost
Everett Wicker - 711 Fieldstone Ave	Cost to mail Notice of Violation and Notice of Hearings	07/28/2023	Certified and Regular returned Not Deliverable as Addressed	$9.16
Everett Wicker - 4908 Lancer Dr	Cost to mail Notice of Violation and Notice of Hearings	07/28/2023	Certified returned Unclaimed/Unable to Forward	$9.16
Clerk of Court	Cost to record Finding of Fact	09/13/2023		$29.25
Everett Wicker - 711 Fieldstone Ave	Cost to mail Finding of Fact	09/13/2023		$9.16
Everett Wicker - 4908 Lancer Dr	Cost to mail Finding of Fact	09/13/2023		$9.16

Total: $65.89

NOTICE OF REPEAT VIOLATION
AND
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 23-0710

To: Everett Wicker
711 Fieldstone Avenue
Port Orange, FL 32129

Everett Wicker
4908 Lancer Drive
Knoxville, TN 37921-3014

Re: 711 Fieldstone Avenue
Port Orange, FL 32129
Parcel ID: 6305-05-01-0690
LEGAL DESCRIPTION: LOT 69 LAURELWOOD MOBILE ESTATES UNIT I MB 33 PG 191 PER OR 5227 PG 4706 PER OR 6665 PG 4256
Volusia County Public Records
Volusia County, FL

An inspection of the premises on July 7, 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: **The entire property needs to be mowed, weed-eated, all undergrowth removed, and all debris blown back onto 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 January 25, 2023, under Case No. 22-0027.

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.

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.

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 September 13, 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 $ 18.32 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 **September 13, 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 **October 25, 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- 5640.

DATED this 28th day of July, 2023.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: Sherry Schimizzi
Sherry Schimizzi, 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: Everett Wicker, 711 Fieldstone Avenue, Port Orange, FL 32129, RE: 711 Fieldstone Avenue, Port Orange, FL 32129, was

☐ Hand-delivered Recipient of hand delivered documents: _____
☑ Posted at the property 7/28/2023 (date)
☑ Posted at City Hall 7/28/2023 (date)

Sherry Schimizzi
Sherry Schimizzi, 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 Everett Wicker, 4908 Lancer Drive, Knoxville, TN 37921-3014, RE: 711 Fieldstone Avenue, Port Orange, FL 32129, was

☐ Hand-delivered Recipient of hand delivered documents: _____
☑ Posted at the property 7/28/2023 (date)
☑ Posted at City Hall 7/28/2023 (date)

Sherry Schimizzi
Sherry Schimizzi, 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 Everett Wicker, 711 Fieldstone Avenue, Port Orange, FL 32129, RE: 711 Fieldstone Avenue, Port Orange, FL 32129, was sent via certified and regular mail this 28 day of July, 2023.

Cody
Secretary, Special Magistrate

☑ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Everett Wicker, 4908 Lancer Drive, Knoxville, TN 37921-3014, RE: 711 Fieldstone Avenue, Port Orange, FL 32129, was sent via certified and regular mail this 28 day of July, 2023.

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.

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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. 23-0798

Name	Activity	Activity_Date	Status	Cost
2017-2 IH Borrower LP, Property Owner	Cost to mail Notice of Violation and Notice of Hearings	08/02/2023	Certified receipt signed	$9.16
2017-2 IH Borrower LP, Property Owner, c/o: Corporation Service Company	Cost to mail Notice of Violation and Notice of Hearings	08/02/2023	Certified receipt signed by Dennis Ratliff	$9.16
Clerk of Court	Cost to record Finding of Fact	09/13/2023		$29.25
2017-2 IH Borrower LP, Property Owner	Cost to mail Finding of Fact	09/13/2023		$9.16
2017-2 IH Borrower LP, Property Owner, c/o: Corporation Service Company	Cost to mail Finding of Fact	09/13/2023		$9.16

Total: $65.89

NOTICE OF REPEAT VIOLATION
AND
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 23-0798

To: 2017-2 IH Borrower LP
Property Owner
1717 Main Street, STE 2000
Dallas, TX 75201

2017-2 IH Borrower LP
Property Owner
C/O: Corporation Service Company
Registered Agent
1201 Hays Street
Tallahassee, FL 32301-2525

Re: 3855 Sunset Cove Drive
Port Orange, FL 32129
Parcel ID: 6307-17-00-0440
LEGAL DESCRIPTION: LOT 44 SUNSET COVE PHASE II MB 54 PGS 24-27 INC PER OR 6158
PG 1930 PER OR 6821 PG 1819 PER OR 7055 PG 0497 PER OR 7471
PG 1227
Volusia County Public Records
Volusia County, FL

An inspection of the premises on July 27, 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 entire property needs to be mowed, weed-eated, all undergrowth removed, and all debris blown back onto 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 June 28, 2023, under Case No. 23-0531.

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.

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 and grass.

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 September 13, 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 $ 18.30 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 **September 13, 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 **October 25, 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- 5616**.

DATED this 2nd day of August, 2023.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: _____
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 : 2017-2 IH Borrower LP, Property Owner, 1717 Main Street, STE 2000, Dallas, TX 75201, RE: 3855 Sunset Cove Drive, Port Orange, FL 32129, was

☐ Hand-delivered Recipient of hand-delivered documents: _____
☒ Posted at the property 8/2/2023 (date)
☒ Posted at City Hall 8/2/2023 (date)

_____
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 2017-2 IH Borrower LP, Property Owner, C/O: Corporation Service Company, Registered Agent, 1201 Hays Street, Tallahassee, FL 32301-2525, RE: 3855 Sunset Cove Drive, Port Orange, FL 32129, was

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_____
Secretary, Special Magistrate

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_____
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.