



AGENDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF PORT ORANGE

Meeting Date: Wednesday, January 22,
2025

Time: 9:00 AM

Type of Meeting:

Location:

City Hall, 1000 City Center Circle

A. CALL TO ORDER

1. Attorney Overview of Special Magistrate Code Enforcement Process
2. Consideration of Minutes

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 24-1000
Respondent: Philippe Morgese
Address of Violation: 473 Wiltshire Blvd.
Port Orange, FL 32127
Code Officer: Scott Allman
First Notified: 8/6/2024

Compliance: Yes

Cited for violation(s) - Chapter 70 (Traffic), Article II (Stopping, standing, and parking), Section 70-36 (Stopping, standing or parking prohibited in specified places), (a) (1), (k) (1) (2) & (3) of the City of Port Orange Code of Ordinances.

C. ORDER IMPOSING FINE/LIEN

4. **CEB Case No.:** 24-1211
Respondent: Mark Davison
Address of Violation: 1125 Bayview Drive, Port Orange, FL 32127
Code Officer: Scott Allman
First Notified: 8/30/2024

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. 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.

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.

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NOTICE OF VIOLATION AND NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 24-1000

To: Philippe Morgese
473 Wiltshire Boulevard
Port Orange, FL 32127

Christiane Morgese
473 Wiltshire Boulevard
Port Orange, FL 32127

Re: 473 Wiltshire Boulevard
Port Orange, FL 32127
Parcel ID: 6322-01-00-0690

LEGAL DESCRIPTION: W 2.5 FT OF LOT 68 & E 72.5 FT OF LOT 69 CAMBRIDGE VILLAS SUB MB 33 PG 175 PER OR 4384 PG 3958 PER OR 5365 PG 3228 PER OR 5803 PGS 3070-3071 PER OR 6445 PG 0039 PER OR 6482 PGS 0553-0554 PER OR 7812 PG 3934 PER OR 7881 PG 0168 PER OR 7953 PG 0301 PER OR 7966 PG 3110

Volusia County Public Records
Volusia County, FL

An inspection of the premises on August 6, 2024, 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. Re-inspections were conducted on September 17, 2024 and again on December 5, 2024 showing non-compliance.

This correspondence will serve as official notification that the below-stated violation(s) **must be corrected by December 23, 2024**, by doing the following: The truck parked on the front yard must be properly parked in the driveway, on an approved driveway extension or in the parkage area between the street and sidewalk.

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 J. Scott Allman, 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 70 (Traffic), Article II (Stopping standing and parking), Section 70-36 (Stopping, standing or parking prohibited in specified places), (a) (1) (k) (1), (2) & (3) of the City of Port Orange Code of Ordinances: (a)** Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic device, no person shall: **(1)** Stop, stand or park a motor vehicle or trailer: **(k)** On any other portion of the front yard of a residential lot, except on approved driveways. As used in this section, driveways shall be constructed of the following materials: **(1)** Concrete or paved materials; **(2)** Nonpaved materials, excluding grass and dirt, provided that loose materials such as gravel, bark or cypress mulch are effectively contained within a

border of concrete, railroad ties, or other rigid materials; or (3) Concrete paver strips, paver blocks, or other semi-pervious materials.

- The initial inspection of this property found a truck parked on the front yard of the residence.

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 January 22, 2025 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 \$ 20.00 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 **January 22, 2025** 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 February 26, 2025, 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 12th day of December, 2024

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: Philippe Morgese, 473 Wiltshire Boulevard, Port Orange, FL 32127, Re: 473 Wiltshire Boulevard Port Orange, FL 32127, was

☐ Hand-delivered Recipient of hand delivered documents: _____
☒ Posted at the property 12-12-24 (date)
☒ Posted at City Hall 12-12-24 (date)

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: Christiane Morgese, 473 Wiltshire Boulevard, Port Orange, FL 32127, Re: 473 Wiltshire Boulevard, Port Orange, FL 32127, was

☐ Hand-delivered Recipient of hand delivered documents: _____
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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: Philippe Morgese, 473 Wiltshire Boulevard, Port Orange, FL 32127, Re: 473 Wiltshire Boulevard, Port Orange, FL 32127, was sent via certified and regular mail this 13th day of December, 2024.

[Signature]
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: Christiane Morgese, 473 Wiltshire Boulevard, Port Orange, FL 32127, Re: 473 Wiltshire Boulevard, Port Orange, FL 32127, was sent via certified and regular mail this 13th day of December, 2024.

[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. 24-1211

Name	Activity	Activity_Date	Status	Cost
Mark Davison - Spruce Creek Woods Dr	Cost to mail Notice of Violation and Notice of Hearing	09/12/2024	Certified & Regular mail returned not deliverable as addressed	\$10.33
Mark Davison - Bayview Dr	Cost to mail Notice of Violation and Notice of Hearing	09/12/2024		\$10.33
Clerk of Court	Cost to record Finding of Fact	10/23/2024		\$29.25
Mark Davison - Spruce Creek Woods Dr	Cost to mail Finding of Fact	10/23/2024		\$10.33
Mark Davison - Bayview Dr	Cost to mail Finding of Fact	10/23/2024		\$10.33
Mark Davison - Spruce Creek Woods Dr.	Cost to mail Order Imposing Fine/Lien	01/21/2025		\$29.25
Mark Davison - Bayview Drive	Cost to mail Order Imposing Fine/Lien	01/21/2025		\$29.25
Clerk of Court	Cost to record Order Imposing Fine/Lien	01/21/2025		\$29.25

Total: \$158.32



10/23
12/11

**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 24-1211

To: Mark Davison
5828 Spruce Creek Woods Drive
Port Orange, FL 32127

Re: 1125 Bayview Drive
Port Orange, FL 32127
Parcel ID: 6315-06-01-0130

LEGAL DESCRIPTION: 15-16-33 E 60 FT OF W 785 FT OF N 140 FT OF LOT 7 ASSRS SUB MB 3 PG 82 AKA LOT 13
BLK 1 BAYVIEW HOMESITES UNREC SUB #209 PER OR 5147 PG 3836
Volusia County Public Records
Volusia County, FL

An inspection of the premises on August 30, 2024, indicates that certain violation(s) of the City of Port Orange Code exists.

This correspondence will serve as official notification that the below-stated violation(s) must be corrected by October 7, 2024, by doing the following: 1) The entire property needs to be mowed, maintained and all high weeds trimmed. The fallen tree and all tree limbs must be removed from the property. 2) The damaged chain-link fence must be repaired to its original and upright condition or removed from 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 J. Scott Allman, 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. 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. Additionally, the fallen tree and all tree limbs must be removed from the property.
2. **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 chain-link fence.

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 October 23, 2024 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 \$ 20.66 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 **October 23, 2024** 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 December 11, 2024 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 12 day of September, 2024.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: C. Scott Coleman

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to: Mark Davison, 1125 Bayview Drive, Port Orange, FL 32127, RE: 1125 Bayview Drive, Port Orange, FL 32127, was

☐ Hand-delivered Recipient of hand delivered documents: _____
☒ Posted at the property 9-12-24 (date)
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J. Scott Allman
J. Scott Allman, Code Enforcement Officer

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Body
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: Mark Davison, 5828 Spruce Creek Woods Drive, Port Orange, FL 32127, RE: 1125 Bayview Drive, Port Orange, FL 32127, was sent via certified and regular mail this 12 day of September, 2024.

Body
Secretary, Special Magistrate

RIGHT TO APPEAL

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