

**Code Enforcement Hearing
Minutes
March 06, 2019**

Present: D. John Morgeson Jr., Special Magistrate
Debra S. Babb-Nutcher, City Attorney
Officer Brian Pilarski
Melani Beringer, Deputy City Clerk

1. Call to Order/Rules of Procedure

Special Magistrate D. John Morgeson Jr. called the Code Enforcement Hearing to order at 2:05 p.m. He stated that formal rules of evidence do not apply and fundamental fairness will be afforded to all. After hearing all of the relevant evidence a verbal order will be issued which will be reduced to writing and mailed to all participants. The order of the presentation will begin with the City presenting their evidence of the alleged violation(s) and then the Respondent shall present his case. All witnesses offering testimony or presenting evidence will be required to swear or affirm that the testimony they provide is the truth.

2. Administration of Oath to Defendants/Witnesses

Special Magistrate Morgeson asked that anyone who wished to testify to stand and be sworn in by the Clerk. The Clerk administered the oath.

3. Additions, Deletions, Modifications

4. Cases

- A. Case # 10-18-8291
New Case
Owner Information: Tiger OC LLC
Loc. Address: 2590 S Volusia Avenue
RE: 5-2 (permit required), 9-8 (grass/weeds over 12 inches), 9-17 (garbage / trash accumulation)

Code Enforcement Officer Pilarski presented his case: Mr. Pilarski stated that this property has been found in violation of Orange City Code of Ordinances: Sec. 5-2(FBC 105.1) Permit required, Sec. 9-8 (2012 IPMC, Section 302.4) 12"weeds, grass, plants, vegetation, Section 9-17 (b) (2012 IPMC, Section 308.1) Garbage and trash. Mr. Pilarski provided a brief history of the property.

Recommendation: Staff recommends the Magistrate find the property owner in violation of the Orange City Code of Ordinances as cited and order a compliance date of May 06, 2019 or \$150.00 daily fine until compliance is met. Compliance can be met by maintaining any overgrown vegetation and establishing a regular routine maintenance schedule, cleaning up trash and debris, and obtaining any and all necessary permits and inspections to include final.

Kenneth Leonard Wood, 2070 S. Orange Blossom Trail, Managing member, representative and general contractor for said property, came forward and stated that violation notices were sent to an incorrect out of state address. The property was purchased in June 2018. He stated that the owners plan to clean up the property as soon as possible.

The Magistrate closed the public hearing. Mr. Morgeson ordered that respondent is in violation of the codes cited and must correct the violation on or before May 6, 2019, by taking the remedial actions as identified in the Notice of Violation. If Respondent fails to timely correct all violations on or before May 06, 2019 a fine of \$150.00 will accrue for each day that any such violation exists after said date. Respondent is further ordered to contact Code Enforcement to verify compliance with this Order as may be necessary hereafter.

B. Case # 9-18-8276

Owner Information: Lisbed Maldonado

Loc. Address: 227 W Ohio Avenue

RE: 9-8 (Grass/weeds over 12 inches)

Code Enforcement Officer Pilarski presented his case: Mr. Pilarski stated that the above mentioned address has been found in violation of Orange City Code of Ordinances Sec. 9-8 (2012 IPMC, Section 302.4) 12”weeds, grass, plants, vegetation. Mr. Pilarski provided a brief history of the property.

Recommendation: Staff recommends the Magistrate find the property owner in violation of the Orange City Code of Ordinances as cited above with a compliance date of March 13, 2019 or accrual of a \$150.00 daily for non-compliance. Compliance can be met by cutting overgrown areas, and setting up a regular maintenance schedule.

The Magistrate closed the public hearing. Mr. Morgeson ordered that based upon the foregoing findings of fact and conclusion of law, it is hereby ordered that the respondent is in violation of the Orange City Codes as cited above. He ordered that the Respondent bring such violations into compliance by March 15, 2019. If Respondent fails to timely correct the violation on or before said date a fine of \$150.00 will accrue for each day that any such violation exists after said date. Respondent is further ordered to contact Code Enforcement to verify compliance with this order as may be necessary hereafter.

C. Case # 9-18-8238

New Case Information; Owner Information; Sanju Taneja

Loc. Address: 628 Dixson Street

RE: 8.7.11(Motor vehicle parking in front yard, 8.7.2 (access control)

Code Enforcement Officer Pilarski presented his case: Mr. Pilarski stated that the property listed above has been found in violation of Orange City Code of Ordinances: Chapter 8, Sec. 8.7.11, Motor vehicle parking in front yard, and Chapter 8, Sec. 8.7.2 E Access control. Mr. Pilarski provided a brief history of the said property.

Recommendation: Staff recommends the Magistrate find the property owners in violation of the Orange City Code of Ordinances as cited above, with a compliance date of March 12, 2019 or \$250.00 fine accrued daily for non-compliance after that date. Mr. Pilarski stated that compliance

can be met by removing the vehicles from the front yard and closing any access to the property from non-approved access points.

Carol McFarlane, City Planner, came forward and stated that the property owner could apply for a driveway use permit to create an apron that would connect the road to the right of way so the City sidewalk is not being used as an outlet.

The Magistrate closed the public hearing. Mr. Morgeson found the Respondent is in violation of the above stated ordinance. Mr. Morgeson ordered that the respondent correct the violations by taking the remedial action as set forth in the notice of violation. If Respondent fails to timely correct the violations by May 1, 2019, a fine of \$150.00 will accrue for any such violation that exists after such date. Respondent is further ordered to contact City Code Enforcement to verify compliance with this Order as may be necessary hereafter.

D. Case # 10-18-8304

New Case Owner Information: Christopher McDurfee

Loc Address: 171 Carpenter Avenue

RE: 9-8 (grass/ weeds above the 12 inch max)

Code Enforcement Officer Pilarski presented his case: Mr. Pilarski stated that the above stated property has been found in violation of Orange City Code of Ordinances, 9-8 adoption of IPMC 2012 Section 302.4 [vegetation over 12’].

Recommendation: Staff recommends the Magistrate find the property owners in violation of the Orange City Code of Ordinance cited above and issue a finding of fact that on the date of violation the property was in non-compliance.

Mr. Morgeson indicated physical evidence has not been provided that would suggest the above property is still in non-compliance. Mr. Morgeson requested a verbal explanation of the respondent’s code violations.

Officer Pilarski explained the state of the above said property as viewed.

Mr. Morgeson asked for imagery subsequent of November 01, 2018 to prove non-compliance.

Officer Pilarski stated that he failed to obtain pictures during the subsequent time. He stated evidence of non-compliance was captured visually.

Chris McDurfee 171 Carpenter Ave., property owner stated that the said property has been in compliance since October 30, 2019.

Deborah Babb-Nutcher, City Attorney, stated that Mr. Pilarski is testifying to a reoccurrence of non-compliance. Under Fla Statute 162.062 even if there is testimony that the respondent brings the property into compliance by the date set forth in the notice, if it non-compliance occurs again before the hearing, the property could still be found in violation even though no fine shall be imposed in turn the officers testimony is sufficient.

Mr. Morgeson stated that he understands and asked if a violation has occurred. Mr. Pilarski stated that it has reoccurred however, there is no photographic evidence. The Respondent stated that the violations were brought into compliance in October 2018.

The Magistrate closed the public hearing. Mr. Morgeson found the Respondent is not in violation of the above stated Ordinance. He dismissed the case and found that the property was brought into compliance.

Adjournment

There being no further cases to discuss, the hearing was adjourned at 3:00 p.m.