



**CODE COMPLIANCE SPECIAL MAGISTRATE
APPEAL FORM**

Date of Filing: _____

Date of Service: _____

Date of Issuance: _____

Official Code Compliance Order No: _____

Violation Address: _____

Name of Individual/Owner: _____

YOUR NAME & Mailing information:

Phone Number(s): _____ and/or _____

Reason for appeal:

Do not sign this document until you have read it completely. If you do not understand any portion of what you have read, please ask to see the prosecutor.

I understand that the above listed hearing date is the actual date and time of the Code Compliance hearing, and I must appear to present my case. I understand that this is my official notice of the hearing date and time, and that I will receive no other notice. I understand that if I do not appear at the assigned date and time, that I will waive all rights to any further hearing, and that my failure to appear will be deemed to be an admission of all violations, and the Special Magistrate shall impose all civil penalties and costs as allowed by ordinance.

I acknowledge I have received a copy of the Special Magistrate Rules of Procedure.

Signature: _____

Print Name: _____

Hearing Location: City Hall Main Building, 1565 First St, 1st Floor, Conference Room #112, Sarasota, FL 34236

Hearing Date: _____

Hearing Time: _____

Mailing address: City Hall/Code Compliance, 1565 1st St, 2nd Flr, Annex, Sarasota, Florida 34236

Pursuant to Code of the City of Sarasota, Florida, Section 2-308, The Special Magistrate establishes the following rules of procedure, subject to approval by the City Commission.

1. SCOPE

These rules apply to all proceedings before the Special Magistrate. These rules shall be construed to secure the just, speedy and inexpensive determination of proceedings. These rules shall be known as the Special Magistrate Rules of Procedure. These rules supplement the codes of the City of Sarasota with respect to practice and procedure before the Special Magistrate. In the event of conflict, the codes shall prevail.

2. WHEN PROCEEDINGS COMMENCE

Proceedings commence when:

- a. An appeal is filed, or*
- b. An application is made for reduction of a fine pursuant to Sarasota City Code Section 2-315(c), or*
- c. The City seeks an order for Compliance pursuant to Sarasota City Code Section 2-310(f), or*
- d. A written application is made for the exercise of the Special Magistrate's jurisdiction pursuant to 2-309.*

3. FILING OF DOCUMENTS

- a. Initial appeals, and affidavits and other papers of the Code Compliance Official for Compliance, shall be filed with the Director of Building, Zoning, and Code Compliance who shall endorse the date of filing thereon. A copy shall be given to the person filing the paper.*
- b. All orders signed by the Special Magistrate shall be filed with the Director of Building, Zoning, and Code Compliance who shall endorse the date of filing thereon.*
- c. All other papers shall be filed with the Director of Building, Zoning and Code Compliance, unless otherwise directed by the Special Magistrate.*

4. NOTICES OF APPEAL; REQUESTS FOR REHEARING

- a. *Each notice of appeal shall state every ground for the appeal, whether of law or fact, which may be amended only after good cause shown, on such terms as the Special Magistrate may prescribe.*
- b. *Each request for rehearing pursuant to Sarasota City Code Section 2-319 shall state every ground for the rehearing, whether of law or fact.*
- c. *A party waives all grounds, defenses and objections that are not stated in the papers referred to in paragraph (a) and (b) of this rule.*

5. RECORD OF PROCEEDINGS

The City Manager or his designee shall maintain a record of all proceedings before the Special Magistrate.

6. SERVICE OF PAPERS

Except as required by Sarasota City Code Section 2-316, and unless ordered otherwise by the Special Magistrate, all orders and other papers may be served either by first class mail or by delivery.

Service by mail is effective upon mailing.

7. REHEARING AND APPEALS

- a. *Application for rehearings must be filed in accordance with Sarasota City Code Section 2-319 within 10 days of the delivery or mailing of the Special Magistrate's written order, regardless of when received.*
- b. *Appeals from orders of the Special Magistrate to the Circuit Court must be filed within 30 days after the execution of the order from which it is appealed in accordance with Sarasota City Code Section 2-318.*

8. CLERICAL MISTAKES

Clerical mistakes in orders, or other parts of the record and errors therein arising from oversight or omission may be corrected by the Special Magistrate at any time on his or her own initiative or on the written request of any party and after such notice, if any, as the Special Magistrate orders.

9. **MISTAKES; INADVERTENCE; EXCUSABLE NEGLIGENCE; NEWLY DISCOVERED EVIDENCE; FRAUD.**

On written request and upon such terms as are just, the Special Magistrate may relieve a party or his legal representative from an order or proceeding for the following reasons:

- a. Mistake, inadvertence, surprise or excusable neglect;*
- b. Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial or rehearing;*
- c. Fraud (whether heretofore denominated intrinsic), misrepresentation or other misconduct of an adverse party;*
- d. The order is void;*
- e. The order has been satisfied, released or discharged or a prior order upon which it is based has been reversed or otherwise vacated or it is no longer equitable that the order should have prospective application.*

The written request shall be made within a reasonable time, and for reasons (a), (b) and (c) no more than one year after the order or proceeding was discovered or taken. A written request under this rule does not affect the finality of an order or suspend its operation.

10. **AMENDMENT**

With the approval of the City Commission, these rules may be amended from time to time.

April 6, 2006.

*Richard V. Ellis
Special Magistrate*



***INFORMATION CONCERNING PROCEDURES BEFORE THE
SPECIAL MAGISTRATE
CITY OF SARASOTA, FLORIDA***

The following information is provided to help you understand the Special Magistrate hearing process. It would be helpful if you read and understand it before you attend a hearing.

Cases come before the Special Magistrate when they are scheduled for a hearing before the Special Magistrate at the City's request or when a person appeals an Official Code Compliance Order in a timely manner.

The Special Magistrate of the City of Sarasota is not a City employee. The Special Magistrate's powers and duties are set forth in Division 5 (Sections 2-306 through 2-320) of the City Code. The Special Magistrate has adopted Rules of Procedure which have been approved by the City Commission.

It is the responsibility of the Special Magistrate to determine whether certain codes or ordinances of the City have been violated. If he finds that there is or has been a violation, he must then decide whether to allow time to correct the violation, whether to impose a civil fine and whether to assess costs.

PROOF OF VIOLATION: *If the person charged with the violation does not appeal the Official Code Compliance Order within 20 days, the violation is admitted and the City's prosecutor does not have to prove the violation.*

If the Official Code Compliance Order has been timely appealed, the City's prosecutor has the burden of proving the violation. Each contested case follows the following pattern:

-The prosecutor and the person charged with the violation may each give a short explanation of their positions.

- The prosecutor presents evidence in the form of testimony of witnesses, photographs, documents, and other exhibits. Each witness may be cross-examined by the person charged with the violation.



- When the prosecutor has presented all his evidence, the person charged with the violation may present evidence in the same way – by testifying himself and offering the testimony of witnesses, photographs, documents and other exhibits. Everyone who testifies may be cross-examined by the prosecutor. **IF YOU WISH TO PRESENT EVIDENCE, YOU MUST HAVE ALL YOUR WITNESSES AND EXHIBITS WITH YOU AT THE HEARING.**

- All witnesses are required to testify under oath or affirmation.

- After all evidence has been presented, each side has the opportunity to explain why the Special Magistrate's ruling should be in favor of that side.

If you wish to have a verbatim transcript made, it is your responsibility to make arrangements for a reporter to be present at your expense.

If a person charged with a violation does not want to contest the charge, the Special Magistrate will usually declare a recess to allow the person charged and the prosecutor to try to reach an agreement as to the amount of time necessary to correct the violation. If an agreement is reached, it will be put in writing and signed by the person charged and the prosecutor. It will then be presented to the Special Magistrate. If approved by him, it will then become an order of the Special Magistrate.

No one is required to enter into an agreement with the prosecutor. Everyone charged with a violation, who has timely appealed, has the right to require the prosecutor to prove by the greater weight of the evidence that the violation charged does or did exist.

FINES: Each Official Code Compliance Order charging a violation provides for an initial fine. If the Official Code Compliance Order is appealed within 20 days, the initial fine remains pending until the case is heard by the Special Magistrate. If the Official Code Compliance Order is not appealed within 20 days, the amount of the fine increases every day by the amount stated in the Order. The Special Magistrate has the authority to increase or decrease fines.



COSTS: When a violation has been proven or admitted, the Special Magistrate may consider assessing costs against the violator. The City Commission has enacted a schedule of costs; the amount of costs increases with each inspection.

DECISION: The Special Magistrate will either announce his decision at the hearing or reserve ruling and announce the decision at a later public session. In every case a copy of the Special Magistrate's order will be given or mailed to the person charged with the violation.

Any person charged with a violation may be represented by an attorney, but is not required to have one.

Persons who have been charged with violations who have questions concerning these procedures should telephone the prosecutor, Lawrence E. Burlison, Code Compliance Coordinator, at (941) 954-4125.