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SPECIAL MAGISTRATE OF
THE CITY OF MEXICO BEACH, FLORIDA

RULES OF PROCEDURE

I. JURISDICTION

The Special Magistrate has jurisdiction over City Codes of the City of Mexico Beach, Florida as provided in the City Code and Florida Statutes. When these Rules of Procedure conflict with any provision of the City Code, Florida Statute or other law, then the City Code, Florida Statute or other law shall prevail. The City of Mexico Beach Code Compliance Special Magistrate shall have the power to adopt rules for the conduct of hearings.

II. OFFICER

The Special Magistrate is a volunteer who holds office by appointment of the City Council.

III. CONDUCT OF HEARINGS

1. A hearing shall be held upon request of the code compliance director or at such other times as may be necessary. All hearings and proceedings shall be open to the public. Hearings on Code compliance or other violations of the City Code shall be held at a time and place noticed by the Special Magistrate.
2. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Formal discovery including depositions are not permitted and ex-parte communications with the Special Magistrate about any matter that may come before him or her are forbidden.
3. At the hearing the Special Magistrate shall advise the alleged violator of the section of the code of which he or she is accused of violating and the nature of the violation. The Special Magistrate shall first seek to determine whether or not the alleged violator admits the violation. If the alleged violator admits the violation, the Special Magistrate shall hear such testimony and evidence as he or she deems necessary to determine the

extent of the violation and appropriate fine amount if such has not been provided by City Code. If the alleged violator denies the violation, the Special Magistrate shall hear first from the City witnesses and evidence and the alleged violator shall have the right to cross-examine City witnesses. At the close of the presentation of the City's case against the alleged violator, the violator shall be permitted to present his or her evidence, testimony of other witnesses, and their own testimony in defense. The City shall have the right to cross-examine the alleged violator and his or her witnesses. The City shall have the burden of proving the violation by a preponderance of the evidence.

4. Each case before the Special Magistrate shall be presented by the City Attorney representing Code Enforcement, by the Director of Code Enforcement, City Administrator, or his or her designee. All testimony shall be under oath and may be recorded at the election of and cost to the alleged violator. The City will not provide recording equipment, a court reporter, or transcription service unless requested by the Special Magistrate.
5. At the conclusion of the hearing, the Special Magistrate shall issue findings of fact, conclusions of law and order imposing a fine based upon the evidence of record, or shall issue an order affording the proper relief consistent with the powers granted herein. If the Special Magistrate finds the person in violation, the Special Magistrate may establish a per day fine amount that may begin accruing on the date the citation was issued and shall continue accruing until the violation is corrected. A certified copy of such order may be recorded in the public records of Bay County and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property.
6. The Special Magistrate's orders have the force of law to command whatever steps are necessary to bring a violation into compliance, including fines, repair costs and administrative costs. However, a separate hearing is not required to issue an order acknowledging compliance.
7. Petitioner Exhibits, Respondent Exhibits, memos, or any additional information from the Respondent or Authorized Representative and written materials or pictures from the general public must be submitted to the Code Enforcement Department at least seven working days before the hearing to be considered at the hearing and to be made a part of the record of the hearing. It is impossible to adequately understand, evaluate and respond to evidence without adequate time for review by staff and the Special Magistrate.
8. The Special Magistrate shall generally allow wide latitude in allowing persons to speak, reserving the right to limit testimony that is not relevant to the case under review or is repetitive of points previously made.
9. During the public hearing all comments and discussions concerning the case shall be made at the podium, to the Special Magistrate, into the microphone and visible to the TV/Video audience if the City Council elects to televise these proceedings. All

questions must be directed to the Special Magistrate and shall not be directed to staff by the Respondent or others in the audience, although testimony on the staff presentation may result in the Special Magistrate asking a question of staff to clarify an issue.

10. Discourtesy and disorderly or contemptuous conduct or personal attacks shall not be tolerated. The Special Magistrate may request the individual to leave the hearing and any testimony deemed discourteous, disorderly, contemptuous or a personal attack, shall not be considered by the Special Magistrate in making a decision.

IV. IMPOSITION OF COSTS/FINES AND LIENS

11. In determining the amount of the fine, if any, the Special Magistrate shall consider the following factors: the gravity of the violation; any actions taken by the violator to correct the violation; and any previous violations committed by the same person(s) pursuant to Florida Statutes 162.09 (2)(b)-(d).
12. If, after due notice and a hearing, the Special Magistrate finds a violation to be irreparable or irreversible in nature, he may order the Respondent(s) to pay a one-time fine in addition to daily fines and a separate hearing may not be necessary for issuance of the order. The amount of the one-time fine shall be ordered by the Special Magistrate pursuant to Florida Statutes 162.09 (2) (d).
13. A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists (the subject property) and upon any other real or personal property owned by the violator.

V. APPEALS

14. An aggrieved party, including the Mexico Beach City Council, may appeal a Final Order of the Special Magistrate to the Circuit Court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within 30 days of the execution of the Order to be appealed. An appeal requires a record of the Special Magistrate hearing and for that purpose the party appealing may need to ensure that a verbatim record of the hearing is made which includes the testimony and evidence upon which the appeal is to be based.

ADOPTED by the City Of Mexico Beach Code Enforcement Special Magistrate on July 22, 2015.