



# City of Daytona Beach Shores

*"Life is Better Here"*

*"A Premier, Friendly Place to Be"*

**AGENDA**  
**CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING**  
**SEPTEMBER 18, 2025**  
**9:00 AM, Shores Community Center, 3000 Bellemead Drive**  
**Daytona Beach Shores, FL 32118**

Notice is hereby given to all interested parties that if a person should decide to appeal any decision made at the aforementioned meeting of the Code Enforcement Special Magistrate, such person will need a recording of the proceedings conducted at such meeting, and for such purpose or she may need to ensure that a verbatim record of the proceedings was made; such record to include testimony and evidence upon which any appeal shall be based. PLEASE NOTE: individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the Office of the City Clerk at City Hall of Daytona Beach Shores or by telephone at 763-5364 at least seven working days prior to the meeting.

**1. CALL TO ORDER**

- A. Opening Statements by Special Magistrate deLaroche
- B. Swearing in Witnesses

**2. OPENING REMARKS**

- A. Notification of Items Removed from Agenda by City Staff

**3. MINUTES**

- A. Code Enforcement Special Magistrate Minutes July 17, 2025

**4. ADVANCED HEARINGS (Post-Initial Hearings)**

**5. INITIAL HEARINGS**

- A. Property Owner: PIRATES COVE (VOLUSIA COUNTY) CONDOMINIUM ASSOCIATION, INC.  
Violation Address: 3501 Cardinal Blvd. in Daytona Beach Shores, Florida

Code Enforcement Case #: 25-0006  
Volusia County Tax Parcel ID #: 6302 0103 0080

- B. Property Owner: Oceans 25 Homeowners Association, Inc..  
Violation Address: 1 Oceans Circle. in Daytona Beach Shores, Florida  
Code Enforcement Case #: 25-0007  
Volusia County Tax Parcel ID #: 5327 2400 0001

**6. APPEAL OF TRESPASS WARNING**

- A. Person Warned: Joseph J.S. Waid  
Trespass Location: 2540 S. Atlantic Ave. in Daytona Beach Shores  
Case #: SH250800078  
Trespass Date: August 20, 2025

**7. CLOSING REMARKS**

- A. October's C.E.S.M. Meeting is scheduled for Thursday, October 16, 2025, at 9:00 a.m.
- B. November/December C.E.S.M. Meeting is scheduled for Thursday, December 4, 2025, at 9:00 a.m.
- C. January's C.E.S.M. Meeting is scheduled for Thursday, January 15, 2026, at 9:00 a.m.

**8. SPECIAL MAGISTRATE COMMENTS**

**9. ADJOURNMENT**

**MINUTES**  
**CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING**  
**July 17, 2025**  
**3000 Bellemead Drive Daytona Beach Shores, FL 32118**

**1. CALL TO ORDER**

A. Opening statements by Special Magistrate deLaroche  
SM deLaroche called the meeting to order at 9:00 am.

B. Swearing in Witnesses  
All witnesses were sworn in for the day's hearings.

**2. OPENING REMARKS**

A. Notification of Items Removed from Agenda by City Staff

**3. MINUTES**

A. Code Enforcement Special Magistrate Minutes June 19, 2025  
The SM approved the minutes of June 19, 2025.

**4. ADVANCED HEARINGS (Post-Initial Hearings)**

**5. INITIAL HEARINGS**

A. Property Owner: PIRATES COVE (VOLUSIA COUNTY) CONDOMINIUM ASSOCIATION, INC.  
Violation Address: 3501 Cardinal Blvd. in Daytona Beach Shores, Florida  
Code Enforcement Case #: 25-0006  
Volusia County Tax Parcel ID #: 6302 0103 0080

It was noted that the Respondent reached out to the City Attorney to request a Continuance in the case, even though it did not fall under their authority.

Staff had no objection to the continuance.

SM deLaroche issued a continuance until the August 14, 2025, hearing.

B. Property Owner: 2300 S ATLANTIC AVE LLC  
Violation Address: 2300 S. Atlantic Ave. in Daytona Beach Shores, Florida  
Code Enforcement Case #: 25-0002  
Volusia County Tax Parcel ID: 5322 0303 0170

Mr. Rondi requested that each of the documents included in the PowerPoint file, whether presented during the hearing or not, by the City for this case be accepted as evidence, most of which have been provided to the Special Magistrate and all of which have been presented to the Respondent or their rep. The Special Magistrate accepted the documents with no objection. Mr. Koby Betzalel, who is a partner in the property owner group, was in attendance. He did not have a signed Authorization to Answer filed, but staff agreed to call him as a witness so that he could answer any questions the SM may have.

It was noted that the property was registered as a vacant building with the city at one time, but it is not on the current listing. The property was the former Suntrust Bank. Mr. Rondi listed the eight violations for the record. Slides were shown of the violations and two violations are now compliant, (a & e). Staff requested Order #7 for all violations except a & e and Order #4 for violations a & e be issued.

Mr. Rondi questioned Mr. Betzalel on the time frame he needed to correct the remaining violations. His response was that all violations would be compliant within the next few weeks. He was reminded that permits would be required for most of the repairs.

The Special Magistrate issued Order #7 as provided, allowing until October 15, 2025, to correct the following violations (b,c,d,f,g,& h), including obtaining approved final inspections on all required permits or a fine of \$250 per day will be imposed. The Administrative Fee of \$149.09 is due within 30 days.

The Special Magistrate issued Order #4 as provided, stating that Violations a & e were not corrected by the time specified. The property is now in compliance with Violations a & e and any recurrent violation of the same code by the Respondent within five (5) years may be treated as a Repeat Violation.

- C. Property Owner: 2300 S ATLANTIC AVE LLC  
Violation Address: 2300 S. Atlantic Ave. in Daytona Beach Shores, Florida  
Code Enforcement Case #: 25-0005  
Volusia County Tax Parcel ID: 5322 0303 0170

Mr. Rondi requested that each of the documents included in the PowerPoint file, whether presented during the hearing or not, by the City for this case be accepted as evidence, most of which have been provided to the Special Magistrate and all of which have been presented to the Respondent or their rep. The Special Magistrate accepted the documents with no objection. The property received a Stop Work Order in June 2024. To date, no permits have been applied for to continue the work. He questioned Chief Building Official Steve Edmunds about the accuracy of the documents and slides shown and events presented. He replied they were true and accurate. Mr. Edmunds clarified the Stop Work Order. The Public Safety Department had detected someone on the property at 1:00 am. He and Lt. Medders inspected the property the next day. They determined that a family was living there and had been doing remodeling work on the interior to create a gift shop. This created many safety issues as the walls were not framed properly and some covered existing doors. Mr. Betzalel explained that a lease had been signed, and it was either the tenant or his subcontractors who worked and stayed there. They had no knowledge nor had approved of people living on site. Mr. Rondi requested that Order #7 be issued.

Mr. Betzalel explained that they had obtained a permit last year to add a handicapped -accessible bathroom. Once that was complete, they signed a lease with their tenant. He brought the contractors in and started the unpermitted work. The plan is to remove the work done by the tenant and

determine if they will keep the tenant.

The Special Magistrate issued Order #7 as provided, allowing until October 15, 2025, to correct the violations, including obtaining approved final inspections on all required permits or a fine of \$250 per day will be imposed. The Administrative Fee of \$149.09 is due within 30 days.

**6. CLOSING REMARKS**

- A. The next Code Enforcement Special Magistrate Meeting is scheduled for Thursday, August 14, 2025, at 9:00 a.m.
  
- B. September's C.E.S.M. Meeting is scheduled for Thursday, September 18, 2025, at 9:00 a.m.
  
- C. October's C.E.S.M. Meeting is scheduled for Thursday, October 16, 2025, at 9:00 a.m.

**7. SPECIAL MAGISTRATE COMMENTS**

**8. ADJOURNMENT**

The meeting ended at 9:30 am.

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**Special Magistrate, Steven deLaroche**

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**Recording Secretary, Cheri Schwab**



**CODE ENFORCEMENT CASE SUMMARY  
SEPTEMBER 18, 2025 AGENDA**

**TO:** The Code Enforcement Special Magistrate

**FROM:** Bryan Rondi, Code Enforcement Officer

**PREPARED BY:** Bryan Rondi, Code Enforcement Officer

**SUBJECT:** Property Owner: PIRATES COVE (VOLUSIA COUNTY) CONDOMINIUM ASSOCIATION, INC.

Violation Address: 3501 Cardinal Blvd. in Daytona Beach Shores, Florida

Code Enforcement Case #: 25-0006

Volusia County Tax Parcel ID #: 6302 0103 0080

**TYPE OF HEARING:**

Initial Hearing

**CODE(S) CITED:**

*The Code of Ordinances of the City of Daytona Beach Shores, Appendix G - Land Development Code, Chapter 14, Section 14-52.9.(B)(17) and Section 14-52.9.(D)(11).*

**VIOLATION(S) FOUND:**

- a) Concrete pieces and debris on the property
- b) Asphalt/paving conducted on site without permits
- c) Portable office module stored on vacant lot

**REQUESTED ORDER(S):**

#7. Initial Hearing, In Violation w/ fees

**POSSIBLE ORDERS:**

- #1. Continuance
- #2. Dismissal
- #4. Initial Hearing, No Fine Standing Order, currently compliant, w/out fees
- #5. Initial Hearing, No Fine Standing Order, currently compliant, w/ fees
- #6. Initial Hearing, No Violations found
- #7. Initial Hearing, In Violation w/ fees

**SUPPLEMENTARY INFORMATION:**

Please see supplementary document packet.

**ATTACHMENT:** None



**CODE ENFORCEMENT CASE SUMMARY  
SEPTEMBER 18, 2025 AGENDA**

**TO:** The Code Enforcement Special Magistrate  
**FROM:** Bryan Rondi, Code Enforcement Officer  
**PREPARED BY:** Bryan Rondi, Code Enforcement Officer  
**SUBJECT:** Property Owner: Oceans 25 Homeowners Association, Inc..  
Violation Address: 1 Oceans Circle. in Daytona Beach Shores, Florida  
Code Enforcement Case #: 25-0007  
Volusia County Tax Parcel ID #: 5327 2400 0001

**TYPE OF HEARING:**

Initial Hearing

**CODE(S) CITED:**

*The Code of Ordinances of the City of Daytona Beach Shores, Appendix G - Land Development Code, Chapter 14, Section 14-52.9.(D)(7).*

**VIOLATION(S) FOUND:**

a) Common area wall along S. Atlantic Ave in disrepair, gap in the wall.

**REQUESTED ORDER(S):**

#7. Initial Hearing, In Violation w/ fees

**POSSIBLE ORDERS:**

- #1. Continuance
- #2. Dismissal
- #4. Initial Hearing, No Fine Standing Order, currently compliant, w/out fees
- #5. Initial Hearing, No Fine Standing Order, currently compliant, w/ fees
- #6. Initial Hearing, No Violations found
- #7. Initial Hearing, In Violation w/ fees

**SUPPLEMENTARY INFORMATION:**

Please see supplementary document packet.

**ATTACHMENT:** None



**City of Daytona Beach Shores**  
Community Services Department  
2990 S. Atlantic Avenue  
Daytona Beach Shores, FL 32118  
Telephone (386) 763-5376

August 29, 2025

Joseph Waid  
1210 N Tryon St.  
Charlotte, NC 28206-3256

**RE: APPEAL OF TRESPASS WARNING ISSUED TO JOSEPH WAID  
CASE #SH250800078 - NOTICE OF HEARING**

Dear Mr. Waid:

The City of Daytona Beach Shores is in receipt of your request for an appeal of the trespass warning issued to you (attached), which was submitted on August 21, 2025. Pursuant to Sec. 16-10 of the *Daytona Beach Shores Code of Ordinances* (attached), please be advised that the appeal hearing has been scheduled to be heard by the Daytona Beach Shores Special Magistrate on September 18, 2025, at 9:00am in the City Commission Chambers, which is located in the Community Center at 3000 Bellemead Drive, Daytona Beach Shores. For advice on how to proceed, please consult with your legal counsel.

Sincerely,

Stewart Cruz, AICP  
Community Services Director

Attachment: J. Waid Request For Appeal (8-21-25)  
Sec. 16-10. – *Trespassing prohibited*, Daytona Beach Shores Code of Ordinances

cc: Cheri Schwab, City Clerk  
Michael Fowler, Public Safety Director



Daytona Beach Shores Department of Public Safety  
Office of Director Michael Fowler  
3050 S. Atlantic Ave.  
Daytona Beach Shores, FL 32118  
Office 386-763-5333

## MEMORANDUM

To: City of Daytona Beach Shores Code Enforcement  
From: Brian Brueggemann – Evidence Tech *BB/SH402*  
Date: 08-21-2025  
Re: Code Enforcement Hearing Request for J. Waid  
File: PS25-08-01

Code Enforcement Officer B. Rondi,

Yesterday afternoon, 08-20-2025 at approximately 1620 hours this subject, Joseph Waid came into the PD to file a grievance against the City for his perceived unlawful warning and trespass from City parks.

I explained to Mr. Waid per the paperwork he was provided he needed to file his grievance with City Hall by mailing the grievance to them. I provided Mr. Waid some paper and a pen and explained our office will be closed in a few minutes. This morning, I came in and found his handwritten grievance in our records intake box.

Mr. Waid left his contact information and home address on the form.

Our case number is SH250800078.

Attachments: See enclosed items

- Joseph Waid

SH2506 00078

1210 N Tryon St, Charlotte, NC 28206-3256

386-306-0498

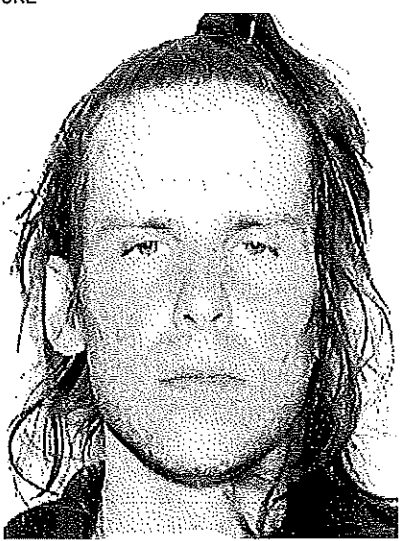
I would like to make an appeal, because I did not see any signs at the park that say I cannot lay on a bench or take a nap. I was not really asleep even, but I was laying down on a bench. I had no idea that it is a rule or ordinance to not rest on or lay down at a park.

I noticed City Ordinance 86-32 addresses "sleeping" at parks between 11pm - 6am. I got spoken to by the cops around 2:30pm, I don't believe ~~this~~ this time pertains to those hours.

I explained ~~to~~ to the officers that I understand what they are saying about the rules now, but that I understand if I was to From That Moment go and disregard what they told me and do the same thing Again, THEN I would agree with them about permanently banning me from all parks in the city & facing consequences.

I was being understanding to them, I acknowledged what they had to say & told them I respect that, but I pointed out how there should be a fine line, because I truly do not believe At All that I should be banned from All parks in a city for life for simply taking a small nap by laying down on a bench. That does not sound Just to me at all. Yet I was also told by one of the officers how I was "being weird", he also said something about "being key" and made a lot of unnecessary, extra comments when talking to me which is completely uncalled for. Yet I still showed them that I would agree with them if it was to break any rules after talking with them as that would be disrespectful, but I wasn't <sup>I was being understanding</sup>

# TRESPASS WARNING COMPLAINT COPY

<b>AGENCY INFORMATION</b>						
AGENCY NAME <b>DAYTONA BEACH SHORES DEPT. OF PUBLIC SAFETY</b>			AGENCY ADDRESS <b>3060 SOUTH ATLANTIC AVENUE</b>		AGENCY CITY <b>DAYTONA BEACH SHORES</b>	
AGENCY COUNTY <b>VOLUSIA</b>	AGENCY STATE <b>FL</b>	AGENCY ZIP CODE <b>32118</b>	AGENCY PHONE <b>(386) 763-6321</b>	OTHER AGENCY DETAILS		
<b>PERSON BEING WARNED</b>						
FIRST NAME <b>JOSEPH</b>		MIDDLE NAME <b>JAMES SHANN</b>	LAST NAME <b>WAID</b>		SUFFIX 	
DOB <b>01/20/1995</b>					PICTURE 	
RACE <b>W</b>	SEX <b>M</b>	HEIGHT <b>6' 11"</b>	WEIGHT 	BUILD <b>EMACIATED</b>		REASON TRESPASSED <b>LOITERING, OTHER(DESCRIBE IN NARRATIVE)</b>
EYES 	HAIR 	STYLE 	FACIAL 			
The above listed person, who was traveling by:						
MODE OF TRAVEL <b>FOOT</b>		VEHICLE MAKE 	VEHICLE MODEL 	COMMENTS 		
VEH. YR. 	VEHICLE COLOR 	VEHICLE TAG # 	STATE 			
was given warning on <b>08/20/2025</b> at <b>03:16 PM</b> , to leave, stay off and/or not return to the below property: (Includes curtilage, parking lots, sidewalks, etc. controlled by said property)						
<b>TRESPASS LOCATION</b>						
NAME OF BUSINESS 		CURRENT ADDRESS (Number and Street) <b>2640 S. ATLANTIC</b>		CITY <b>DAYTONA BEACH SHOR</b>	STATE <b>FL</b>	
				ZIP CODE <b>32118</b>		

by: CITY OF DBS CITY OF DBS, CITY OF DBS who owns/controls said property or who has been authorized by owner/management. This warning was issued in reference to case # SH250800078, in the presence of duly sworn law enforcement officer GLEN INGERMAN, issued badge # SH532. The above named person was advised that if he/she returned to said property that he/she would be in violation of applicable provisions of Chapter 810, Florida State Statutes, prohibiting trespass, and be subject to arrest.

In addition, the complainant has been advised the procedure for lifting the warning and how long this warning will remain on file. If the individual named above is being trespassed from public or City-owned property, the initiating officer shall provide them with the Appeal of Trespass Warning on Public or City Property Addendum. **(FOREVER)**

<p><b>810.08 Trespass in structure or conveyance.—</b>                  (1) Whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance, or, having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so, commits the offense of trespass in a structure or conveyance.                  (2)(a) Except as otherwise provided in this subsection, trespass in a structure or conveyance is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.                  (b) If there is a human being in the structure or conveyance at the time the offender trespassed, attempted to trespass, or was in the structure or conveyance, the trespass in a structure or conveyance is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.                  (c) If the offender is armed with a firearm or other dangerous weapon, or arms himself or herself with such while in the structure or conveyance, the trespass in a structure or conveyance is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.</p>	<p><b>810.09 Trespass on property other than structure or conveyance.—</b>                  (1)(a) A person who, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:                  1. As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation as described in s. 810.011; or                  2. If the property is the unenclosed curtilage of a dwelling and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass, commits the offense of trespass on property other than a structure or conveyance.                  (2)(a) Except as provided in this subsection, trespass on property other than a structure or conveyance is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.                  (b) If the offender defies an order to leave, personally communicated to the offender by the owner of the premises or by an authorized person, or if the offender willfully opens any door, fence, or gate or does any act that exposes animals, crops, or other property to waste, destruction, or freedom; unlawfully dumps litter on property; or trespasses on property other than a structure or conveyance, the offender commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.</p>
FOR COMPLETE DESCRIPTION OF THIS STATUTE OR ANY OTHER FLORIDA STATE STATUTE, PLEASE VISIT <a href="http://WWW.LEG.STATE.FL.US">WWW.LEG.STATE.FL.US</a>	

**Detailed History for Police Event #P252321743 As of 8/21/2025 07:30:54**

Output for: SH402

Priority:2 Type:SPER - Susp Person

Location:2540 S ATLANTIC AV, DBS btwn SEA SPRAY ST and BEACHCOMBER ST

Map:30 R01 U28

Created:	08/20/2025 15:03:09	CC10	7326
Entered:	08/20/2025 15:03:09	CC10	7326
Dispatch:	08/20/2025 15:03:09	CC10	7326
Enroute:	08/20/2025 15:03:09	CC10	7326
Onscene:	08/20/2025 15:03:09	CC10	7326
Closed:	08/20/2025 15:32:09	SH023	SH513

ICUnit: PrimeUnit:4A16 Dispo:NR Type:SPER - Susp Person

Agency:SH-Darea:SH Beat:SH01 Block:8504

Case #:SH250800078  Detail

15:03:09edt CREATE Location:2540 S ATLANTIC AV, DBS Type:SPER Darea:SH RD:8504 TypeDesc:Susp Person LocDesc:btwn SEA SPRAY ST and BEACHCOMBER ST Priority:2 Response:1PAT Agency:SH Map:30 R01 U28 LocType:S

15:03:09 ENTRY Comment:ONE MALE

15:03:09 DISPOS 4A16 Location:2540 S ATLANTIC AV, DBS Operator:SH513 SH532 OperNames:SMITH,JACOB; INGERMAN,GLEN

15:03:09 -PRIU 4A16

15:03:09 -PREMIS Comment:PPR

15:06:33 OK 4A16

15:07:59 LOGM 4A16 Message:012508201907028700 MessageType:Text Received:08/20/2025 15:06:59 Comment:WAID - NEG/ID ONLY/NC

15:20:01 \*CASE 4A16 Case#:SH250800078

15:32:09 \*CLEAR 4A16 Dispo:NR Comment:27A FOR JOSEPH WAID FOR ALL CITY OF DBS PARKS.

15:32:09 -CLEAR

15:32:09 \*CLOSE

## Sec. 16-10. - Trespassing prohibited.

- (a) City sworn law enforcement officers, or city department heads, or their designees, having control over a city facility, building, or outdoor area, including municipal parks and the community center interior and exterior areas, are authorized to issue a trespass warning to any individual who violates any city ordinance, rule, regulation, or term of use, including the Community Center Facilities Use Operations Manual, or any state law or lawful directive of a city employee or official which violation was committed while on or within a city facility, building, or outdoor area, including municipal parks and the community center interior and exterior areas, (but excluding city rights-of-way), for the specific property where the violation occurred.
- (b) For the purpose of this section, right-of-way shall include those sidewalks which are closest to a paved street, provided that the street side edge of the sidewalk is within 20 feet of the curblines closest to the property.
- (c) Trespass warnings shall be issued as follows:
  - (1) For the first violation, the individual may be issued a trespass warning for a period not to exceed one year.
  - (2) For a second or subsequent violation, the individual may be issued a trespass warning for a period not to exceed two years.
- (d) A copy of the trespass warning shall be provided by mail or hand delivery to the individual and to the city employee or official having control over the city park, facility, building, or outdoor area. The written trespass warning shall advise of the right to appeal and the location and telephone number for filing the appeal.
- (e) Any person found on or within any city facility, building, or outdoor area, including municipal parks and the community center interior and exterior areas, in violation of a trespass warning may be arrested for trespassing, except as otherwise provided in this section.
- (f) The city employee or official having control over a city facility, building, or outdoor area, including municipal parks and the community center interior and exterior areas, may authorize an individual who has received a trespass warning to enter the property or premises to exercise his or her First Amendment rights if there is no other reasonable alternative location to exercise such rights or to conduct necessary municipal business. Such authorization must be in writing, shall specify the duration of the authorization and any conditions thereof, and shall not be unreasonably denied.
- (g) This section shall not be construed to limit the authority of any city employee or official to issue a trespass warning to any person for any lawful reason for any city property, including rights-of-way when closed to general vehicular or pedestrian use, when necessary or appropriate in the sole discretion of the city employee or official.
- (h) Appeal of trespass warning. A person to whom a trespass warning is issued under this section shall have the right to appeal as follows:
  - (1) An appeal of the trespass warning must be filed, in writing, within ten days of the issuance of the warning, and shall include the appellant's name, address, and phone number, if any. No fee shall be charged for filing the appeal.
  - (2) The appeal shall be filed at the code enforcement department on the second floor of city hall.
  - (3) Appeals shall be heard by the special magistrate.
  - (4) Within five days following the filing of the appeal, a hearing date shall be established for the soonest regular hearing date that the hearing can reasonably be scheduled. Notice of the hearing shall be provided to the appellant in one of two ways:
    - a. By leaving or posting the notice at the information desk of the Daytona Beach Shores Public Safety Department, or
    - b. By telephone if a telephone number has been provided. If appellant can not be reached by telephone, then notice at the information desk shall be sufficient.
  - (5) The special magistrate shall hold the hearing as soon as possible within the regularly established parameters for hearings. In no event shall the hearing be held more than 40 days from the date of the filing of the appeal.
  - (6) Copies of documents in the city's control which are intended to be used at the hearing, and which directly relate to the issuance of the trespass warning to the appellant, shall be made available upon request to the appellant at no cost.

- (7) The appellant and the city shall have the right to attend with an attorney, the right to testify, to call witnesses, to cross-examine witnesses, and to present evidence. The appellant shall have the right to bring a court reporter, at their own expense.
  - (8) The special magistrate shall consider the testimony, reports, or other documentary evidence, and any other evidence presented at the hearing. Formal rules of evidence shall not apply, but fundamental due process shall govern the proceedings.
  - (9) The city shall bear the burden of proof by clear and convincing evidence that the trespass warning was properly issued pursuant to the criteria of this section.
  - (10) If the appellant fails to attend a scheduled hearing, the special magistrate shall review the evidence presented and determine if the trespass warning was properly issued pursuant to the criteria of this section.
  - (11) Within five business days of the hearing, the special magistrate shall issue a written decision on the appeal which shall be mailed to the appellant at the address provided. If no address is provided, a copy of the decision shall be posted at the information desk of the Daytona Beach Shores Public Safety Department.
  - (12) The decision of the special magistrate shall be final and the appellant shall be deemed to have exhausted all administrative remedies. Such decision may be subject to judicial review in the manner provided by law by the appellant. The city may not appeal any decision of the special magistrate.
  - (13) The trespass warning shall remain in effect during the appeal and review process, including any judicial review.
- (i) *Prohibition.* It is prohibited and unlawful for any person to fail to comply with the requirements of this section.
  - (j) *Enforcement.* The city may enforce the provisions of this section by any lawful means available to the city under the controlling provisions of state law, through the through the procedures provided within this section, and through the issuance of fines or administrative citations under [sections 1-8](#) and [2-29](#).
  - (k) *Penalties.* As prescribed in [sections 1-8](#) and 2-29 of this Code, and any applicable state statute.

([Ord. No. 2020-14](#), § 1, 10-27-20)