

SPECIAL MAGISTRATE RULES OF PROCEDURE

June 26, 2024



RULES OF PROCEDURE SUMMARY



Part 1 – General Provisions – minor revisions including adding several new definitions.



Part 2 – Pre-Hearing Matters – minor revisions adding rules related to hearing transcripts and providing for telephonic hearings.



Part 3 – Hearings – minor revisions expanding/clarifying conduct of hearings.



Part 4 – Post Hearing Matters – minor revisions clarifying extensions of compliance date.



Parts 5 – 6 – Major Amendments.



Part 7 – Floodplain Management – no changes.

PART 5 – NON-COMPLIANCE; FINES; LIENS

MINOR AMENDMENTS WITH CLARIFYING LANGUAGE



Section 5.1 – Assessment of Fines on Non-compliance provides the process for:

The determination that a property is not in compliance.

The Special Magistrate to issue an Order Assessing Fine.

Notice to the property owner of the fine, the amount, and the right to be heard.



Section 5.2 – Contesting Fines; Massey Hearing provides the process for:

A hearing in which the property owner may contest the findings of non-compliance and/or the amount of the fine.

The way the Special Magistrates determines the amount of the fine.



Section 5.3 – Imposing Lien provides for:

Included language is a notice that if not resolved the City may foreclose.

PART 5 – LIEN REDUCTIONS

- Section 5.4 – Lien Reduction Requests – amendments include:
 - Conforming with Code Section 1-80 (just adopted), liens “may qualify” for a reduction but there is no guarantee a reduction will be granted.
 - The property receiving the benefit of the lien reduction must be in compliance before a reduction request will be accepted.
 - Partial releases (removal of a property from a spreading lien) requires a settlement amount of 4% of the lien or \$2,500, whichever is greater.
 - Reduction criteria to be considered by the Special Magistrate have been updated to include:
 - Is the requesting party the one responsible for the lien?
 - Are there extenuating circumstances to be considered?
 - Is there current code enforcement action on any property under common ownership?
 - The type and number of lien reductions granted prior?
 - Is the reduction in the best interest of the City?



PART 6 - FORECLOSURE

- Minor Amendments including:
 - Updating code references to newly adopted Chapter 1 revisions.
 - Requiring a check to see if property is scheduled for tax deed sale prior to initiating a foreclosure action.
- Continues to require the City's Intent to Foreclose notice to be sent via a process server, but provides additional service requirements if the process server is unable to provide service including:
 - Send the notice through both certified mail and regular mail; AND
 - Posting a copy of the notice at the property.

CODE ENFORCEMENT PROCESS

Notice of Violation (NOV) –

- Sent to all parties including the property owner, tenant(s), registered agent, heirs, attorneys, etc.

Notice of Hearing (NOH) –

- Sent by certified mail to all parties.
- If the green card is not returned/returned unsigned, a copy of the NOH is sent regular mail (all parties).
- If the green card for the owner is not returned/returned unsigned, a copy of the NOH is posted at the property.

Order Determining Violation (ODV)

- Sent to the owner and any additional party that was recognized at the hearing.

Massey Notice (Notice of Fine)

- Sent to the owner and any additional party that was recognized at the hearing.

Notice of Lien

- Sent to the owner and any additional party that was recognized at the hearing.

NUISANCE ABATEMENT PROCESS

Notice of Hearing (NOH) & Notice of Violation (NOV) –

- Sent by certified mail to all parties including the property owner, tenant(s), registered agent, heirs, attorneys, etc.
- A copy of the NOH & NOV are posted at the property.
- If the green card is not returned/returned unsigned, a copy of the NOH & NOV is sent regular mail.

Order Determining Violation (ODV)

- Sent to the owner and any additional party that was recognized at the hearing.

Massey Notice (Notice of Fine)

- Sent to the owner and any additional party that was recognized at the hearing.

Notice of Lien

- Sent to the owner and any additional party that was recognized at the hearing.



Questions?