BLIGHT WORKSHOP

AUGUST 25, 2020

20200825 BLIGHT WORK-SHOP

What does the City Council perceive as "Blight"?

What are you trying to accomplish?

Examples of Blight/Nuisance:

- Deteriorated or Abandoned Buildings
- Inadequate/missing public/community services
- Vacant land with debris/trash/litter/junk
- Lack of Sanitation
- Adverse Environmental Nuisances (noise/heavy traffic/odors)
- Adverse Impacts relating to quality of life, lighting/glare/aesthetics

What other conditions are "Blight"?

How do you rank these conditions?

Pro-Active versus Reactive Code Enforcement (Clay)

Blight Remedies/the Ability to enforce Regulations (Clay

Blight

These conditions listed may be violations of the Property Maintenance Ordinance. All these conditions must be clearly visible from a public place such as the street or sidewalk or from a neighboring property.

Blight means premises containing any one of the following conditions:

(1) It has been determined by the town building official, director of health, fire marshal, town engineer, zoning enforcement officer, or other appropriate official, as designated by the town manager, acting within the scope of their authority, that a condition exists that poses a serious or immediate threat to the health, safety or general welfare of the community.

(2) Missing or boarded doors or windows for a period of more than 90 days. Should boarded windows or doors be necessary for any additional period up to 180 days, a valid building permit is required.

(3) Collapsing or missing exterior walls, roofs, floors or foundations.

(4) Collapsing, substantially damaged or dilapidated exterior features which may include, but are not necessarily limited to, stairs, ramps, porches, handrails, railings, fences, hatchways, chimneys, metal smoke stacks, attic vents or floors.

(5) Exterior walls which contain holes, fractures, breaks, loose or rotting materials.

(6) Severely damaged, cracked, broken or missing siding, stucco, brick, stone or clapboards.

(7) Fifty percent of any one exterior wall containing mold.

(8) Fifty percent of any one exterior elevation or exterior wall with flaking, peeling, chipped or blistered paint on any one exterior elevation which is visible to the public; or having exterior paint which is chipped, blistered, flaking or peeling on more than one wall.

(9) Unrepaired fire, wind, or water damage.

(10) Rodent harborage and or infestation.

(11) Persistent garbage, refuse or trash.

(12) Parking lots in a state of disrepair or abandonment, evidenced by cracks, potholes, fractured asphalt and cement, overgrowth of vegetation within the surfaces, pavement or macadam, or medians and buffers.

(13) Shrubs, hedges, grass, and plants that have been left in an unkempt manner by covering or blocking 50 percent or more of the structure, its windows, doors or means of access;

(14) Dead, decayed, or damaged trees.

(15) Grass, weeds or similar growths reaching a height greater than 12 inches. Nor shall the owner of any undeveloped premises allow any grass, weeds, or similar growths thereon greater than 12 inches in height to remain within 25 feet of a street line or any adjoining property line of any premises with a building or dwelling location thereon whether said building or dwelling is occupied or not. Maintained gardens, including flowers and vegetables are excluded from this subsection.

(16) Graffiti or vandalism.

(17) The storage of an inoperable or unsightly motor vehicle.

(18) The storage of junk occupying a total cumulative area of 100 square feet.

(19) A tarp on a roof in excess of 90 days; any deteriorated or unsecured tarp.

(20) Unsanitary swimming pools which harbor insects, reptiles, amphibians, or other conditions posing a nuisance to neighboring properties.

A blight complaint may be reported by using the SeeClickFix feature on the town's website or by contacting a Property Maintenance Inspector at 860-253-6258 or 860-253-6504. A Property Maintenance Inspector will check all reported conditions and determine if there is a violation of the Property Maintenance Ordinance. If so the property owner will be issued a Violation Notice.

Comment: Advanced waste treatment, known as tertiary treatment, is the "polishing stage" of wastewater treatment and produces a high-quality effluent.

ADVERSE DRAINAGE CONDITION

The absence of drainage facilities, drainage easements, or drainage rights-of-way leading to, along, or through a street, road, drainage structure, or property, either within or exterior to a proposed development of such location, size, design, construction, or condition that would provide adequately for storm drainage, or that would prevent flooding, erosion, silting, or other damaging effect to a street, road, drainage structure, or property, or that would remove the threat of such damage.

ADVERSE IMPACT

A condition that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or unhealthy conditions on a site proposed for development or on off-tract property or facilities.

Comment: Adverse impacts usually relate to circulation, drainage, erosion, potable water, sewage collection, and treatment. It may also relate to lighting and glare, aesthetics, quality of life, and impact on environment.

ADVERSE POSSESSION

The right of an occupant to acquire title to a property after having continuously and openly used and maintained a property over a statutory period of time without protest from the owner of record.

ADVERTISING DISPLAY

See SIGN.

AERATION

The process of being supplied or impregnated with air.

Comment Aeration is used in wastewater treatment to foster biological and chemical purification.

AERIAL MAP

A map created from a process involving the taking of photographs from the air with predetermined reference points marked on the ground.

AEROBIC

Life or processes that can occur only in the presence of oxygen.

AEROSOL

A suspension of liquid or solid particles in the air.

AESTHETIC

The perception of artistic elements or elements in the natural or created environment that are pleasing to the eye.

from The New Illustrated Book of Development Definition 1993

BIOMONITORING

The use of living organisms to test the suitability of effluent for discharge into receiving waters and to test the quality of such waters downstream from a discharge.

BIOSPHERE

That part of the earth and its atmosphere capable of supporting life.

BIOSTABILIZER

A machine used to convert solid waste into compost by grinding and aeration.

BIOTA

All the species of plants and animals occurring within a certain area.

BLENDING

The joining of two or more materials that combine chemically to form a new product differing chemically from either of the original materials.

Comment: The process of blending usually involves gases, liquids, or chemicals but may involve solids that are physically combined in a manner in which the individual components lose their original identities. Blending normally is classified as a manufacturing activity but is also typically part of small retail and service establishments, such as bakeries and restaurants.

BLIGHTED AREA

An area characterized by deteriorating and/or abandoned buildings; inadequate or missing public or community services; and vacant land with debris, litter, lack of sanitation facilities, trash and junk accumulation, and impacted by adverse environmental nuisances, such as noise, heavy traffic, and odors.

Comment: An alternate definition could refer to appropriate state enabling legislation. A blighted area has specific legal terminology in the application of federal and state funding. Under the Housing Act of 1949, as amended, and various state acts, an area that meets a blight definition can be acquired by public agencies by eminent domain and resold to private developers for the purpose of redevelopment and renewal. Blighted areas also may be eligible for certain favorable tax treatment and funding. An alternate and less derogatory term, "area in need of redevelopment," is used in some municipalities.

BLOCK

A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, water-

from The New Illustrated Book of Development Definitions 1993

Select Year: 2019 Go

The 2019 Florida Statutes

Title XI COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	Chapter 163 INTERGOVERNMENTAL PROGRAMS	View Entire Chapter

163.350 Workable program.—Any county or municipality for the purposes of this part may formulate for the county or municipality a workable program for utilizing appropriate private and public resources to eliminate and prevent the development or spread of slums and urban blight, to encourage needed community rehabilitation, to provide for the redevelopment of slum and blighted areas, to provide housing affordable to residents of low or moderate income, including the elderly, or to undertake such of the aforesaid activities or other feasible county or municipal activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include provision for the prevention of the spread of blight into areas of the county or municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation or conservation of slum and blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements, encouraging voluntary rehabilitation, and compelling the repair and rehabilitation of deteriorated or deteriorating structures; the development of affordable housing; the implementation of community policing innovations; and the clearance and redevelopment of slum and blighted areas or portions thereof.

History.—s. 5, ch. 69-305; s. 3, ch. 84-356; s. 3, ch. 94-236; s. 3, ch. 98-314.

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Select Year: 2019 Go

The 2019 Florida Statutes

Title XI COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	Chapter 163 INTERGOVERNMENTAL PROGRAMS	View Entire Chapter

163.370 Powers; counties and municipalities; community redevelopment agencies.—

(1) Counties and municipalities may not exercise the power of eminent domain for the purpose of preventing or eliminating a slum area or blighted area as defined in this part; however, counties and municipalities may acquire property by eminent domain within a community redevelopment area, subject to the limitations set forth in ss. 73.013 and 73.014 or other general law.

(2) Every county and municipality shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers in addition to others herein granted:

(a) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this part.

(b) To disseminate slum clearance and community redevelopment information.

(c) To undertake and carry out community redevelopment and related activities within the community redevelopment area, which may include:

1. Acquisition of property within a slum area or a blighted area by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition.

2. Demolition and removal of buildings and improvements.

3. Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, public areas of major hotels that are constructed in support of convention centers, including meeting rooms, banquet facilities, parking garages, lobbies, and passageways, and other improvements necessary for carrying out in the community redevelopment area the community redevelopment objectives of this part in accordance with the community redevelopment plan.

4. Disposition of any property acquired in the community redevelopment area at its fair value as provided in s. 163.380 for uses in accordance with the community redevelopment plan.

5. Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the community redevelopment plan.

6. Acquisition by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition of real property in the community redevelopment area which, under the community redevelopment plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitation of the structures for guidance purposes, and resale of the property.

7. Acquisition by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition of any other real property in the community redevelopment area when necessary to eliminate unhealthful, unsanitary, or unsafe conditions; lessen density; eliminate obsolete or other uses detrimental to the public welfare; or otherwise to remove or prevent the spread of blight or deterioration or to provide land for needed public facilities.

8. Acquisition, without regard to any requirement that the area be a slum or blighted area, of air rights in an area consisting principally of land in highways, railway or subway tracks, bridge or tunnel entrances, or other similar facilities which have a blighting influence on the surrounding area and over which air rights sites are to be

developed for the elimination of such blighting influences and for the provision of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income.

9. Acquisition by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition of property in unincorporated enclaves surrounded by the boundaries of a community redevelopment area when it is determined necessary by the agency to accomplish the community redevelopment plan.

10. Construction of foundations and platforms necessary for the provision of air rights sites of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income.

(d) To provide, or to arrange or contract for, the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with a community redevelopment; to install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions that it deems reasonable and appropriate which are attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of a community redevelopment and related activities, and to include in any contract let in connection with such redevelopment and related activities provisions to fulfill such of the conditions as it deems reasonable and appropriate.

(e) Within the community redevelopment area:

1. To enter into any building or property in any community redevelopment area in order to make inspections, surveys, appraisals, soundings, or test borings and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

2. To acquire by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition any personal or real property, together with any improvements thereon.

3. To hold, improve, clear, or prepare for redevelopment any such property.

4. To mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real property.

5. To insure or provide for the insurance of any real or personal property or operations of the county or municipality against any risks or hazards, including the power to pay premiums on any such insurance.

6. To enter into any contracts necessary to effectuate the purposes of this part.

7. To solicit requests for proposals for redevelopment of parcels of real property contemplated by a community redevelopment plan to be acquired for redevelopment purposes by a community redevelopment agency and, as a result of such requests for proposals, to advertise for the disposition of such real property to private persons pursuant to s. 163.380 prior to acquisition of such real property by the community redevelopment agency.

(f) To invest any community redevelopment funds held in reserves or sinking funds or any such funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds subject to their control and to redeem such bonds as have been issued pursuant to s. 163.385 at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled.

(g) To borrow money and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the Federal Government or the state, county, or other public body or from any sources, public or private, for the purposes of this part and to give such security as may be required and to enter into and carry out contracts or agreements in connection therewith; and to include in any contract for financial assistance with the Federal Government for or with respect to community redevelopment and related activities such conditions imposed pursuant to federal laws as the county or municipality deems reasonable and appropriate which are not inconsistent with the purposes of this part.

(h) To make or have made all surveys and plans necessary to the carrying out of the purposes of this part; to contract with any person, public or private, in making and carrying out such plans; and to adopt or approve, modify, and amend such plans, which plans may include, but are not limited to:

1. Plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements.

2. Plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements.

3. Appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of community redevelopment and related activities.

(i) To develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight and developing and demonstrating new or improved means of providing housing for families and persons of low income.

(j) To apply for, accept, and utilize grants of funds from the Federal Government for such purposes.

(k) To prepare plans for and assist in the relocation of persons (including individuals, families, business concerns, nonprofit organizations, and others) displaced from a community redevelopment area and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the Federal Government.

(l) To appropriate such funds and make such expenditures as are necessary to carry out the purposes of this part; to zone or rezone any part of the county or municipality or make exceptions from building regulations; and to enter into agreements with a housing authority, which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary, respecting action to be taken by such county or municipality pursuant to any of the powers granted by this part.

(m) To close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places and to plan or replan any part of the county or municipality.

(n) To organize, coordinate, and direct the administration of the provisions of this part, as they may apply to such county or municipality, in order that the objective of remedying slum and blighted areas and preventing the causes thereof within such county or municipality may be most effectively promoted and achieved and to establish such new office or offices of the county or municipality or to reorganize existing offices in order to carry out such purpose most effectively.

(o) To develop and implement community policing innovations.

(3) The following projects may not be paid for or financed by increment revenues:

(a) Construction or expansion of administrative buildings for public bodies or police and fire buildings, unless each taxing authority agrees to such method of financing for the construction or expansion, or unless the construction or expansion is contemplated as part of a community policing innovation.

(b) Installation, construction, reconstruction, repair, or alteration of any publicly owned capital improvements or projects if such projects or improvements were scheduled to be installed, constructed, reconstructed, repaired, or altered within 3 years of the approval of the community redevelopment plan by the governing body pursuant to a previously approved public capital improvement or project schedule or plan of the governing body which approved the community redevelopment plan unless and until such projects or improvements have been removed from such schedule or plan of the governing body and 3 years have elapsed since such removal or such projects or improvements were identified in such schedule or plan to be funded, in whole or in part, with funds on deposit within the community redevelopment trust fund.

(c) General government operating expenses unrelated to the planning and carrying out of a community redevelopment plan.

(4) With the approval of the governing body, a community redevelopment agency may:

(a) Prior to approval of a community redevelopment plan or approval of any modifications of the plan, acquire real property in a community redevelopment area by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition; demolish and remove any structures on the property; and pay all costs related to the acquisition, demolition, or removal, including any administrative or relocation expenses.

(b) Assume the responsibility to bear any loss that may arise as the result of the exercise of authority under this subsection, in the event that the real property is not made part of the community redevelopment area.

(5) A community redevelopment agency shall procure all commodities and services under the same purchasing processes and requirements that apply to the county or municipality that created the agency.

History.—s. 9, ch. 69-305; s. 7, ch. 77-391; s. 11, ch. 84-356; s. 7, ch. 93-286; s. 8, ch. 94-236; s. 8, ch. 98-314; s. 10, ch. 2006-11; s. 6, ch. 2006-307; s. 9, ch. 2007-5; s. 4, ch. 2019-163.

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ORDINANCE 96 - 1

AN ORDINANCE RELATING TO THE CONTROL AND ABATEMENT OF LITTER AND PUBLIC NUISANCES WITHIN THE CITY OF FREEPORT; SPECIFYING APPLICABILITY; DEFINING WORDS AND PHRASES; PROHIBITING LITTERING OR MAINTAINING PUBLIC NUISANCES; PROVIDING THAT CERTAIN UNSAFE OR DERELICT STRUCTURES ON REAL PROPERTY SHALL CONSTITUTE NUISANCES; REGULATING LOADS ON VEHICLES; REGULATING THE STORAGE OF LITTER; PROVIDING FOR DISPOSAL OF LITTER; ESTABLISHING THE PROCESS FOR NOTIFICATION TO OWNERS AND/OR OCCUPANTS TO COMPLY WITH SUCH MINIMUM STANDARDS; ESTABLISHING AN APPEAL PROCEDURE FOR OWNERS AND/OR OCCUPANTS TO CHALLENGE COMPLIANCE REQUIREMENTS; ESTABLISHING A REMEDY PROCEDURE FOR REMOVAL, ABATEMENT AND DISCONTINUANCE OF VIOLATIONS; AND ESTABLISHING A METHOD OF COLLECTION SHOULD THE CITY TAKE REMEDIAL ACTION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, FLORIDA, that, whereas, within the area of jurisdiction of the City of Freeport, Florida, there are or may be dwellings, dwelling units, building and accessory buildings, together with the premises thereof, which are in a condition that increase the hazards of fire, accident or other calamities, and which by reason of the lack of sanitary maintenance, or other conditions render such dwellings, buildings, accessory structures and associated premises, unsanitary and detrimental to the health, safety, morals and general welfare of the community, therefore:

ARTICLE I: TITLE, AUTHORITY AND APPLICABILITY

Section 1: Short Title

This Ordinance shall be known and may be cited as the City of Freeport Litter and Nuisance Control Ordinance.

Section 2: Authority

This Ordinance is enacted under the statutory authority of the State of Florida and the general statutory and constitutional powers of the City.

Section 3: Applicability

This Ordinance shall apply to and be enforced within the incorporated limits of the City of Freeport.

Section 4: Legal Provisions

Validity: If any section of this Ordinance is adjudicated to be void, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

Conflicting Ordinances: Should the requirements of this Ordinance conflict with those of any other regulation or Ordinance of the City of Freeport, Florida, the regulation or Ordinance requiring the higher standard shall prevail. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements.

ARTICLE TWO: LITTER AND NUISANCE CONTROL

Section 1: Definitions

Words in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural, and the plural number includes the singular. The following definitions shall apply to the interpretation and enforcement of this Ordinance:

A. **ABANDONED VEHICLE** - Any motor vehicle in an inoperable condition without a current unexpired license plate which has been left unprotected from the elements for a period of one month or more, that is deteriorated to the point of non-restoration.

B. COVER - Any device, equipment, container, close fitting tarpaulin, chain, roper, wire, or line used on vehicles to prevent any part of a vehicle load to shift, blow, leak, fall or escape in any manner from the vehicle.

C. **LITTER** - Refuse and rubbish including, but not limited to paper, bottles cans, glass, crockery, scrap metals, plastic, rubber, yard trash, tar paper, lumber, masonry, concrete, drywall, packing and crating materials, discarded appliances, junked automobiles, tires, tree and shrub trimmings, leaves, disposable packages and containers and any other solid waste matter visible to the eye.

D. **CONSTRUCTION MATERIAL** - All types of debris resulting from construction of any type, including blocks, stones, rocks, boards, plaster, cement products, nails, roofing material, or other materials and waste as a result of any construction or land clearing.

E. **DISCARDED PERSONAL PROPERTY** - All items of personal property rendered unusable by wear and time of use, including but not limited to furniture, appliances, tools, containers of all types, whether glass, plastic, wooden, or other materials, household goods of all types, clothing and wearing apparel.

F. FENCE - An enclosure which shall be at least six (6) feet in height, which shall be kept in good repair at all time, and shall be constructed of plank board, corrugated iron, or other material so as to exclude the junk or nuisance from the public view.

G. **GARBAGE** - The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

H. PERSON - Any natural person, partnership, firm, corporation, company, or other legal entity.

I. **RUBBISH** - This shall include combustible and non-combustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, combustible material, paper, rages, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass crockery and dust.

J. **SALVAGING** - The controlled removal of valuable or useful material from solid waste for utilization.

K. **STORAGE** - The interim containment of litter in an approved manner such as roll-off containers, wire fencing, wood, fencing or other controlled measures after generation and prior to proper and final disposal.

L. **TRASH** - This shall include wooden pasteboard boxes, cartons and their contents, newspapers, all leaves, moss, small shrubbery, cuttings, small tree trimmings, bark, grass, and weeds as may come from the upkeep of any adjacent residential premises.

M. **TREES AND BRANCHES** - This shall include all trees, limbs, trunks and branches, including citrus prunings, regardless of size.

N. **UNAUTHORIZED ACCUMULATION** - Accumulation of litter on any property not permitted as a landfill site in violation of this Ordinance. This shall not include building materials used during active construction or repair of a building or stored off the ground for future construction or repairs.

Section 2: Littering Prohibited

It is a violation of this Ordinance for any person to throw, discard, place, drop or deposit litter in any manner or amount in or upon any public property, private property, highway, street, right-of-way of body of water in the City of Freeport except in areas and containers provided therefor.

A. In any case where litter is ejected or discarded from a motor vehicle, except at approved and permitted disposal site, the operator of the motor vehicle shall be in violation of this Ordinance.

B. It shall be a violation of this Ordinance for any person to deposit any item, items, or materials except litter in any receptacle placed for public use as a depository for litter.

C. It shall be a violation of this Ordinance for any person to deposit any item, items, or materials in any receptacle placed for public use at City parks, except those items generated during the utilization of said park, and in no event shall litter generated in a residential or commercial establishment be deposited in said receptacles.

Section 3: Loads On Vehicles

A. No vehicle shall be driven, moved, stopped, or parked on any highway, street, alley, or thoroughfare unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping therefrom, except that sand may be dropped only for the purpose of securing traction or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

B. It is the duty of every vehicle owner, lessee, and driver, severally, of any vehicle hauling upon any public road or highway open to the public, dirt, sand, clay, limerock, gravel, silica, rock, o r other similar material which could fall or blow from such vehicle, to prevent such materials from falling, or in any way escaping from such vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover is required.

C. Any owner, lessee, or driver of any vehicle from which any materials or objects have fallen, blown, leaked, sifted or otherwise escaped shall immediately cause the materials or objects on public or private property to be cleaned up and shall pay any costs therefor.

Section 4: Storage of Litter and Junk

A. All commercial establishments shall store their litter in a controlled manner so as to eliminate wind-driven debris and litter in and about their establishments. The number and size of containers necessary for each commercial establishment shall be as required to control all waste generated on the premises. Spillage and overflow around containers shall immediately be cleaned up as it occurs by the generator.

B. All loading and unloading areas at commercial establishments shall be provided with litter receptacles by the generator to store loose debris, paper, cardboard, packaging materials, and similar materials.

C. It shall be the duty of any and every person, corporation, company, lessee, or agent owning or operating any public establishment open to the public to have available receptacles adequate to contain litter generated from such establishment.

D. It shall be the duty of every person, corporation, company, firm, owner, lessee or agent in possession, charge of, or in control of any place, public or private, where litter is accumulated or generated to have available and at all times to keep said litter in adequate and suitable receptacles and/or containers capable of holding such materials until proper final disposal is accomplished.

E. All junk shall be screened by a six (6) foot high fence.

Section 5: Litter Control

A. All construction and demolition contractors, owners, or agents, shall provide on-site control measures to prevent wind-driven scattering of such materials if the materials are otherwise not properly disposed of on a daily basis. All litter, tar paper, packaging and crating materials and similar materials shall be removed within thirty (30) days after the completion of the construction or demolition.

B. It shall be the duty of each operator, owner, lessee, or agent of any business, industry, institution, apartment, hotel, condominium, or other complex, public or private, profit or non-profit, to keep the adjacent and surrounding areas clean of wind-driven or animal carried litter generated from such establishments. These areas include public property, roads, right of ways, grounds, parking lots, loading and unloading areas and vacant lots owned and leased by said establishments.

C. It is a violation of the Ordinance for any private property owner, tenant, occupant, lessee or agent to grant permission to any person to dispose of litter on his property in any manner except in permitted disposal sites, or as authorized by the rules of the Florida Department of Environmental Protection.

Section 6: Public Nuisance

The following conditions existing, permitted, maintained, or caused by any person on real property in the City of Freeport shall constitute the maintenance of a public nuisance injurious to the health or general welfare of the citizens of the City of Freeport, or causing a decrease in the value of other property in the general area, shall constitute a violation of this Ordinance:

A. The creation or maintenance of any condition capable of breeding flies, mosquitoes, or other arthropods capable of transmitting diseases directly or indirectly to humans.

B. The accumulation of rubbish, trash, garbage, litter, or other solid or liquid waste materials in violation of this Ordinance.

C. The existence of any dwelling, house, building, structure or real property on which a dwelling, house, building, or other structure is located which is unsafe, unsecured, deteriorated, degraded with obscene graffiti, or a menace to the health, safety, or general welfare of the citizens of the City of Freeport.

D. The utilization of any single family or multi-family residential property by the owner or occupant thereof for the exterior storage, or storage on City right-of-way, of any abandoned vehicle, icebox, refrigerator, stove or other large appliance normally located inside a dwelling unit.

Section 7: Disposal of Litter

Litter shall be stored and transported in accordance with the provisions of this Ordinance.

Section 8: Owner and Generators Responsibility

Any person, corporation, establishment, firm, business, owner, or agent or property within the City of Freeport who generates litter shall be responsible for insuring such litter is managed, stored, handled, transported and disposed of in accordance with the provision of this Ordinance.

Section 11: Exterior Storage of Non-Operating Vehicles, Junk or Debris

No owner of a premises shall allow partially dismantled, wrecked, junked, discarded, or otherwise non-operating or non-registered or unlicensed motor vehicles, or junk to remain on such property longer than thirty (30) days. This section shall not apply with regard to any nuisance or junk in an enclosed building, or shielded by a visual screen or so located on a property as not to be readily visible from any place or from any surrounding property.

Section 12: Exclusions

Specific exclusions to this Ordinance are:

A. Businesses which emit odors during normal operation.
B. Permitted salvage yards.
C. Premises screened by a fence as defined in the Ordinance.

ARTICLE THREE: ENFORCEMENT

Step 1: Investigation of a Complaint

Upon receipt of a complaint, the City Council shall appoint an Inspector who shall make a visual inspection of the site of the alleged violation.

A. Right of Entry: The Inspector shall enforce the provisions of this code, and he, upon presentation of proper identification to the owner, agent, or tenant in

charge of such property, and upon reasonable belief or complaint that a violation of this ordinance exists, may enter any building, structure, dwelling, apartment, apartment house, or premises, during all reasonable hours.

B. Inspections: The Inspector upon direction from the City Council shall make or cause to be made inspections to determine the condition of buildings, dwellings, dwelling units, rooming units, and premises in the interest of safeguarding the health and safety of the occupants of swellings and of the general public. For the purpose of making such inspections, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, buildings, rooming units, and premises. The owner or occupant of every dwelling, dwelling unit, building or rooming unit, or the person in charge thereof shall give the Inspector free access to such dwelling, dwelling unit, building or rooming unit and its premises, at all reasonable times for the purpose of such inspection, examination and survey. The Inspector may take photographs of the property which show the extent of the violation.

Step 2: Notice of Violation

The Inspector shall report back to the City Council as to the results of his inspection of the premises. If the City Council determines that a violation exists, the City Clerk shall give notice to the owner or occupant of such property. Such notice shall:

a. Be in writing.
b. Include a description of the real estate sufficient for identification, such as street address, as well as a description of the violation and/or conditions to be corrected.
c. State that the occupants and/or owners must correct the conditions within 30 days.
d. Said notice shall further state that, if such removal, abatement or discontinuance of the cited nuisance or conditions are not voluntarily completed within the stated time as set forth in the notice, the City shall institute such legal proceedings charging the person or persons, firm or corporation or agent with a violation of this ordinance, and/or seek other remedies as are specified in this Ordinance.

The City Clerk shall see that the Notice shall be served in one of the following manners:

a. By delivery to the owner or occupant personally or by leaving the notice at the usual place of abode of the owner or occupant with a person of suitable age and discretion; or
b. By depositing the notice in the United States Post Office addressed to the owner or occupant at his last known address with postage prepaid thereon; or
c. By posting and keeping posted for twenty-four (24) hours a copy of the notice in placard form in a conspicuous place on the premises.

Step 3: Appeal of Notice

Any person receiving written notice from the City of deficiencies in his property under this ordinance may within the time limitations of such notice enter an appeal in writing and, if physically able, in person to the City Council. Such appeal shall state the location of the property, the date of the notice of violations, and the violation mentioned. The appellant must state the variance or modification requested, the reason therefor and the hardship or conditions upon which the appeal is made.

No appeal filed later than the time limitations of such notice shall be acted upon by the City Council unless the appointed Inspector shall consent thereto.

Where the literal application of the requirements of this ordinance would appear to cause undue hardship on an owner or tenant or when it is claimed that the true intent and meaning of this ordinance or any of the regulations therein have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the City Council.

The City Council may permit, in appropriate cases where the application of the requirement of this ordinance in allowance of the stated time for the performance of any action required hereunder would appear to cause undue hardship on an owner, a reasonable extension of time.

Step 4: Decisions

All decisions of the City Council to vary the application of any provision of this ordinance or to modify a Notice of Violation shall specify in what manner such variance or modification is made, the conditions upon which it is made, and the reason therefore. Every decision shall be in writing and shall indicate the vote upon the decision. A copy of all decisions shall be promptly filed in the office of the City Clerk and shall be open to public inspection. The City Clerk shall notify the appellant in writing of the final action of the City Council.

Step 5: Violations and Penalties

Any person, firm, corporation or agent, who shall violate a provision of this ordinance, or fail to comply therewith or with any of the requirements thereof, shall be guilty of a misdemeanor and be punished by a fine not exceeding Five Hundred and No/100 Dollars ($500.00) or imprisonment for a term not exceeding sixty (60) days, or by both such find and imprisonment. Each day any violation of any provision of this ordinance shall continue shall constitute a separate offense.

Step 6: Remedy Procedure

In the event that abatement of the conditions cited in the Notice of Violation does not occur within the time requirements specified, and provided that any additional requirement resulting from an appeal have been fulfilled, then the City, at its expense, may do such necessary acts to remove, abate and discontinue the nuisance. All costs and fees expended shall be kept upon a separate roll by the City Clerk and after a thirty day (30) billing to the property owner or owners, said City may by action at law,

collect the same and the costs of said services shall constitute a lien against the property when duly filed as a labor and material lien under Florida Law.

Should the costs and fees be reasonably expected to exceed $100.00, then a second notice shall be provided, and necessary acts by the City to remove, abate, and discontinue the nuisance shall be postponed until the specified time for appeal and/or abatement has expired for a second time.

ARTICLE FOUR: EFFECTIVE DATE

This Ordinance shall take effect immediately upon adoption by the Freeport City Council.

~~Today~~ ADOPTED in regular session this 9th day of January, 1995, by the City Council of the City of Freeport.

CITY OF FREEPORT

J. M. Marse, Mayor

ATTEST:

Liebe D. Rice, City Clerk

Clearing Blight With Code Enforcement

A concern echoed at every Regional Advocacy Meeting this fall was the challenge of blighted properties that cities and towns of all sizes struggle with daily. Blight has many negative repercussions. Dilapidated and unsafe buildings affect residents' physical and emotional well-being and compromise a city's ability to ensure public safety. Maintaining property values and fostering economic development opportunities are also more difficult in blighted areas.

"Before clearing blight from their communities, town officials must first be committed to the effort," said Scott Slatton, the Association's legislative and public policy analyst. "Dealing with blighted buildings often causes conflict within the community, but adopting code enforcement as a council priority sets a clear tone for improvement."

Also training city staff who are responsible for code enforcement is essential. Training offered by the Building Officials Association of South Carolina and Palmetto Property Maintenance Officers Associations are recommended.

About the Loris town council's renewed commitment to clear blight, Mayor David Stoudenmire said in an interview with The Loris Scene, "It is something we need to do ... it is going to be a tough road. It is not going to be a popular road. ... But, we have got to stand together on it."

City officials need to make sure they have the proper ordinances in place to clear overgrown lots, remove abandoned vehicles and get rid of other street-level blight, Slatton noted. "Councils should adopt maintenance codes to ensure buildings are maintained to prevent blight. Without ordinances like the International Property Maintenance Code, a town has no legal authority to clear blight."

Enforcing ordinances is the next, sometimes difficult, step to clearing blight; however, it does not necessarily have to mean increased expenses for the city.

From code enforcement officials to police officers to town administrators, towns across the state use a variety of personnel to achieve their goal of clearing blight. A 2007 study on code enforcement by the Institute for Public Service and Policy Research at the University of South Carolina found that cities used 13 different city departments to help clear blight. The Town of Kiawah Island contracts with a private company while the City of Marion contracts with the county. The cities of Liberty and Central share a part-time building official. The City of Hanahan uses police officers for nuisance abatement.

A common theme city officials voiced during the fall Regional Advocacy Meetings was the lack of funding for code enforcement efforts to help clear blight. If towns need additional funds, several options are available. The City of Laurens collects a community improvement fee that funds demolition of dilapidated structures. The City of Conwayadopted the Rebuild Conway Program, a comprehensive neighborhood revitalization effort that recently won an Achievement Award from the Municipal Association.

Some towns bill property owners directly for lot clearing. Others attach liens to property, which is allowed by state law. None of these funding strategies fully cover the costs of clearing blight, but these investments have a multiplying effect in neighborhoods and across cities.

Realizing that cities need more tools are needed to clear blight, the Municipal Association continues to advocate the passage of the Dilapidated Buildings Act. This legislation would add a new option to a city's existing tools to deal with blight when all other available options have been unsuccessful.

Parking and storage of certain vehicles on residential lots - Executed **Ordinance No. 2018-09** has created Chapter 59 - Property Standards in the North Port City Code. This **flyer** will provide some bullet points regarding the new Code.

Chickens - Keeping of hens as an accessory to a residential single-family structure is subject to the following restrictions: No more than four (4) hens on an 80' x 120' lot or six (6) hens on two (2) or more lots may be kept, *with roosters prohibited.* No person shall slaughter any hens. The hens shall be provided a movable covered enclosure and must be kept in the covered enclosure or fenced enclosure at all times. For further regulations and information, to view the Code in its entirety, please see Sec. 53-121(H) of the Unified Land Development Code.

Excessive and impinging growth; hazardous trees - It shall be unlawful for any owner of any lot to permit impinging growth upon improved City right-of-way, sidewalks and/or streets, or road right-of-way easement except that branches of trees at least eight (8) feet above the surface of a sidewalk or at least fourteen (14) feet above the surface of the portion of the street used for vehicular traffic, whether planted in the right-of-way area or upon private property, may be permitted with authorization by the city and in accordance with any applicable city code. It shall be unlawful for any owner of any lot to permit impinging growth upon an abutting improved or developed lot, provided that: Enforcement of this provision is limited to verified complaints received by the city from an owner of a lot that abuts the rear or side of a lot where there is impinging growth. A hazardous tree on any lot that poses an actual hazard or damage to the public, rights-of-way or utilities as determined by the city or to an adjacent lot upon a complaint by the adjacent lot owner, tenants, lessees, or occupants, are hereby declared to be a public nuisance. It shall be the responsibility of the owner of any lot to remove or cause to be removed any such hazardous tree on their lot, however the city is empowered at the owner's expense to immediately abate a hazardous tree if it is determined by the city to be an emergency hazardous situation. Please view Chapter 42 of the North Port City Code; Nuisances.

Accumulation of Debris - It is unlawful for any owner of an occupied, unoccupied, or undeveloped lot to accumulate or permit the accumulation of, including but not limited to, lumber, building materials, tires, parts of vehicles, inoperable vehicles, unusable household items, or any other items or equipment which create a breeding place for any vermin or mosquitoes, emit noxious odors or create a public nuisance or other unsanitary or unsafe conditions or create a fire and/or health hazard or, in general appearance and condition, create a slum appearance which tends to have a decreasing value effect on the neighboring property and premises.

Assigned Numbers - Must be placed on residence visible from the street. Addresses must be in number form at least 3 inches in height, in contrasting color to the background.

P.O.D. units are permitted on residential properties for a period of seven days. If storage is required for a longer period of time, a permit is required and applicable guidelines are enforced.

Grass / Weeds - It shall be unlawful for any owner to permit the excessive growth of sodded or seeded grass areas in excess of 12 inches in height on an improved or developed lot.

Solid Waste Containers - May be placed at the street after 6:00 P.M. the day before scheduled pick-up and must be properly stored by 10:00 P.M. the day of pick-up (bins may not be stored in front of residence).

Abandoned Property - The City has established a process to address the health, safety and welfare issues and economic burdens affecting the City caused by the abandonment of real property located within the City. The mechanism established for this purpose is designed to protect neighborhoods from becoming blighted through lack of adequate maintenance and security. **Chapter 42, Abandoned Property**, City Code, requires that properties shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state or local law), discarded personal items including, but not limited to, furniture, clothing, appliances, graffiti, or any other items that give the appearance that the property is abandoned. All abandoned real property in the City is declared to be a public nuisance. Failure of a responsible party, as defined in Chapter 42 (City Ordinance 2009-09), to comply with the requirements of this article shall constitute a continuing public nuisance, which may be abated by the City as provided by

CITY OF MIDWAY
ORDINANCE NO. 2012-006

AN ORDINANCE RELATING TO THE ELIMINATION OF BLIGHTED AND DETERIORATED PROPERTIES

WHEREAS, the Midway City Council desires to enact an ordinance to protect and promote the health, safety, and welfare of the residents of the city by eliminating the blight and deterioration of neighborhoods;

WHEREAS, the Midway City Council desires to create a Vacant Property Review Board to certify property as blighted or deteriorated, and to establish an ordinance related thereto;

WHEREAS, the Midway City Council desires to enact an ordinance authorizing the City of Midway to exercise the power of eminent domain over aforementioned blighted or deteriorated property;

WHEREAS, KRS 99.705-730 authorizes a City to enact such an Ordinance to address such properties;

NOW, THEREFORE, be it ordained by the Midway City Council as follows:

Section

152.01 Declarations

152.02 Definitions

152.03 Vacant Property Review Board

152.04 Procedures

152.05 Eminent Domain Proceedings

152.06 Use of the property by the City of Midway

SECTION 152.01 DECLARATIONS.

It is hereby declared:

(A) It is the policy of the city to protect and promote the health, safety, and welfare of the residents of the city by eliminating the blight and deterioration of neighborhoods through the elimination of blighted and deteriorated properties within these neighborhoods.

(B) The elimination of such blight and deterioration and the preparation of such properties for sale or lease, for development, or for redevelopment constitute a public use and purpose for which public money may be expended and private property acquired and these are

governmental functions in the interest of the health, safety, and welfare of the residents of the city.

(C) The necessity in the public interest for the provisions enacted herein is hereby declared to be a legislative determination.

SECTION 152.02 DEFINITIONS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"BLIGHTED OR DETERIORATED PROPERTY" means a vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood which:

(1) Is because of physical condition or use regarded as a public nuisance at common law;

(2) Is considered an attractive nuisance to children by reason of structures and appurtenances therein or thereon, including but not limited to abandoned wells, shafts, basements, excavations, or the unsafe condition of any structures or fences thereon;

(3) Is dilapidated, unsanitary, unsafe, vermin infested, or is lacking in the facilities and equipment required by the city's housing or maintenance codes, has been designated by the Building Inspector as being unfit for human habitation;

(4) Is a fire hazard or is otherwise dangerous to the safety of persons or property;

(5) Has had the utilities, plumbing, heating, sewerage, or other facilities disconnected therefrom, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;

(6) Has by reason of neglect or lack of maintenance become a place for the accumulation of trash and debris, or a haven for rodents or other vermin; or

(7) Has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency.

"REDEVELOPMENT" means the planning or replanning, design or redesign, acquisition, clearance, development, or disposal of a property in the preparation of such property for residential and related uses, as may be appropriate or necessary.

"RESIDENTIAL AND RELATED USE" means residential property for sale or rental and related uses, including but not limited to, park and recreation areas, neighborhood community service, and neighborhood parking lots.

"VACANT PROPERTY REVIEW BOARD" means the Board established by this chapter to review vacant properties and to make a written determination of blight and deterioration.

SECTION 152.03 VACANT PROPERTY REVIEW BOARD

(A) There is hereby established and created a Vacant Property Review Board (the Board) for the City of Midway. The Board shall be composed of three (3) members who shall be appointed by the Mayor with the approval of the City Council. Members of the Board shall be either property owners or residents of Midway and shall serve for terms of three (3) years and until their successors are duly appointed and qualified, except that the members first appointed shall be so appointed that the term of one member shall expire annually thereafter. Vacancies shall be filled in the same manner as regular appointments and for the unexpired term of the vacancy. Members shall serve without pay. No officer or employee of the city whose duties include enforcement of housing, building, plumbing, fire, maintenance, or related codes shall be appointed to the Board.

(B) The Board shall be charged with the duty of determining whether a property within city limits is blighted or deteriorated in accordance with the definition of those terms as hereinabove set forth and of carrying out the substantive and procedural directives associated with that determination as herein set forth.

(C) The Board shall conduct its business at meetings scheduled and held in conformity with the requirements of the Kentucky Open Meetings Act. Meetings shall be called by the Mayor when and as necessary to consider properties alleged by the Building Inspector to be blighted or deteriorated within the meaning of this chapter.

SECTION 152.04 PROCEDURES.

(A) When the Versailles-Midway-Woodford County Planning Commission Building & Zoning Inspector considers any property within the city to be blighted or deteriorated, the Inspector shall give to the owner of the property a Notice and Order setting forth the conditions of the property which are in violation of local codes or law and a time period by which to correct and abate such conditions. Such Notice and Order shall further state that the property is deemed to be blighted or deteriorated within the meaning of this chapter and that the failure to make correction and abatement within the time period set forth will result in the referral of the matter to the Vacant Property Review Board for further proceedings in conformity with this chapter.

(B) If the conditions set forth in the Inspector's Notice and Order are not in full corrected and abated within the time period therein set forth, the Inspector shall:

(1) Contact the Planning Director of the Planning and Zoning Commission for determination of whether the reuse of the property for residential and related uses is keeping with the city's comprehensive plan and zoning ordinances;

(2) If the Planning Director determines that the reuse of the property for residential and related uses is in keeping with the city's comprehensive plan and zoning ordinances, the Building Inspector shall notify the Mayor who shall notify the Vacant Property Review Board for the purpose of that body's consideration of whether the property is blighted or deteriorated. The Mayor shall notify the owner of the time, date, and location of the meeting and shall advise the City Clerk of the meeting so as to permit the Clerk to make due advertisement of the meeting as may be required by applicable law.

(C) If after consideration of the evidence presented before it at such meeting the Board shall, by a preponderance of the evidence, find that the property is vacant and blighted or deteriorated within the meaning of this chapter, the Board shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that

failure to eliminate the conditions causing same shall render the property subject to condemnation by the city. Such notice shall describe the conditions that render the property blighted or deteriorated and shall demand correction and abatement of the conditions within 90 days of the receipt of such notice. An extension of the 90-day period may be granted by the Board if it is demonstrated to the satisfaction of the Board that such period is insufficient to correct the conditions cited in the notice.

(D) (1) If the correction and abatement in full shall not have been effected within such period of time as the Board shall have determined as above set forth, the Board shall certify to the Midway City Council that the property is blighted or deteriorated. Such certification shall further set forth the Board's determination that:

(a) The owner of the property or designated agent has been sent a Notice and Order by the Building Inspector to eliminate the conditions which are in violation of local codes or law within a time certain; that such Notice and Order further set forth that the property is deemed to be blighted or deteriorated within the meaning of this chapter; and, that the failure to make correction and abatement would result in the matter being referred to the Vacant Property Review Board for further proceedings in conformity with this chapter;

(b) The conditions set forth in the Notice and Order were not corrected and abated within the time period therein set forth;

(c) The property is vacant;

(d) The Board has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of such condition granted by the Board has expired and the property owner or agent has failed to comply with the notice; and

(e) The Planning Director has determined that the reuse of the property for residential and related use is in keeping with the city's comprehensive plan and zoning ordinances.

(2) The certification and findings required by this section shall be in writing signed by the chairperson of the Board and included in the Board's report to the City Council.

(E) Notice which may be, or is required to be, given under the terms of this chapter shall be in writing and sent via first class mail, sufficient postage prepaid, and certified, return receipt requested, and a copy of any such notice shall further be posted in a conspicuous place on the property affected. Unless the owner of the property in question shall have notified the Building Inspector otherwise, the identity of the owner and the owner's mailing address shall be conclusively presumed to be as appear as such in the records maintained in the office of the Woodford County Property Valuation Administrator. Notice given in accordance with the foregoing shall be deemed effective on the date of receipt; provided, however, that same shall conclusively be deemed to have been received not later than the fifth business day following the date when same was delivered to the post office.

SECTION 152.05 EMINENT DOMAIN PROCEEDINGS.

(A) The City Council may institute eminent domain proceedings in accordance with the provisions of KRS Chapter 416 against any property, and may through such proceedings acquire any property which has been certified as blighted or deteriorated by the Board if it finds:

(1) That the property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety, and welfare;

(2) That such property is likely to continue to deteriorate unless corrected;

(3) That the continued deterioration of such property may contribute to the blighting or deterioration of the area immediately surrounding the property; and

(4) That the owner of such property has failed to correct the deterioration of the property.

(B) The findings required as above set forth shall be included in any Order of the Council authorizing the institution of eminent domain proceedings.

SECTION 152.06 USE OF THE PROPERTY BY THE CITY OF MIDWAY.

The city, following its acquisition by eminent domain of a blighted or deteriorated property in accordance with the foregoing provisions, shall have the power to hold, clear, manage, or dispose of the property so acquired for residential and related use.

SECTION 152.07 ABANDONED URBAN PROPERTIES CLASSIFIED AS REAL PROPERTY.

Abandoned urban property is established as a separate classification of real property for the purpose of ad valorem taxation. As used in this section, "abandoned urban property" as defined in Section A or Section B below shall mean:

(A) Any vacant structure or vacant or unimproved lot or parcel of ground in the city that has been vacant or unimproved for a period of at least one (1) year and which:

(1) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; or

(2) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or

(3) Has been tax delinquent for a period of at least three (3) years.

(B) Any property in the city that has been identified as "blighted" or "deteriorated" as defined in Section 152.02 and certified as such by the Vacant Property Review Board.

SECTION 152.08 RATE OF TAXATION FOR ABANDONED URBAN PROPERTIES.

The rate of taxation levied upon abandoned urban properties is .75 cents on each $100.00 of assessed value.

SECTION 152.09 CLASSIFICATION OF PROPERTY AS ABANDONED URBAN PROPERTY; RIGHT TO APPEAL.

(A) The Vacant Property Review Board shall each year determine which properties in Midway are abandoned urban properties and shall prepare and furnish a list of abandoned and urban properties located in the city to the City Clerk prior to January 1 of each year.

(B) Except as otherwise provided herein, a property classified by the city as abandoned urban property as of January 1 shall be taxed as abandoned urban property for such tax year. If the owner repairs, rehabilitates, or otherwise returns the property to productive use so that the property is no longer abandoned urban property, the owner shall notify the Vacant Property Review Board, which shall, if it finds the property is no longer abandoned urban property, notify the City Clerk to strike the property from the list of abandoned urban properties as of the succeeding January 1.

(C) No later than March 1 of each year, the City Clerk shall mail, by first-class mail, to the owner(s) of each abandoned urban property, as those name(s) are listed in the records of the Vacant Property Review Board, a notice that this property has been classified as abandoned urban property.

(D) The owner of any abandoned urban property who believes that their property has been incorrectly classified may appeal such classification to the city's Vacant Property Review Board. Such appeal shall be in writing and shall be made no later than April 1 of that year. The city shall afford the owner the opportunity for a hearing. If the Vacant Property Review Board finds that the property was incorrectly classified as abandoned urban property, it shall cause the property to be removed from the list of properties so classified.

INTRODUCED and given a first reading at a meeting of the Midway City Council on the __ day of August 2012, and fully adopted after the second reading at a meeting of said Council held on the _____ day of August 2012.

CITY OF MIDWAY

BY:_____
Tom Bozarth, Mayor

ATTEST:

_____
Phyllis Hudson, City Clerk/Treasurer

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Chapter 13

OFFENSES AND MISCELLANEOUS PROVISIONS*

Sec. 13-5. Anti-Blight Ordinance.

(a) *Purpose.* It is hereby recognized that the existence of significantly dilapidated, damaged, unrepaired, unmaintained and/or litter strewn properties (commonly referred to as "blighted") can adversely affect the property values of abutting properties, of those in the immediate neighborhood and, in some cases, have a negative impact on an entire community. Further, blighted properties can threaten the health, safety, and welfare of area residents and business operations. The purpose of this Ordinance is (1) to define, prohibit and abate blighted premises; (2) to protect, preserve and promote public health, safety and welfare; and (3) to preserve and protect property values within the Town of Madison. This ordinance is adopted pursuant to the authority granted by Connecticut General Statues §7-148(c)(7), §7-148(c)(7)(H)(xv), §7-148(aa), and §7-152(c).

(b) *Definitions.* For the purposes of this Ordinance, the following words, terms and phrases shall have the following meanings, unless the context clearly indicates otherwise:

BLIGHT APPEALS COMMITTEE –Shall be a five (5) member committee comprised of electors of the Town of Madison appointed by the Board of Selectmen and charged with hearing appeals from actions or decisions of the Blight Enforcement Committee.

BLIGHT ENFORCEMENT COMMITTEE – Shall be a three (3) member committee designated to enforce the provisions of this Ordinance to be composed of the Building Official, Director of Health, and Zoning Enforcement Officer.

BLIGHTED PREMISES - Any building, structure or parcel of land, including without limitation, single family or multi-family residential or commercial, whether occupied or vacant in which at least one of the following conditions exists:

1) It is deemed an unsafe structure or designated as unfit for human habitation by the Building Official.

2) It is a fire hazard as determined by the Fire Marshal or as documented by the Fire Department.

3) It is determined by the Director of Health that the condition of the building, structure or parcel of land poses a serious or immediate danger to the safety, health or general welfare of the community.

4) It is not being adequately maintained and is visible from either the street or from adjacent property. The following factors shall be considered in determining whether it is not being adequately maintained:

- Multiple missing, broken or boarded windows or doors.
- Collapsing, seriously damaged, or missing walls, roof, siding or other exterior features including but not necessarily limited to stairs, porches, railings, hatchways, chimneys or floors.
- Persistent accumulation of excessive amounts of garbage or trash on the premises.
- Chronically neglected and/or inoperable motor vehicles, camper trailers, or boats being stored on the premises, unless garaged, for a period of time in excess of 60 days. This restriction shall not apply to off-season storage of recreational vehicles and boats.
- Outside storage, for a period of time in excess of 60 days, of material or equipment which is incapable of performing the function for which it is designed, including, but not limited to, parts of automobiles, furniture, appliances, cans, boxes, scrap metal, tires, batteries, containers, etc.
- Rodent harborage and/or infestation.
- Chronically overgrown grass, weeds, or similar vegetation that is allowed to reach and remain at a height of twelve (12) inches or greater. Cultivated gardens and areas maintained in their naturally wooded, field, or shoreline state are specifically excluded from the height requirement so stated.
- Commercial parking areas left in a state of disrepair or abandoned.

OWNER/OCCUPANT – All individuals, firms, partnerships, corporations, limited liability corporations or other entities or authorities which own, lease, rent, possess, or are responsible for property within the Town.

PREMISES – A lot or parcel and all buildings, structures, or uses located thereon.

SPECIAL CIRCUMSTANCES – Shall mean a personal or economic hardship which renders the Owner/Occupant incapable of complying with an order of the Blight Enforcement Committee. Such special circumstances may be considered by the Blight Appeals Committee as grounds to provide additional flexibility in complying with an order of the Blight Enforcement Committee.

(c) *Prohibition.* It shall be prohibited for any Owner/Occupant of any premises within the Town of Madison to allow such premises to become blighted or to fail to correct a pre-existing blighted condition.

(d) *Reporting a Suspected Violation.* Any resident within the Town of Madison may report a suspected violation of this Ordinance. Written complaints shall be submitted

on a form prescribed by the Blight Enforcement Committee. In the absence of a written complaint, any member of the Blight Enforcement Committee may initiate an investigation of a possible violation of this Ordinance.

(e) *Determination of Violation.* If, after receipt of a complaint and a subsequent investigation, a probable violation of this Ordinance exists, the Blight Enforcement Committee shall hold a meeting to review the subject complaints and discuss their investigative findings. These meetings shall be open to the public and both the Owner/Occupant and the complainant shall be notified of the time and date of the meeting at which the subject Premises will be discussed; however, the absence of either the Owner/Occupant or the complainant shall not preclude the Committee from holding the meeting and making a formal finding. The Blight Enforcement Committee shall take a vote to determine whether the condition of the subject Premises constitutes a violation of this Ordinance and shall also determine how the violation shall be abated. A majority vote shall establish the formal finding of the Committee.

If the Blight Enforcement Committee finds that the Premises is not in violation of this Ordinance, the Committee shall not be required to review additional complaints on the same Premises for a period of six (6) months. However, if the Blight Enforcement Committee believes that the condition of the Premises has changed to warrant further review, the Committee may entertain repeat complaints within a shorter time period.

(f) *Notice of Violation.* Upon determination that a violation of this Ordinance exists, the Blight Enforcement Committee shall serve a written notice of violation to the Owner/Occupant. The notice of violation shall state (i) the violation; (ii) the date upon which the violation shall be remedied; (iii) that the failure of the Owner/Occupant to remedy the violation within the prescribed time shall result in the issuance of a citation in accordance with Section 10 of this Ordinance; (iv) the amount of the daily civil penalties and any other fines or penalties imposed under Section 9; (v) that if the Owner/Occupant fails to remove or remedy the violation, the Town may cause the remediation of the violation at the expense of the Owner/Occupant; and (vi) that the Owner/Occupant has a right to an appeal in accordance with Section 8 of this Ordinance. The notice of violation shall also include a fact sheet compiled by the Senior Services Commission outlining assistance that is available for property owners age 65 or older.

Delivery of the notice of violation to the Owner/Occupant shall be by certified mail, return receipt requested and simultaneously by regular U.S. Postal Service mail, addressed to the Owner/Occupant and mailed to all known addresses for such individual. If such mailings are undeliverable, such notice shall be provided by delivery by State Marshal to the Premises.

(g) *Time Period for Abatement / Extensions.* The Blight Enforcement Committee shall provide an Owner/Occupant a minimum of sixty (60) days to abate a violation of this Ordinance; however, the Blight Enforcement Committee may allow for a longer time period for abatement depending on the nature of the violation.

Requests for extension of the time period established for abatement shall be submitted in writing to the Blight Enforcement Committee. Approval of an extension request shall require a majority vote of the Blight Enforcement Committee. However, in accordance with §7-148o(b) of the Connecticut General Statutes, any person who is a new owner or new occupant shall, upon request, be granted a thirty-day extension of this time period. For the purposes of this section, "new owner" means any person or entity who has taken title to a property within thirty days of the notice of violation, and "new occupant" means any person who has taken occupancy of a property within thirty days of the notice of violation.

(h) *Appeals*. An Owner/Occupant may contest the issuance of a notice of violation through an appeal to the Blight Appeals Committee. The Blight Appeals Committee shall establish a set monthly meeting for the purpose of hearing such appeals.

Appeals must be submitted in writing within thirty (30) days from the date of issuance of a notice of violation. The appeal shall include a statement outlining the reasons for the appeal, a copy of the notice of violation upon which the appeal is based, and any evidence that the Owner/Occupant wishes to submit in support of their appeal.

At the appeal hearing, the Owner/Occupant shall present the grounds for their appeal. A representative of the Blight Enforcement Committee shall be in attendance and be given an opportunity to speak before the Blight Appeals Committee if desired. Additionally, any member of the public wishing to comment on the appeal shall be given the opportunity to do so.

Upon conclusion of the public hearing, the Blight Appeals Committee shall, by majority vote, render a decision on the appeal by upholding, overturning, or modifying the decision of the Blight Enforcement Committee.

(i) *Penalties*. Violations of the provisions of this Ordinance shall be punishable by a civil penalty of $100 per day / per violation, or the maximum amount as authorized under CGS §7-148(c)(7)(H)(xv) as the same may be amended from time to time, for each day such violation(s) exist and continue beyond the date required for remediation set forth in the notice of violation issued under Section 6 hereof.

Violators will also be responsible for all costs and expenses associated with enforcement and the collection of any civil penalties, which shall include, but shall not be limited to, attorney fees, court costs, mailing costs and filing fees.

Additionally, any Owner/Occupant who, after receiving notice of violation pursuant to Section 6 and after a reasonable opportunity to remediate the Blighted Premises, willfully violates the provisions of this Ordinance with respect to housing blight, such Owner/Occupant shall be fined by the State of Connecticut not more than two hundred and fifty dollars ($250.00), or the maximum allowed by CGS §7-148(o), as the same may be amended from time to time, for each day for which it can be shown, based on actual inspection of the property on each such day, that the Blighted Premises continue to exist after written notice to the Owner/Occupant as provided herein and the expiration of the time to remediate.

(j) *Issuance of Citations.* The Blight Enforcement Committee shall issue a citation when a violation of this Ordinance continues beyond the time period established for abatement of the violation.

The citation shall state:

- A description of the violation.
- The amount of the daily civil penalties levied and that such civil penalties shall be levied from the date of the citation, plus such other fines, penalties, costs and/or fees due.
- That the uncontested payment of such civil penalties, fines, costs and/or fees shall be made within thirty (30) days of the date of the citation.
- That the Owner/Occupant may contest his liability before a citation hearing officer by delivering in person or by mail within thirty (30) days of the date of the citation a written demand for a hearing.
- That if the Owner/Occupant does not demand a hearing, an assessment and judgment shall be entered against him/her and that such judgment may issue without further notice.
- That the Town shall file a lien against the real estate in accordance with C.G.S. §7-148aa for the amount of any unpaid civil penalties or other fines imposed by the Town in accordance with this Ordinance.

Delivery of the citation shall be by the manner provided in Section 6 hereof.

(k) *Uncontested Payment; Time Period.* Any Owner/Occupant receiving a citation shall be allowed a period of thirty (30) days from the date of the citation to make an uncontested payment of the civil penalties, fines, costs and/or fees specified in the citation. All amounts shall be made payable to the Town.

(l) *Payment of Civil Penalties.* If the Owner/Occupant who has been issued a citation pursuant to this Ordinance wishes to admit liability for any alleged violation, the Owner/Occupant may, without requesting a hearing, pay the full amount of the civil penalties, fines, costs and/or fees to the Town. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such Owner/Occupant or other person making the payment.

Any Owner/Occupant who does not deliver or mail written demand for a hearing within thirty (30) days of the date of the citation, shall be deemed to have admitted liability, and the Blight Enforcement Committee shall certify to the hearing officer that such Owner/ Occupant has failed to respond. The hearing officer shall thereupon enter and assess the civil penalties, fines, costs and/or fees provided for by this Ordinance and shall follow the procedures set forth in Section 13.

(m) *Hearing Procedure for Citations.*

1) The First Selectman shall appoint one (1) or more citation hearing officers. The First Selectman shall not appoint a member of the Blight Enforcement

Committee, a member of the Blight Appeals Committee, or any elected official or employee of the Town of Madison as the hearing officer.

2) An Owner/Occupant who chooses to appeal a citation and requests a hearing to this effect shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) days nor more than thirty (30) days from the date of mailing of the notice, provided the hearing officer shall grant upon good cause shown any reasonable request by an interested party for postponement or continuance. An original or certified copy of the citation issued by the Blight Enforcement Committee shall be filed with and retained by the Town and shall be deemed to be a business record within the scope of C.G.S. § 52-180 and evidence of the facts contained therein. Upon request of the person appealing the citation, the presence of a member of the Blight Enforcement Committee shall be required at the hearing. A designated Town official other than the hearing officer may present evidence on behalf of the Town. An Owner/Occupant wishing to contest liability shall appear at the hearing and may present evidence on his behalf. If the Owner/Occupant who received the citation fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes and this Ordinance. The hearing officer may accept from such Owner/Occupant copies of any relevant investigatory and citation reports, and/or any other official documents by mail and may determine thereby that the appearance of such person is unnecessary.

3) The hearing officer shall conduct the hearing in the order and form, and with such methods of proof, as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his decision at the end of the hearing. If the hearing officer determines that the Owner/Occupant is not liable, the hearing officer shall dismiss the matter and enter that determination in writing accordingly. If the hearing officer determines that the Owner/Occupant is liable for the violation, the hearing officer shall forthwith enter and assess the civil penalties, fines, costs and/or fees against the person as provided by this Ordinance.

4) If the hearing officer's assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of assessment to the Owner/Occupant found liable and shall file, not less than thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the clerk of the superior court facility designated by the Chief Court Administrator together with the applicable entry or filing fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessment against the same Owner/Occupant may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of the hearing officer's record of assessment as well as court costs, against such person(s) in favor of the Town.

The hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution of such judgment may issue without further notice to the Owner/Occupant.

5) A person against whom an assessment has been entered pursuant to this Ordinance is entitled to judicial review by way of appeal in accordance with C.G.S. §7-152c(g).

(n) *Recording of Lien.* Any unpaid civil penalty or other fine imposed pursuant to the provisions of this Ordinance, and any and all costs and expenses incurred by the Town for the enforcement of this Ordinance, shall constitute a lien upon the real estate against which the civil penalty or other fine was imposed from the date of such civil penalty or fine. Each such lien may be continued, recorded and released in the manner provided for in C.G.S. § 7-148aa. Each such lien shall take precedence over all other liens and encumbrances, except taxes, and may be enforced in the same manner as property taxes.

(o) *Municipal Performance.* In the event that any Owner/Occupant shall fail to abate or correct any violation specified in any notice, after the issuance of an enforcement citation for such failure, which citation has become final through the failure of such Owner/Occupant to appeal from the issuance of said citation, or by such appeal being sustained, the Town may cause or take such action as necessary to correct such violation. All costs and expenses of such corrective action shall be a lien upon the real estate. A certificate of lien shall be recorded in the Town Clerk's office within sixty (60) days after completion of such corrective action if all costs and expenses thereof are not reimbursed in full.

(p) *Other Remedies.* The provisions of this Ordinance are in addition to, and not in lieu of, any other remedies available to the Town under the Connecticut General Statutes, Connecticut State Building Code, Fire Code, Public Health Code, Zoning Regulations, or other sections of the Town Code.

(q) *Exemption for Pending Applications.* Any Blighted Premises for which an application is pending before the Planning & Zoning Commission, the Zoning Board of Appeals, or the Inland Wetlands Agency shall be exempted from the enforcement provisions of this Ordinance until a decision is reached on such application. However, this exemption shall only apply when the application proposes improvements to the Premises which would eliminate the blighted condition(s). The maximum duration of exemption for a Blighted Premises shall be one hundred and eighty (180) days.

ARTICLE IV. - UNSIGHTLY, UNSANITARY OR UNSAFE CONDITIONS

Footnotes:

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Editor's note— *Ord. No. 04-99, § 1, adopted March 15, 1999, retitled Art. IV to read as herein set out. See the Code Comparative Table.*

Sec. 38-106. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned property includes, but is not limited to, wrecked or derelict property which has been left behind when it appears that the former owner does not intend to come back, pick it up, or use it. Examples may include, but are not limited to, possessions left in a house, possessions left outside a structure, vehicles, vessels, etc., left behind or beside a road for a period not to exceed ten days.

Abandoned vehicle means, but is not limited to, any wrecked or derelict property which has been left abandoned and unprotected from the elements and shall include, but is not limited to, a vehicle in a state of disuse, neglect, a vehicle without a license plate, a vehicle with a license plate that is not registered to that vehicle, a vehicle that does not have a registration sticker affixed to the license plate, a vehicle that has a registration sticker affixed to the license plate which has expired. Evidence of disuse, neglect or abandonment may include, but is not limited to, factors such as: Refuse or debris collected underneath or the vehicle being used solely for storage purposes; if it is partially dismantled, having no engine, transmission or other major and visible parts; having major and visible parts which are dismantled; incapable of functioning as a motor vehicle in its present state; having nominal salvage value; or being in any physical state rendering it inoperable. A vehicle will be considered abandoned or derelict if it is in an evident state of extended disuse or neglect and which has been left abandoned.

Abate means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such manner and to such an extent as necessary in the interest of the general health, safety and welfare of the community as determined by the city manager, or his/her designee.

Actual cost means the actual contract amount plus interest, if any, as invoiced by an independent, private contractor for terminating and abating a violation of this section on a lot, tract, or parcel, plus the cost of serving notice of the remedy, obtaining title information on the property, administrative costs of $250.00, and all other identifiable costs incurred by the city of the abatement of the public nuisance on the lot, tract, or parcel.

Attractive nuisance means, but is not limited to, leaving a piece of equipment or other condition on the property which would be attractive and dangerous to the safety of curious children. This would include, but is not limited to, unguarded swimming pools, open pits, abandoned personal and real property, refrigerators, and buildings which have been boarded up for longer than 30 days.

Adjacent lot and lot adjacent mean the lot immediately adjoining or contiguous to the lot that is subject to review under this article.

Building means any structure as defined within the Florida Building Code, section 202 adopted in section 18-36. The word "building" includes the word "structure."

City means the incorporated municipality of Deltona, with definite boundaries and legal powers as set forth in the City Charter, including any subsequent annexation.

Developed lot means any lot that has a building or mobile home on it and is in an area zoned for residential, mobile home, commercial, industrial or public use, including the swale area.

Enforcement official means the enforcement services director or his/her designee.

Excessive growth of grass, weeds, or brush and other overgrowth means grass or weeds or brush, or bushes, or shrubs, or trees, or vines, or flowering plants and other living plant life that is allowed to grow in a wild and unkempt manner not in keeping with the neighborhood.

Hazard tree means, but is not limited to, a tree that is dead, diseased or dying, or has a structural defect that predisposes it to failure and the tree is located near an area where personal injury or property damage could occur if a tree or portions of the tree fails. This target area includes, but is not limited to, sidewalks, walkways, roads, vehicles, structures, or a place where people gather (for example, a backyard).

Imminent public health threat means the condition of a lot, tract, or parcel of land that, because of the accumulation of trash, junk, or debris, which includes but is not limited to, broken glass, rusted metal, automotive and appliance parts, abandoned or inoperable vehicles, some of which may contain chemicals, such as Freon, oils, fluids or the like, capable of causing injury or disease to humans or animals or a contaminate to the environment; or the condition of a lot, tract or parcel that, because of excessive growth of grass, weeds or brush, hazard tree(s), or stagnant water, can harbor criminal activity, create a habitat for rodents, vermin, reptiles or other wild animals, become a breeding ground for mosquitoes, or become a place to conduct illegal activity, a place that threatens or endangers the public health, safety or welfare of the city residents; a place that is reasonably believed to cause currently or potentially to cause in the future, ailments or disease.

Levy means the imposition of a non-ad valorem assessment against property found to be in violation of this section.

Natural state means a vacant lot that has never been cleared or has not been maintained for a period of three years or more.

Non-ad valorem assessment roll means the roll prepared by the city and certified to the Volusia County Property Appraiser and Tax Collector, as appropriate under Florida law, for collection.

Nuisance means (i) the excessive growth of grass, weeds, brush, branches, and other overgrowth; (ii) the creation of a habitat for rodents, vermin, reptiles, or other wild animals; or (iii) creating a breeding ground for mosquitoes; (iv) creating a place conducive to illegal activity; (v) maintaining a place that threatens or endangers the public health, safety or welfare of city residents; (vi) develop a place that is reasonably believed to cause currently, or potentially to cause in the future, ailments or disease; or (vii) a condition on the property that adversely affects and impairs the economic value or enjoyment of surrounding or nearby properties; (viii) failure to replace or repair with similar or improved material in a reasonable period, not to exceed 30 days, broken or missing building components, including but not limited to, doors, windows, roofing materials, siding, and drives/walkways outside the right-of-way which detract from the aesthetics of the neighborhood, shopping area, industrial area or other commercial area within the service district; (ix) failure to repair, replace or remove broken fencing, screening or decorative elements on a developed parcel or lot, is declared to be a nuisance and menace to the public health, safety, and welfare of the citizens of the city, including, but not limited to, abandoned property, abandoned vehicle(s), inoperable vehicles, or any other attractive nuisance.

Owner means the owner of record of a lot as such appears in the official records of the clerk of the circuit court in and for the county.

Trash, junk, or debris means waste materials including, but not limited to, putrescible and non-putrescible waste, combustible and non-combustible waste, and generally all waste materials including, but not limited to, paper, cardboard, tin cans, lumber, concrete rubble, glass, bedding, crockery, household furnishings, household appliances, inoperable vehicle(s), dismantled pieces of motor vehicles or other machinery, abandoned vehicles, tires, rusted metal articles, and abandoned property of any kind.

Rubble and debris mean waste materials resulting from the construction or demolition of structures or buildings not usable as a part of or for the construction or demolition of structures or buildings.

Swale area means that portion of land between the traveled roadway and the sidewalk or property line.

Yard trash means abandoned vegetative material from landscaping, maintenance or land clearing operations, and includes such materials as tree and shrub trimmings, grass clippings, palm fronds, tree limbs, tree stumps and similar materials.

(Ord. No. 03-97, § 1(2), 3-3-1997; Ord. No. 04-99, § 2, 3-15-1999; Ord. No. 15-02, § 1, 8-5-2002; Ord. No. 30-2006, § 1, 11-6-2006; Ord. No. 02-2018, § 2, 2-27-2018)

Cross reference— Definitions generally, § 1-2.

Sec. 38-107. - Penalty for violation of article.

If the enforcement official shall find that any of the provisions of this article are being violated, he shall notify the property owner of such violations, in writing, indicating the nature of the violation and ordering any action necessary to correct it. The enforcement official shall, at the same time, post a notice of violation on the affected property.

(Ord. No. 03-97, § 1(3), 3-3-1997; Ord. No. 30-2006, § 2, 11-6-2006)

Sec. 38-108. - Civil remedies.

The city commission may institute in any court, or before any administrative board of competent jurisdiction, action to prevent, restrain, correct or abate any violation of this article or of any order or regulations made in connection with its administration or enforcement; and the court or administrative board shall adjudge to the plaintiff such relief by way of injunction or any other remedy allowed by law or otherwise, to include mandatory injunction, as may be proper under all the facts and circumstances of the case, in order to fully effectuate the regulations adopted and orders and rulings made pursuant to the regulations.

(Ord. No. 03-97, § 1(4), 3-3-1997)

Sec. 38-109. - Exempt areas.

Notwithstanding any other provision of this article to the contrary, this article shall not apply to any property within the city which is used for agricultural purposes pursuant to the zoning regulations or on any lot, or portion of a lot, in an undisturbed natural state or condition; however, this exemption shall not apply to lots in a natural state that contain rubbish, waste, rubble, debris, yard trash or nuisance trees.

(Ord. No. 03-97, § 1(6), 3-3-1997; Ord. No. 30-2006, § 3, 11-6-2006)

Sec. 38-110. - Declaration of nuisance.

(a) The City of Deltona prohibits the existence of any nuisance as defined herein for the following reasons: The property is dangerous, unhygienic, unhealthy, visually unpleasant to the reasonable person of average sensibilities, and a visual nuisance because it depreciates, or potentially can depreciate, the value of neighboring property.

(1) It shall be the duty of the owner of property to eliminate on their lot, tract or parcel of land any public nuisance known at common law or in equity jurisprudence or as provided by the Statutes of the State of Florida or the City Code of Ordinances including, but not limited to, excessive growth of grass, weeds, brush, hazard trees, and other overgrowth on the property and that portions of the adjoining public right-of-way between the property and paved or graded street; conditions which endanger human life or substantially and detrimentally affect the utility, livability, safety or security of occupants, nearby occupants or passersby; conditions which render air, food or drink unwholesome

or detrimental to the health of human beings; fire hazards; structurally unsound fences or structures; abandoned buildings when they are unsecured or un-securable and when by reason of abandonment or neglect they contain hazards or other unsafe conditions; and any attractive nuisance which may prove detrimental to the health and safety of children or others whether in a building, on the premises of a building or upon an unimproved lot.

(2) Properties subject to this section shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, abandoned personal items included, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The property shall be maintained free of graffiti or similar markings by removal or painting over with paint that matches the color of the exterior structure. Imminent public health threat exists when the city manager or his/her designee determines that conditions on a property constitute an imminent public health threat and the situation calls for abatement sooner than the abatement procedures in the code permit, the city manager may order and cause the summary abatement of those conditions without the prior notice or hearing requirements prescribed herein. After the fact notice will be provided by the city to the owner no later than ten working days after the abatement. The owner shall have 30 days from the date the invoice is mailed to reimburse the city; or 15 days to appeal. If the property is secured by locks or otherwise, the city shall have the authority to enter said property for purposes of remedying the condition creating the nuisance or violation and any additional costs incurred by the city in gaining access to the property including, but not limited to, judicial action, or in re-securing the property after cleaning and clearing, shall be considered expenses of remedying the condition.

(b) It is declared and determined by the city commission that the following shall each individually or in any combination be considered a nuisance when they exist upon any right-of-way, lot, tract or parcel of land or adjacent lots in the incorporated area of the city:

(1) Excessive and untended growth of grass, weeds, brush, branches, and other overgrowth, where the greater portion of the weeds on the lot exceeds 12 inches in height, which impair the economic welfare of the property, contribute to a fire hazard and/or create a health hazard when any part of those growths are located on any lot adjacent to the boundary of any developed lot.

(2) Accumulations of waste, yard trash, or rubble and debris.

(3) Accumulations of waste, yard trash, or rubble and debris, living and non-living plant material, hazard trees and stagnant water that may harbor rats or snakes or that may contain pools of water that may serve as breeding grounds for insects or other disease

transmitters.

(4) Nuisance trees determined to be a public hazard when it has been determined by the enforcement official and the city engineer in consideration of the following standards:

a. Sand Pines leaning 45 degrees or more from vertical are a nuisance subject to immediate removal.

b. Sand Pines leaning less than 45 degrees from vertical may be declared a nuisance following an inspection by a professional forester, botanist or landscape architect.

c. Sand Pines leaning less than 25 degrees from vertical are not a nuisance absent special conditions making them a hazard in the opinion of a professional forester, botanist or landscape architect.

d. Any dead, damaged or diseased trees, located within 35 feet of any public roadway, public or private sidewalk that is adjacent to a public roadway, or any developed public property, may be declared a nuisance following an inspection by a professional forester, botanist or landscape architect and are subject to immediate removal.

(5) The existence of all other objectionable, unsightly or unsanitary matter, materials, and conditions on improved property.

(6) Property providing a breeding place for mosquitos.

(7) Property being inhabited by, or providing a habitat for rodents, vermin, reptiles, or other wild animals.

(8) Property being a place, or being reasonably conducive to serving as a place, for illegal or illicit activity.

(9) Property conditions that are threatening or endangering the public health, safety, or welfare of city residents.

(10) Property reasonably believed to cause currently, or potentially to cause in the future, ailments, or disease.

(11) Property adversely affecting and impairing the economic value or enjoyment of surrounding or nearby property, more particularly described at chapter 18 - Property Maintenance Code.

(12) Failure to replace or repair with similar or improved material in a reasonable period, not to exceed 60 days, broken or missing building components, including but not limited to, doors, windows, roofing material, siding, and drives/walks outside the right-of-way which detract from the aesthetics of the neighborhood, shopping area, industrial area or other commercial area within the service district. See chapter 18 - Property Maintenance Code.

(13) Failure to repair, replace, or remove broken fencing, screening or decorative elements on a developed parcel or lot.

(14) See section 18-112 where the city, in its entirety is declared a special-assessment district

for the purposes of abating and remedying unfit and unsafe structures and a non-ad valorem assessment may be levied under this section.

(Ord. No. 03-97, § 1(7), 3-3-1997; Ord. No. 04-99, § 3, 3-15-1999; Ord. No. 30-2006, § 4, 11-6-2006; Ord. No. 28-2007, § 1, 10-1-2007; Ord. No. 02-2018, § 2, 2-27-2018)

Sec. 38-111. - Nuisance abatement requirements.

It is determined by the city commission that any nuisance declared by this article that is found upon any lot, lots or adjacent lots, as the case may be, in the incorporated area of the city, shall be abated in the following manner:

(1) If the nuisance consists of a nuisance tree or nuisance trees, accumulations of waste, yard trash, or rubble and debris, it shall be abated in its entirety.

(2) If the nuisance consists of nuisance weeds, it shall be abated in its entirety, provided that the nuisance lies upon a previously cleared or improved lot adjacent to a developed lot; or

(3) If the nuisance consists in part or combination of any of the nuisances declared in section 38-110, then the provisions of section 38-111 shall apply.

(Ord. No. 03-97, § 1(8), 3-3-1997; Ord. No. 04-99, § 4, 3-15-99)

Sec. 38-112. - Nuisance prohibited.

It is unlawful for any person owning property in the city to allow his lot to exist in nuisance condition as described in this article.

(Ord. No. 03-97, § 1(9), 3-3-1997)

Sec. 38-113. - Public rights-of-way.

(a) It shall be the responsibility of every owner, agent or tenant of improved property in the city to, at all times, maintain those rights-of-ways most nearly abutting their property. These responsibilities shall include removing litter and debris, and cutting the grass and weeds to maintain a neat and trimmed appearance.

(b) It is declared that the placement of plantings, except grass, and the placement of structures in the publicly owned right-of-way is prohibited and is declared to be a nuisance and a violation. The city manager or his designee or the enforcement official is authorized to remove (abate) plantings or structures placed in the public right-of-way without prior permission.

(c) For the purpose of this section, right-of-way shall be defined as that area from the property line to the edge of the pavement of a roadway, including any grassy or unpaved areas.

(d) Waste deemed to be a public health or safety hazard placed in the city right-of-way shall be

declared to be a nuisance and the city is authorized to remove the nuisance, after posting the property with notice requiring the property owner to abate the violation within 24 hours of the posting of the notice. The property owner shall be responsible for any costs incurred by the city for abatement of the nuisance and a lien shall be imposed on the property.

(e) The city manager or their designee shall be authorized to declare waste deemed to be a public health or safety hazard to be a nuisance on public rights-of-way.

(f) Notice required under this section shall:

(1) Be hand-delivered to a person in possession of the property or be posted in a conspicuous place on the front door and/or on the garage door of the structure, if one exists;

(2) Be posted on a stake on undeveloped properties, not less than five feet from the nuisance to be abated and visible from the street;

(3) Include the property address, violation, and corrective measure to be taken;

(4) Be signed by the enforcement officer and include the date and time of the posting.

(g) Fees and costs to abate such nuisance shall be declared to be a debt to the city and a lien shall be authorized upon such real property where such abated nuisance existed. Such amount shall be recoverable in any court of competent jurisdiction and shall constitute a lien against the premises to the same extent and character as the lien for property taxes and special assessments and with the same penalties and with the same rights of collection, foreclosure, sale, and forfeiture as obtained for special assessment liens and may be handled in the same manner by the city.

(h) Within 30 days after the posting of the notice from the enforcement official pursuant to this section, the owner of the lot may make written request for a hearing before the city's special magistrate to appeal the decision of the enforcement official and to show that the condition alleged in the notice did not exist or that such condition did not constitute a public health or safety hazard. Filing such appeal shall toll the recording of a lien against the subject property until the decision of the special magistrate is rendered. Failure to notify or to timely appear for the hearing shall be deemed a waiver of the lot owner's right to appeal. The enforcement official shall give the owner seeking such hearing written notice of the date and location of the scheduled hearing. At the hearing before the special magistrate, the city and the lot owner may introduce such competent, substantial evidence as is deemed relevant and necessary. Thereafter, the special magistrate shall render a decision on the hearing. In order to defray the expense of processing an appeal to the special magistrate the fee for appeal shall be established by resolution of the city commission in the Appendix A fee schedule; however, the city shall refund the appeal fee to the applicant if the special magistrate concurs with the applicant in its decision. Following review by the special magistrate, or waiver of the right to appeal by the owner, the owner shall have exhausted his administrative remedies.

(Ord. No. 16-97, § 1, 9-8-1997; Ord. No. 34-2008, § 1, 9-15-2005; Ord. No. 28-2007, § 2, 10-1-2007; Ord. No. 34-2008, § 1, 9-3-2008)

Sec. 38-114. - Outdoor storage.

Storage of building materials, commercial and industrial equipment, materials, objects or waste relating to commercial or industrial uses, or any equipment, materials or objects that are not incidental to a residential use, shall be prohibited. Furniture outside must be designed to be placed outdoors or stored inside a covered structure. In addition, storage of materials relating to residential use, children's play toys, firewood, brush, logs or any other material intended to be used in fireplaces or other permitted burning facilities, shall be permitted only in the rear yard next to the rear wall of the home.

(Ord. No. 28-2007, § 3, 10-1-2007)

Sec. 38-115. - Enforcement official.

The enforcement official is hereby designated as the investigating and enforcing authority pursuant to the provisions of this article. The enforcement official is directed and empowered to inspect land on which a nuisance is suspected to exist, to receive all complaints of a violation of this article, and to enter upon any real property in the conduct of official business pursuant to this article. The enforcement official shall be responsible for providing all notices to affected property owners required by this article and to take such other action as is reasonably necessary to accomplish the purpose of this article.

(Ord. No. 03-97, § 1(10), 3-3-1997)

Sec. 38-116. - Notice to correct violation.

The enforcement official is empowered to enter upon and inspect any lot on which a nuisance declared by this article is suspected to exist. If inspection reveals the presence of a nuisance, the enforcement official shall notify the record owners by registered or certified mail, return receipt requested, of such nuisance, or by hand delivery by the enforcement official or deputy sheriff. The notice shall be sent to the last available address of the owners of record as found in the county public records. At the same time, a notice of violation shall be posted on the property, which shall advise the owner that a nuisance exists on the owner's lot; and the nuisance shall be abated by the owner. The notice shall specify what corrective action shall be taken by the owner to abate the nuisance and that failure to abate the nuisance will result in the enforcement official abating the nuisance and that a lien for the costs of the abatement shall be recorded against the property for failure to abate the nuisance. The owner shall have seven days from the mailing or hand delivery of the notice and posting on the property to correct the nuisance except that an owner of a lot that is unimproved, undeveloped or in its natural state shall have 15 days to correct the nuisance. Such notice shall also state that if a similar condition constituting a nuisance occurs on the same lot within the following 12 months, the city shall have the right, but not the obligation, to abate that nuisance with only a 24 hour posting as notice and

no mailed notice, and record a lien for the costs of that abatement which can occur no earlier than 24 hours after such posting. The notice shall also state that the owner has the right to appeal the determination of the enforcement official to the city commission and that the appeal, upon payment of the fee in accordance with section 38-117, shall be filed within seven days of the mailing or hand delivery of the notice from the enforcement official, and the posting of a notice on the property.

(Ord. No. 03-97, § 1(11), 3-3-1997; Ord. No. 30-2006, § 5, 11-6-2006; Ord. No. 35-2008, § 1, 10-6-2008; Ord. No. 16-2016, § 1, 7-5-2016)

Sec. 38-117. - Appeals.

Within seven days after the mailing or hand delivery of the notice from the enforcement official pursuant to section 38-115, and except for section 38-110, imminent public health threat, the owner of the lot may make a written request for a hearing before the city commission to appeal the decision of the enforcement official and to show that the condition alleged in the notice does not exist or that such condition does not constitute a nuisance. Filing such appeal shall toll the seven-day period to correct the nuisance until the decision of the city commission is rendered. Failure to notify or to timely appear for the hearing shall be deemed a waiver of the lot owner's right to appeal. The enforcement official shall give the owner seeking such hearing written notice of the date and location of the scheduled hearing. At the hearing before the city commission, the city and the lot owner may introduce such competent, substantial evidence as is deemed relevant and necessary. Thereafter, the city commission shall render a decision on the hearing. In order to defray the expense of processing an appeal to the city commission the fee for appeal shall be established by resolution of the city commission in the appendix A fee schedule; however, the city commission shall refund the appeal fee to the applicant if the city commission concurs with the applicant in its decision. Following review by the city commission, or waiver of the right to appeal by the owner, the owner shall have exhausted his administrative remedies.

(Ord. No. 03-97, § 1(12), 3-3-1997; Ord. No. 35-2008, § 2, 10-6-2008; Ord. No. 02-2018, § 2, 2-27-2018)

Sec. 38-118. - Abatement of nuisance by city.

If no appeal is filed or the notice is returned undelivered, upon the expiration of the seven-day period after the mailing or hand delivery of the notice of violation and posting of the property, the enforcement official shall reinspect the lot to ascertain whether or not the nuisance has been abated. Should the enforcement official determine that the subject lot still constitutes a nuisance and has notified the owner as such, and the owner has failed to abate the nuisance within the allowed time, the enforcement official shall abate the nuisance no earlier than seven days from the mailing or hand delivery of the notice and the posting of the property. The enforcement official, through his agents or authorized contractors, is authorized to enter upon the lot and take such steps as are reasonably necessary to effect abatement.

(Ord. No. 03-97, § 1(13), 3-3-1997; Ord. No. 35-2008, § 3, 10-6-2008)

Sec. 38-119. - Assessment of costs of abatement; imposition of lien.

As soon after abatement is feasible, the actual cost of abatement shall be calculated. Thereupon, the city shall levy a municipal lien in the amount of such cost against such lot. Such lien shall describe the lot and show the total cost assessed. Until payment is complete, such lien shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator in Volusia County, Florida. The lien shall become due and payable to the city as of the date of the mailing of the notice of lien. Interest shall begin to accrue at the rate of 18 percent per annum on any unpaid portion 30 days after the mailing of the notice of lien.

(Ord. No. 03-97, § 1(14), 3-3-1997; Ord. No. 04-99, § 5, 3-15-1999; Ord. No. 15-02, § 2, 8-5-2002; Ord. No. 30-2006, § 6, 11-6-2006; Ord. No. 10-2010, § 3, 9-20-2010)

Sec. 38-120. - Notice of lien.

The city shall mail a notice to the record owner of each lot by certified mail, return receipt requested, to the last available address of record for such owners as found in the county public records, which notice shall include the following information:

(1) The name and address of the lot owner;

(2) A legal description of the lot where the nuisance has been abated;

(3) The date of mailing of the notice of the lien;

(4) A brief description of the nuisance;

(5) The date that the notice was originally sent to abate the nuisance;

(6) A statement of actual costs of abatement and any interest due;

(7) The date of the municipal lien imposed for costs of abatement of the nuisance;

(8) Instructions regarding payment and removal of the lien; and

(9) Additional information as necessary and appropriate.

(Ord. No. 03-97, § 1(15), 3-3-1997; Ord. No. 04-99, § 6, 3-15-1999; Ord. No. 30-2006, § 7, 11-6-2006; Ord. No. 10-2010, § 3, 9-20-2010)

Sec. 38-121. - Recording of lien.

As soon as possible after the assessment for abatement of a nuisance has been made, a certified copy of the municipal lien shall be recorded in the official records of the county in the office of the clerk of the circuit court in and for the county.

(Ord. No. 03-97, § 1(16), 3-3-1997; Ord. No. 04-99, § 7, 3-15-1999; Ord. No. 15-02, § 3, 8-5-2002; Ord. No. 30-2006, § 8, 11-6-2006; Ord. No. 10-2010, § 3, 9-20-2010)

Sec. 38-122. - Effect of lien.

The municipal lien created under the provisions of this article shall become effective as of the date of recording such copy in the official records of Volusia County by the Clerk of the Circuit Court. Such lien, together with interest, may be enforced by civil action in the appropriate court of the county. The liens created under this article shall be a first lien equal to a lien for nonpayment of property taxes on any property against which a lien for costs to abate the nuisance has been filed, and shall continue in full force from the date of recording until discharged by satisfaction.

(Ord. No. 03-97, § 1(17), 3-3-1997; Ord. No. 30-2006, § 9, 11-6-2006; Ord. No. 10-2010, § 3, 9-20-2010)

Sec. 38-123. - Satisfaction of lien.

Upon satisfaction of the lien created under this article, the city shall file an order of satisfaction, release and dismissal of lien with the clerk of the circuit court.

(Ord. No. 03-97, § 1(18), 3-3-1997; Ord. No. 10-2010, § 3, 9-20-2010)

Sec. 38-124. - Alternate method of enforcement.

As an alternative to the procedures of this article at the option of the enforcement official, violations of this article which occur on occupied properties, and repeat violations, may be referred to the special magistrate for enforcement action pursuant to article II of chapter 2. In such cases, notice shall be given to the property owner by registered or certified mail, return receipt requested and the property shall simultaneously be posted. The time period for compliance with the notice of violation shall not exceed seven days. The special magistrate shall set a minimum fine for such violations of $250.00, plus $10.00 per day. The $250.00 fine shall be assessed on the day following the required compliance date set by the special magistrate, or on the day following the date of the mailing or hand delivery of the notice of violation for repeat offenses. The $10.00 fine shall accumulate for each day that the violation continues from the second day following the required compliance date determined by the Special Magistrate or from the second day following date of the notice of violation to the date of compliance for repeat violations.

(Ord. No. 03-97, § 1(19), 3-3-1997; Ord. No. 30-2006, § 10, 11-6-2006; Ord. No. 35-2008, § 4, 10-6-2008)

Sec. 38-124A. - Assessments for public nuisance.

(a) *Purpose and intent.* The purpose and intent of this section is to establish a special assessment district to abate and remedy violations of [article IV].

(1) Establishment of a special assessment district for the City of Deltona in its entirety, as its city boundaries exist on the date of the enactment of this section and as they may expand or contract from time to time. The special assessment district is declared for the purposes of abating and remedying violation of [article IV]. Individual properties within

the city's boundaries, as they may exist from time to time, may be assessed for the costs incurred by the city in abating and remedying violations of [article IV]. Such costs on a particular property may be cumulatively added over multiple fiscal years in order to meet any yearly assessment limitation as required by the county property appraiser and/or tax collector under F.S. § 197.3632, as amended.

(2) *Levy of non-ad valorem assessments.* There is hereby levied, and the city commission is authorized to levy from time to time, a non-ad valorem assessment against each and every property in the city; (i) on which there has occurred a violation of section 38-110; and (ii) on which the city undertakes or has undertaken action pursuant to sections 38-113 and 38-116 to abate and/or remedy the violation and, thereby incurs or has incurred costs; and (iii) the property owner of the property failed or refused, for whatever reason to pay timely the amount owed to the city under section 38-119 for the costs incurred by the city in carrying out such abatement and remedy.

(3) *Collection of non-ad valorem assessments.* The city commission elects to use the uniform method to impose and collect non-ad valorem assessments against properties on which violations of section 39-110 occur or have occurred. The non-ad valorem assessments collected pursuant to this section will be included in the combined notice for ad-valorem taxes and for non-ad valorem assessments as provided in F.S. § 197.3635. Non-ad valorem assessments collected pursuant to this section are subject to all collection provisions in F.S. § 197.3632, including discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment.

(4) *Agreement to reimburse the county property appraiser and the county tax collector.* In order to use the uniform method for the levy, collection, and enforcement of the non-ad valorem assessments, the city is authorized to enter into a written agreement with the county property appraiser and county tax collector providing for the reimbursement of their costs incurred in the administration and collection of the non-ad valorem assessments levied under this section.

(5) *Adoption of a resolution.* The city will comply with all statutory notice prerequisites set forth in F.S. § 197.3632. The city commission will adopt a resolution at a public hearing prior to March 1, 2018 in accordance with F.S. § 197.3632(3), which resolution shall state the following: (a) The city's intent to use the uniform method of collecting non-ad valorem assessments; (b) The city's need for the imposition of the non-ad valorem assessments; (c) The entire city is declared a special assessment district, with individual properties being subject to the non-ad valorem assessments from time to time if and when violations of section 38-110 occur.

(6) *Annual non-ad valorem assessment roll.* Each year, the city commission will approve a non-ad valorem assessment roll at a public hearing between January 1 and September

15. The non-ad valorem assessment roll will be comprised of properties that have had levied against them non-ad valorem assessments under this section, and such assessments have not otherwise been paid in full prior to approval on the roll: (a) The city manager, or his/her designee, is authorized and directed each year to prepare the notice that must be sent by first class United States mail, as required by F.S. § 197.3632(4)(b); (b) The notice is to be sent by first class United States mail and will be sent to each person owning property that will be on the non-ad valorem assessment roll and will include the following: (i) the purpose of the assessment; (ii) the total amount to be levied against the parcel, which includes the actual cost incurred by the city; (iii) a statement that failure to pay the assessment will cause a tax certificate to be issued against the property, which may result in a loss of title; (iv) a statement that all affected property owners have a right to appear at the hearing and to file written objections with the city commission within 20 days of the notice; (v) the date, time and place of the hearing.

(7) Upon its approval by the city commission, the non-ad valorem assessment roll will be certified to the tax collector as required by law.

(Ord. No. 02-2018, § 2, 2-27-2018; Ord. No. 16-2018, § 2, 10-15-2018)

ARTICLE V. - GRAFFITI

Footnotes:
--- (5) ---
Cross reference— *Administration, ch. 2.*

Sec. 38-125. - Definitions.

For the purpose of this article the following terms apply:

Actual cost means the actual contract amount, as invoiced by an independent contractor, for terminating and abating a violation of the article on any building, structure or other property pursuant to an order of the enforcement services director or his/her designee, plus the cost of serving notice, obtaining title information, advertising and recording any liens imposed hereunder.

Code compliance inspector shall mean the chief code compliance officer of the code compliance division (or successor division) of the city department of development services or any of his/her authorized inspectors.

Corrective action means an act required to remove or effectively and appropriately obscure graffiti.

Enforcement services director shall mean the enforcement services director, or his or her designee.

Graffiti means the unauthorized writing, painting, marking, moving, drawing, defacing or etching of any inscription that has been placed upon any public or private property, real or personal, through the use of paint, ink, dye, indelible marker, or any other substance capable of marking property or through the use of any implement that can be used to deface, mar or etch on property.

Graffiti nuisance property means property that has had a notice of violation issued pursuant to section 38-128 of this chapter or a citation issued on it by a code compliance officer pursuant to chapter 2, article II, "Code Enforcement", of this Code, and the graffiti for which the citation or notice of violation was issued has not been corrected.

Indelible marker means any felt tip marker, or similar implement, which contains a fluid which is not water soluble.

Owner with respect to real property means any and all persons with legal and/or equitable interest or title to real property in the city as their names and addresses are shown in the Volusia County public records. With respect to personal property, the term "owner" means any individual or entity having a legal and/or equitable interest in such personal property.

Property means any real or personal property and that which is affixed, incidental or appurtenant to real property, including but not limited to any structure, fence, wall, sign, or any separate part thereof, whether permanent or not.

(Ord. No. 31-98, § 1, 12-7-1998; Ord. No. 15-02, § 4, 8-5-2002)

Sec. 38-126. - Graffiti prohibited.

No person shall write, paint, mar, deface, draw, or etch any inscription figure, or mark of any type on any public or private building or structure or other property owned, operated or maintained by any person, firm or corporation or by a government entity or any agency or instrumentality thereof, unless the express prior written permission of the owner, owner's agent, manager or operator of the property has been obtained.

(Ord. No. 31-98, § 1, 12-7-1998)

Sec. 38-127. - Possession of spray paint and markers.

Possession of spray and/or indelible markers with intent to make graffiti or allow the same to be used to make graffiti is prohibited. No person shall carry an aerosol spray paint can or indelible marker with the intent to violate the provisions of section 38-126.

Sec. 38-128. - Penalties.

Any person violating section 38-126 or 38-127 shall be punished by a fine of $250.00 for the first offense; $500.00 for the second offense and $1,000.00 for each subsequent offense or by imprisonment in the county jail for a term not to exceed 60 days or by both fine and imprisonment at the discretion of the court.

(1) In the case of a minor, the parents or legal guardian shall, with the exceptions found in subsection (c) below, be ordered to be responsible for payment of all fines. When the court imposes such responsibility, the failure of the parents or legal guardian to make payment will result in the filing of a lien upon the parent's or legal guardian's property and the amount of the lien shall include the fine and any applicable administrative fees, legal fees or court costs.

(2) In addition to any punishment, the court shall order any person found in violation of section 38-126 or 38-127, to make restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense. Such restitution shall be made in a reasonable amount or manner as determined by the court. Where the defendant is a minor, the parent's or legal guardian of the defendant shall be ordered by the court to be jointly and severally liable with the minor to make such restitution.

(3) The court may reduce the fines and administrative costs imposed in subsection (1) above upon a showing by the parent or guardian of an inability to pay the full fine and administrative fees or costs. If the court finds it appropriate, the minor's parent or guardian, together with the minor, may participate in a community work project as an alternative to monetary restitution or fines and costs imposed. In addition, if, after a hearing, the court finds that the parent or guardian has made diligent and good faith efforts to prevent the juvenile from engaging in the act of graffiti the parent or guardian shall be absolved of liability by subsection (2) above.

(Ord. No. 31-98, § 1, 12-7-1998)

Sec. 38-129. - Enforcement; abatement of graffiti.

(a) It shall be unlawful for the owner of any private real or personal property, including structures or improvements, to permit graffiti to remain on any such property within the city, providing the city has given the property owner, or the property owner's agent, manager, operator or representative written notice as set forth in subsections (b) and (c) below.

(b) The city enforcement services department shall be the primary liaison with the community regarding graffiti removal and requests for graffiti removal shall emanate from one of those offices. Whenever the enforcement services director is notified by the enforcement services department of the existence of graffiti on any property, the enforcement services director shall direct that a notice of violation be served upon the owner, agent, custodian, lessee or occupant directing such owner, agent, custodian, lessee or occupant to terminate and abate the violation within 15 calendar days of the date such notice is received by certified mail, hand-delivered or

posted. For purposes of this article, the term "notice is received" shall mean the date the owner, agent, custodian, lessee or occupant initials or otherwise indicates his receipt of the notice of violation. However, in the event the notice of violation is not accepted or is returned, the term "notice is received" shall mean 15 calendar days after the later of the date of the notice of violation in a conspicuous and easily visible location. The enforcement services director shall, within five days of the date the notice is mailed, cause a sign to be placed upon the property in violation in a conspicuous and easily visible location. The sign shall be at least 18 inches by 24 inches in dimension. Notice of violation shall include a sufficient description by address and/or legal description to identify the property upon which the violation exists; a description of the violation to be terminated and abated; and a statement that if the described violation is not terminated and abated within 15 calendar days after notice as herein provided, enforcement services director may order the code compliance inspector to cause the violation to be terminated and abated, and to impose a lien upon the property for the actual cost of such termination and abatement. A preliminary nonbonding, minimum estimate of the cost of abatement shall be provided as part of the notice of violation to provide notice to the owner, agent, custodian, lessee or occupant of the minimum estimated cost of abatement if the enforcement services director is required to cause the violation to be terminated and abated. The estimated cost of abatement shall be based upon the then current rate as may be established by the city commission.

(c) The notice of violation shall further state in bold and conspicuous letters that if such violation, within the 15-day period prescribed by subsection (a) of this section:

(1) Has not been terminated and abated by the owner, agent, custodian, lessee or occupant; or

(2) Has not been timely appealed in accordance with section 38-129 of this chapter; then the enforcement services director shall direct those actions necessary to cause the violation to be terminated and abated. The actual cost of such termination and abatement shall constitute a lien on the property in accordance with section 38-130 of this chapter.

(Ord. No. 31-98, § 1, 12-7-1998; Ord. No. 15-02, § 5, 8-5-2002)

Sec. 38-130. - Appeals.

(a) Within the 15-day period prescribed by section 38-129 after notice is received, an aggrieved party may appeal the enforcement services director determination that a notice of violation is warranted for the property in question.

(b) An appeal by an aggrieved party:

(1) Shall be accompanied by a filing fee as determined by the city commission;

(2) Shall be addressed to the enforcement services director;

(3) Shall be either hand-delivered to the enforcement services director or postmarked within the 15-day period after notice is received.

(c) Upon receipt of a timely appeal, the enforcement services director shall schedule a hearing date before the code enforcement board. The hearing shall be scheduled on the agenda for the next available code enforcement board meeting, but in no event longer than 45 days.

(d) At the hearing, the code enforcement board shall allow the enforcement services director and the aggrieved party an opportunity to present evidence and to examine and cross-examine witnesses. After considering the evidence and testimony, the code enforcement board shall make a factual determination as to whether the property is graffiti nuisance property in violation of this article. If the code enforcement board makes a factual determination that the property is graffiti nuisance property in violation of this article, it shall affirm the enforcement services director issuance of the notice of violation and issue an order stating that the graffiti is to be removed immediately by the aggrieved party. If the graffiti has not been removed by the aggrieved party within five calendar days after the date of the code enforcement board's written order holding that this article has been violated, then the services director may have the graffiti removed. If the code enforcement board makes a factual determination that the property is not in violation of this article, then the filing fee as set forth in subsection (b)(1) above shall be returned to the aggrieved party.

(e) Any appeal of the code enforcement board's decision shall be made to the circuit court in and for Volusia County.

(Ord. No. 31-98, § 1, 12-7-1998; Ord. No. 15-02, § 6, 8-5-2002)

Sec. 38-131. - Liens.

(a) The actual cost of a termination and abatement of a violation of this chapter when such termination and abatement is accomplished under the direction of the enforcement services director shall be levied and constitute a special assessment lien against the benefited property as set forth in subsection (b).

(b) The enforcement services director shall prepare a lien against the benefited property. The lien shall state that if it is not paid within 15 calendar days, then the lien, or certified copy thereof, shall be recorded in the official records of the county and shall constitute a special assessment lien against the property. The lien shall at maximum state the name and address of the last known owner as shown on the county tax record, a description of the property, the amount of the assessment, and the date of service to the property. A copy of such notice shall be mailed to the owner at his last known address. No assessment shall be levied against any property for graffiti removal on such property more than three times in any calendar year.

(Ord. No. 31-98, § 1, 12-7-1998; Ord. No. 15-02, § 7, 8-5-2002)

Sec. 38-132. - Additional remedies for abatement.

(a) *Abatement remedies.* The abatement remedies afforded by this article are not exclusive and

are supplemental to other remedies available for enforcing codes and ordinances, including the code enforcement board procedure and the code enforcement citation program set forth in chapter 2 of this Code. However, only liens collectable under section 38-131 of this chapter shall be special assessment liens.

(b) *Code enforcement citation procedure.* Whenever a code compliance officer personally observes the existence of graffiti on any property such code compliance officer may issue a citation to the property owner in the manner provided by and consistent with the procedures set forth in chapter 2 of this Code. Failure to abate graffiti nuisance property shall be subject to a fine with a civil penalty of $200.00.

(c) *Mitigation of fines.* In the event a remedy other than this article is chosen to abate graffiti nuisance property, it shall be an affirmative defense preventing any fine from issuing if the owner proves at a hearing that, at the subject location, he or she has been victimized by graffiti three or more times within the calendar year of the violation and had removed or effectively obscured the graffiti within 15 days of its appearance. This mitigation provision applies only to fines and shall not prevent the city from taking corrective action.

(Ord. No. 31-98, § 1, 12-7-1998)

Secs. 38-133—38-139. - Reserved.

Sec. 15-30. - Adopted.

This article shall be known as the "Derelict Property Ordinance."

(Ord. of 2-20-2014, § 1(15-30))

Sec. 15-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicable codes means any optional housing or abatement standard provided in O.C.G.A. title 8, chapter 2 as adopted by ordinance or operation of law, or other property-maintenance standards as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property; any fire or life safety code as provided for in O.C.G.A. title 25, chapter 2; and any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A. title 8, chapter 2 after October 1, 1991, provided that such building or minimum standard codes for real-property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

Closing means causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.

Drug crime means an act which is a violation of O.C.G.A. title 16, chapter 13, article 2, known as the "Georgia Controlled Substances Act."

Dwellings, buildings, or *structures* means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. As used in this article, the term "dwellings, buildings, or structures" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Governing authority means the City Council of the City of Aragon, Georgia.

Graffiti means any inscriptions, words, figures, paintings, or other defacements that are written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by means of any aerosol paint container, broad-tipped marker, gum label, paint stick, graffiti stick, etching equipment, brush, or other device capable of scarring or leaving a visible mark on any surface without prior authorization from the owner or occupant of the property.

Interested party means:

(1) The "owner;"

(2) Persons in possession of said property and premises;

(3) Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the State Bar of Georgia;

(4) Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9; and

(5) Any other party having an interest in the property whose identity and address are reasonably ascertai records of the municipality or records maintained in the county courthouse or by the clerk of court; pr interested party shall not include the holder of the benefit or burden of any easement or right-of-way properly recorded which interest shall remain unaffected.

Municipality means the City of Aragon, Georgia.

Owner means the holder of the title in fee simple and every mortgagee of record.

Public authority means any member of the governing authority, any director of a public housing authority, or any officer who is in charge of any department or branch of government (municipal, county or state) relating to health, fire, life safety, building regulations, or to other activities concerning dwellings, buildings, or structures, or use of private property within the city.

Public officer means the code enforcement officer, who is authorized to exercise the powers prescribed by this article, and any officer or employee of the city to whom he delegates such authority.

Repair means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes in the jurisdiction where the property is located and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.

Resident means any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose.

(Ord. of 2-20-2014, § 1(15-31))

Sec. 15-32. - Duty of owners of real property and structures thereon.

It is the duty of the owner of every dwelling, building, structure, or private property within the jurisdiction to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the city or such laws and ordinances which regulate and prohibit activities on private property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure, or use private property in violation of such codes, laws or ordinances.

(Ord. of 2-20-2014, § 1(15-32))

Sec. 15-33. - Declaration of public nuisance.

(a) Every dwelling, building, or structure within the city which:

(1) Is constructed or maintained in violation of applicable codes in force within the city;

(2) Is unfit for human habitation or commercial, industrial, or business use or occupancy due to inadequate provisions for ventilation, light, air, sanitation, or open spaces;

(3) Poses an imminent harm to life or other property due to fire, flood, hurricane, tornado, earthquake, storm or other natural catastrophe;

(4) Is vacant and used in the commission of drug crimes;

(5) Is occupied and used repeatedly for the commission of illegal activities, including facilitating organized criminal enterprises, after written notice to the owner of such activities conducted therein;

(6) Is abandoned; or

(7) Otherwise constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions;

is hereby declared a public nuisance.

(b) Every private property within the city on which is being regularly conducted any activity or land use in violation of applicable laws and ordinances, including the zoning ordinance of this city, is hereby declared to be a public nuisance. Property which may be deemed aesthetically substandard or deteriorating shall not meet the definition of a public nuisance unless the overall condition or use of the property results in impaired health, safety, transmission of disease, infant mortality, or crime.

(Ord. of 2-20-2014, § 1(15-33))

Sec. 15-34. - Powers of code enforcement officer.

(a) In carrying out his duties pursuant to this article, the city code enforcement officer to whom his authority is assigned shall, in addition to those powers otherwise conferred upon or delegated to him by the Charter and other ordinances of the city, be empowered to:

(1) Investigate and inspect the condition of dwellings, buildings, structures, and private property within the city to determine those structures and property uses in violation of this article. Entries onto private property shall be made in a manner so as to cause the least possible inconvenience; provided, however, the public officer shall not enter into any occupied dwelling or structure without first having obtained the consent of the owner or a person in possession. In those cases where consent to entry is denied after reasonable request, the public officer may apply to the municipal court for an administrative search warrant upon showing probable cause that a violation exists;

(2) To retain experts including certified real estate appraisers, qualified building contractors, and qualified building inspectors, engineers, surveyors, accountants, and attorneys;

(3) To appoint and fix the duties of such officers and employees of the city as he deems necessary to carry out the purposes of this article; and

(4) To delegate any of his functions and powers under this article to such officers, employees and agents as he may designate.

(b) In addition to the procedures set forth in this article, the code enforcement officer or his designee(s) may issue citations for violations of state minimum standard codes, optional building, fire, life safety and other codes adopted by ordinance, and conditions declared to constitute a public health or safety hazard or general nuisance, and to seek enforcement of such citations before the municipal court prior to issuing a complaint in rem as provided in this article. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by other summary proceedings.

(Ord. of 2-20-2014, § 1(15-34))

Sec. 15-35. - Complaint in rem in municipal court; procedure; lien; appeal.

(a) Whenever a request is filed with the public officer by a public authority or by at least five residents of the m charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, or business use and not in compliance with applicable codes; is vacant and being used in the commission of crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe co the public officer may make an investigation or inspection of the specific dwelling, building, structure, or pr make a written report of his findings. Such officer shall be guided in his investigation by documenting condi include but are not limited to:

(1) Defects therein increasing the hazards of fire, accidents, or other calamities;

(2) Lack of adequate ventilation, light, or sanitary facilities;

(3) Dilapidation;

(4) Disrepair by failure to conform to applicable codes and ordinances;

(5) Structural defects which render the structure unsafe for human habitation or occupancy;

(6) Uncleanliness; or

(7) The presence of graffiti which is visible from adjoining public or private property.

(b) If the public officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall file a complaint in rem in the municipal court of the city against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the interested parties in such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before the municipal court at a date and time certain and at a place within the county or municipality where the property is located. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said complaint in the proper court. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing.

(c) If, after such notice and hearing, the court determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state, in writing, findings of fact in support of such determination and shall issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing an order:

(1) If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or

structure so as to bring it into full compliance with the applicable codes relevant to the cited violation; and, if applicable, to secure by closing the structure so that it cannot be used in connection with the commission of drug crimes; or

(2) If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.

For purposes of this section, the court shall make its determination of reasonable cost in relation to the present value of the dwelling, building, or structure without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered; and, provided further, that if the unsatisfactory condition is limited solely to the presence of graffiti, the dwelling, building or structure shall not be ordered demolished or closed, but its owner may be ordered to repair the same by cleaning or removal of the graffiti. Income and financial status of the owner shall not be a factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in O.C.G.A. title 43, chapter 39A, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the jurisdiction.

(d) If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer shall cause such dwelling, building, or structure to be repaired, altered, or improved, or to be vacated and closed, or demolished within 270 days of the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to subsection (c) of this section or any equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 days in which such abatement action shall commence. The public officer shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words:

"This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."

(e) If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The public officer and governing authority are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.

(f) The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the tax commissioner, and all other costs necessarily associated with the abatement action,

including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.

(g) The lien provided for in subsection (f) of this section shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure, or demolition in the office of the clerk of superior court in the county and shall relate back to the date of the filing of the lis pendens notice required under section 15-36. The clerk of superior court shall record and index such certified copy of the order in the deed records of the county and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid. After filing a certified copy of the order with the clerk of superior court, the public officer shall, within 90 days of the completion of repairs, demolition or closure, forward a copy of the order and a final statement of costs to the county tax commissioner.

(h) It shall be the duty of the county tax commissioner to collect the amount of the lien in conjunction with the collection of ad valorem taxes on the property and to collect the amount of the lien as if it were a real property ad valorem tax, using all methods available for collecting real property ad valorem taxes, including specifically O.C.G.A. § 48-4-5; provided, however, that the limitation of O.C.G.A. § 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply; provided, further, that redemption of property from the lien may be made in accordance with the provisions of O.C.G.A. §§ 48-4-80 and 48-4-81. The tax commissioner may initiate enforcement of liens imposed under this section at any time following receipt of the final determination of costs from the public officer. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes.

(i) The tax commissioner shall remit the amount collected to the governing authority of the municipality whose ordinance is being enforced. The tax commissioner may retain an amount equal to the cost of administering collection of the lien. Any such amount collected and retained for administration shall be deposited in the general fund of the county to pay the cost of administering the lien.

(j) The governing authority may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the municipality agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.

(k) Review of a court order requiring the repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A. § 5-3-29.

(Ord. of 2-20-2014, § 1(15-35))

Sec. 15-36. - Service of complaints or orders upon owners and parties in interest.

(a) Summons and copies of the complaint shall be served in the following manner:

(1) In all cases, a copy of the complaint and summons shall be conspicuously posted on the subject dwelling, building, structure, or property within three business days of filing of the complaint and at least 14 days prior to the date of the hearing;

(2) At least 14 days prior to the date of the hearing, the public officer shall mail copies of the complaint and summons by certified mail or statutory overnight delivery, return receipt requested, to all

interested parties whose identities and addresses are readily ascertainable. Copies of the complaint and summons shall also be mailed by first-class mail to the property address to the attention of the occupants, if any;

(3) For interested parties whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriffs advertisements appear in such county once a week for two consecutive weeks prior to the hearing; and

(4) A notice of lis pendens shall be filed in the office of the clerk of superior court in which the dwelling, building, structure, or property is located at the time of filing the complaint in municipal court.

(b) The public officer shall cause an affidavit of service to be filed of record in the municipal court prior to the hearing showing compliance with the service requirements of this section. Such affidavit shall constitute a prima facie showing of minimum procedural due process and shall constitute sufficient proof that service was perfected.

(c) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this section on every interested party who answers the complaint or appears at the hearing. Any interested party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

(Ord. of 2-20-2014, § 1(15-36))

Sec. 15-37. - Limitation of liability for code enforcement; no special duty created.

It is the intent of this article to protect the public health, life safety and general welfare of properties and occupiers of buildings and structures within the city in general, but not to create any special duty or relationship with any individual person or to any specified property within or without the boundaries of the city. Approval of a permit and inspection of a property shall in no manner guarantee or warrant to the owner or occupants thereof that said property has been constructed, maintained, or operated in conformance with applicable codes, laws and regulations. The city reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the city, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created. To the extent any federal or state law, regulation, or ordinance requires compliance as a condition precedent to the issuance of a permit, plan or design approval, inspection or other activity by the city, its officers, employees and agents, issuance of such permit, approval, or inspection shall not be deemed to constitute a waiver or estoppel of the condition precedent, and it shall remain the obligation and responsibility of the owner, his design professional(s), and contractor(s) to satisfy such legal requirements.

(Ord. of 2-20-2014, § 1(15-37))

Sec. 15-38. - General cleanliness of premises.

The owner and occupant of property within the city shall each be independently responsible for keeping the premises, including all buildings thereon and the full yard thereof, clean and free from all garbage, refuse, filth, dirt, ashes, trash, rubbish and other offensive materials.

(Ord. of 2-20-2014, § 1(15-38))

Sec. 15-39. - Disorderly house.

(a) Any person who keeps and maintains, either by himself or others, a common, ill-governed and disorderly house, to the encouragement of gaming, drinking, illicit drug activity, or other misbehavior, to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the city; provided, however, before any person is charged under this subsection, written notice shall be given the owner of the property and the person in possession thereof by the chief of police stating the general, customary and common habits of the house, giving fair notice of this subsection and the conduct proscribed thereby.

(b) Any person who shall allow any boisterous, noisy, drunken or riotous persons to assemble or remain in their house, apartment or upon their property, after receiving oral notice from a police officer that boisterous, noisy, drunken or carousing activities have caused complaint and annoyance to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the city; provided, however, no person shall be charged under this subsection unless the owner or person in possession of the premises has been afforded an opportunity to disburse the assembly or offending person from the premises. This subsection shall not preclude a police officer from arresting any individual for criminal trespass where such individual knowingly and without authority remains on private property after being notified by the owner or lawful occupant to depart.

(Ord. of 2-20-2014, § 1(15-39))

Sec. 15-40. - Violations; enforcement penalties.

Any person who willfully refuses to comply with the provisions of this article shall be cited to appear before the municipal court and, upon conviction, shall be fined not less than $100.00; each day of continued violation, after citation, shall constitute a separate offense. In addition to the foregoing fines, upon conviction, the director shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass, or inter-connection, and service shall not be restored until such cross-connection, auxiliary, by-pass, or inter-connection has been discontinued.

(Ord. of 2-20-2014, § 1(15-40))

Sec. 13-151. - Declaration of purpose.

(a) This ordinance is enacted pursuant to the Connecticut General Statutes (General Statutes), § 7-148(c)(7) and § 14-150a. This ordinance is to be enforced as a blight ordinance, pursuant to General Statute § 7-148(c)(7)(H)(xv), and as a nuisance ordinance, pursuant to General Statute § 7-148(c)(7)(E).

(b) It is hereby found and declared that there exist in the City of New London (hereinafter "city") a number of blighted properties and that continued existence of blighted properties constitutes a continuing nuisance and contributes to the decline of our neighborhoods. Existence of blighted properties adversely affects the economic well-being of the city. Many of the blighted properties may be rehabilitated, reconstructed, demolished, cleaned up, groomed, maintained, returned to satisfactory condition or reused to provide decent, safe, sanitary housing or commercial facilities. Such rehabilitation, reconstruction, demolition, cleanup or reuse of the blighted and nuisance properties would eliminate, remedy and prevent adverse conditions.

(Ord. No. 09-08-15-1, Art. I)

Sec. 13-152. - Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Blight, blighted condition, and *blighted property* shall be interchangeable terms and shall be when violations of the following city ordinances and property maintenance code sections occur under the provisions of this ordinance:

New London Property Maintenance Code Sections:

- 108.2 Closing of Vacant Structures.
- 301.3 Vacant structures and land.
- 302.1 Sanitation.
- 302.3 Privately Owned Sidewalks and driveways.
- 302.4 Weeds.
- 302.7 Accessory structures.
- 302.8 Motor vehicles.
- 302.9 Defacement of Property.
- 304.1 Through and Inclusive of 304.18.3 General Exterior Structure.
- 307.1 Accumulation of rubbish or garbage.

City Ordinances:

- Ordinance re: Storefront Standards.

Citation hearing officer. The mayor of the city shall appoint one or more citation hearing officers, as defined in and pursuant to General Statute § 7-152c(b), as amended. Such officers shall be other than any individual who issues citations under this ordinance.

Enforcement officer shall mean the city director of health, a city police officer, a city building official, a housing/property maintenance inspector, or any person duly appointed to be such an enforcement officer by the mayor, all of whom shall be authorized to take such enforcement actions and to issue citations as specified in this ordinance.

(Ord. No. 09-08-15-1, Art. I; Ord. No. 12-17-18-5, § 1)

Sec. 13-153. - Creation or continuation of blighted property prohibited.

No person, firm or corporation, no owner, agent, tenant, operator, possessor of real property located within the limits of the city, and no other person responsible for the care, maintenance and/or condition of real property located within the limits of the city, shall cause or allow any blight, blighted condition or blighted property, as defined in section 13-152 of this ordinance, to be created, maintained or continued.

(Ord. No. 09-08-15-1, Art. I)

Sec. 13-154. - Designation of blighted property.

The enforcement officer(s) shall be responsible for determining whether a property which comes to the attention of the city, whether through written complaint or through the normal operations of the city, is blighted according to the definitions in this ordinance.

(Ord. No. 09-08-15-1, Art. I)

Sec. 13-155. - Property owner notification.

(a) Whenever the city identifies a blighted property, written notice of the violation shall be given to the owner and/or the occupant of the property, by posting a notice of the violation in a conspicuous location at the blighted property, and delivering a copy of the notice of the violation to an owner, either by hand delivery or by mail. Said notice shall specify that the owner or occupant has five (5) days, from the date notice was posted and mailed, to remediate the blighted conditions, or the city will take enforcement action. In the case of an unidentified owner or one whose address is unknown, the enforcement officer shall publish legal notice in a newspaper having a substantial circulation within the city, stating the property is cited for blight and, if applicable, whether the property has been determined to be abandoned.

(b) Prior to the expiration of the five-day period specified in paragraph (a) of this section, the property owner may request additional time for remediation. The enforcement officer may determine an alternate timetable of a reasonable length of time if warranted. Such timetable will be in writing and must be signed by both the enforcement officer and the property owner. Failure to comply with the agreed-upon timetable will make the property owner liable for retroactive fines and penalties as designated in section 13-156, subsections (a) and (b).

(c) After the expiration of the five-day period specified in paragraph (a) of this section and without the alternate timetable specified in paragraph (b) above, the city, through its designated agents, may enter blighted property during reasonable hours for the purpose of remediating blighted conditions, provided neither the city nor its designated agents enter any dwelling house or structure on such property. Costs associated with the remediation of blight may be recovered by the city in accordance with General Statute § 49-73(b).

(Ord. No. 09-08-15-1, Art. I)

Sec. 13-156. - Enforcement: criminal violations and civil penalties.

(2) *Constructive admission of liability.* Any person or entity who fails to deliver or mail written demand for a hea (10) days of the date of the first notice provided for in paragraph (a) of this section shall be deemed to have liability, and the enforcement officer shall certify the property owner's failure to respond to the citation hea citation hearing officer shall thereupon enter and assess the fines, penalties, costs or fees provided for in th including per diem penalties retroactive to the original date of expected remediation as specified in section follow the notice procedures set forth in paragraphs (c) and (d) of this section.

(3) *Right to hearing.* Any person or entity who requests a hearing shall be given written notice of the date, time and place for the hearing. The hearing shall be held not less than fifteen (15) days, nor more than thirty (30) days, from the date of the mailing of notice, provided, the citation hearing officer may grant, upon good cause shown, any reasonable request by any interested party for continuance.

(c) *Formal hearing procedure.* The citation hearing officer shall preside over a hearing which shall be held in the manner outlined in General Statute § 7-152c(e), as amended. The citation hearing officer shall render the decision in writing and file it within five (5) days with the enforcement officer and the mayor, and send it by first-class and certified mail, return receipt requested, to the property owner or other responsible person and to all parties in the proceedings. The citation hearing officer may decide one of the following:

(1) *Dismissal.* If the citation hearing officer determines that the respondent is not liable, the citation hearing officer shall dismiss the matter, and enter the determination in writing.

(2) *Finding of liability; assessment.* If the citation hearing officer determines that the respondent is liable for the violation, the citation hearing officer shall enter and assess the fines, penalties, costs or fees against the respondent, as provided by in section 13-156, including per diem penalties retroactive to the expected date of remediation as set forth in subsection 13-154(b).

(d) *Notice of assessment; effect.*

(1) Assessments must be paid to the city within ten (10) days of receipt of the citation hearing officer's determination.

(2) Not less than thirty (30) days, but not more than twelve (12) months, after the mailing as set forth in paragraph (c) of this section, the citation hearing officer shall file a certified copy of the notice of assessment with the clerk of a superior court designated by the chief court administrator, together with the appropriate entry fee. The certified copy of the notice of assessment shall constitute a record of assessment. Within the twelve-month period, assessments against the same person may be accrued and filed as one record of assessment.

a. Entry of judgment. The court clerk shall enter judgment in the amount of the record of assessment, and court costs, allowed by the General Statutes, in favor of the city pursuant to General Statute § 7-152c(f), as amended.

b. Effect of judgment; levy of execution permitted. Notwithstanding any provision of the General Statutes, the citation hearing officer's assessment, when so entered as a judgment, shall have effect of a civil money judgment, and a levy of execution on the judgment may issue without further notice, to the respondent.

(e) A decision of the citation hearing officer to issue assessments may be appealed to the superior court in accordance with the provisions of General Statutes § 7-152c(g), as amended.

(Ord. No. 09-08-15-1, Art. I)

Sec. 13-158. - Removal of abandoned, inoperable or unregistered motor vehicles.

For all properties declared blighted within the meaning of this article, as a result of the presence of an abandoned, inoperable or unregistered motor vehicle, which motor vehicle has remained abandoned, inoperable or unregistered on site for seven (7) days after notice by hand delivery or by certified mail, return receipt requested, to the last known address of the owner of the property on which such motor vehicle remains, or the owner of the abandoned motor vehicle, if different from the owner of the property requesting the removal of such motor vehicle, the city may arrange for the removal of the vehicle(s).

If after seven (7) days from the date of receipt of any notice the motor vehicle remains on the property, the city shall have the authority to arrange for the removal of the vehicle(s) from said property. The costs of the removal and storage of said motor vehicle or parts thereof and the costs of notices shall be borne by the owner of the property from which the motor vehicle or parts thereof are removed or, if the owner of the property is not the owner of the abandoned motor vehicle, by the owner of the abandoned motor vehicle; provided, however, that if the current owner of the motor vehicle cannot be found, said costs shall be borne by the owner of the property.

Any motor vehicle that is removed pursuant to this article may not be returned to the same property unless it has been made operable and has been registered.

Any person aggrieved by a notice requesting the removal of a motor vehicle or by the removal of same may, within fifteen (15) days of receipt of notice, appeal said ruling to the citation hearing officer. Said appeal shall be heard and appeals may be taken from any such hearing in accordance with the procedures as set forth in General Statute § 7-152c.

(Ord. No. 09-08-15-1, Art. I; Ord. No. 12-17-18-5, § 1)

Sec. 13-159. - Collection of fines imposed and costs incurred.

(a) All fines imposed for violation of this ordinance shall be payable to the city and deposited in the general fund.

(b) Pursuant to General Statutes § 7-148aa, any unpaid fine imposed pursuant to this ordinance shall constitute a lien upon the real estate against which the fine was imposed from the date of such fine. In addition, pursuant to General Statutes § 49-73b, any expenses incurred by the city pursuant to this ordinance shall be subject to a lien. Said lien may be foreclosed upon and enforced in the same manner as property tax liens. The city tax collector is hereby empowered to place a lien on the land records in the manner as specified by the General Statutes, provided a copy of said lien is mailed by first-class mail to the owner as set forth on the most recent tax assessment list.

(Ord. No. 09-08-15-1, Art. I)

Sec. 13-160. - General provisions.

(a) The rights and powers under this ordinance shall be in addition to, and not in lieu of, any other rights and powers that the city has under the General Statutes and the City's Code of Ordinances.

(b) A violation of this ordinance is a public nuisance.

(Ord. No. 09-08-15-1, Art. I)