

City of Deltona

CITY COMMISSION WORKSHOP
MONDAY, JUNE 23, 2014
5:30 P.M.

Mayor
John Masiarczyk

Vice Mayor
Heidi Herzberg
District 3

Commissioners:

Zenaida Denizac
District 1

Webster Barnaby
District 2

Nancy Schleicher
District 4

Fred Lowry
District 5

Chris Nabicht
District 6

City Manager
William D. Denny

2ND FLR CONFERENCE ROOM
2345 PROVIDENCE BLVD.
DELTONA, FLORIDA

AGENDA

1. **CALL TO ORDER:**
2. **ROLL CALL – CITY CLERK:**
3. **PLEDGE TO THE FLAG:**

PUBLIC COMMENTS- Citizen comments limited to items on the agenda and will take place after discussion of each item.
4. **BUSINESS:**
 - A. **Discussion re: District #5 Vacancy.**
 - B. **Discussion re: Ordinance No. 11-2014 regarding the City's Rental Regulatory License.**
 - C. **Discussion re: Ordinance No. 12-2014 regarding anti-blight.**
 - D. **Discussion re: Ordinance No. 18-2014 regarding unfit and unsafe structures.**
5. **CITY MANAGER COMMENTS:**
6. **ADJOURNMENT:**

NOTE: If any person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk, Joyce Raftery 48 hours in advance of the meeting date and time at (386) 878-8500.



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 6/23/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 4 - A
SUBJECT: Discussion re: District #5 Vacancy.

LOCATION:

N/A

BACKGROUND:

At the Regular City Commission Meeting held on Monday, June 23, 2014, Commissioner Lowry stated he would need to resign from District #5 City Commissioner because he has moved outside the district boundaries.

City Charter

Section 5. City Commission. (1) City Commission: Composition; Qualifications For Office. (b) Qualifications for Office:

4. At the time of qualification, each candidate for a district seat on the Commission shall have resided in the district that he or she seeks to represent for the immediate six (6) months prior to the qualifying date. Candidates for Mayor must have resided in the City for the immediate six (6) months prior to the qualifying date. For the length of their term, Commissioners shall maintain residency within the boundaries of their district and the Mayor shall maintain residency within the boundaries of the City.

If the residence of a Commissioner or Mayor is deemed uninhabitable through an "Act of God" or some other means, the Commissioner or Mayor may temporarily reside outside the district for not more than one year.

ORIGINATING DEPARTMENT:

City Manager's Office

SOURCE OF FUNDS:

N/A

COST:

N/A

REVIEWED BY:

Deputy City Manager

**STAFF
RECOMMENDATION
PRESENTED BY:**

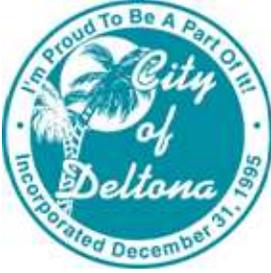
N/A - For discussion and direction to staff as necessary.

**POTENTIAL
MOTION:**

N/A - For discussion and direction to staff as necessary.

**AGENDA ITEM
APPROVED BY:**

William D. Denny, City Manager



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 6/23/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 4 - B
SUBJECT: Discussion re: Ordinance No. 11-2014 regarding the City's Rental Regulatory License.

LOCATION:	N/A
BACKGROUND:	This ordinance is proposed as a replacement for the business tax receipt ordinance for rental houses. The regulatory fees that will be imposed under this ordinance are based upon the actual cost to the city of the regulation provided under the terms of the ordinance. It also requires that renters provide to Deltona Water a copy of the rental regulatory license and a notarized statement of authorization from the record owner of the property prior to turning on water/sewer services. This will assist the city in keeping track of rental properties and help prevent squatters from taking over abandoned properties.
ORIGINATING DEPARTMENT:	City Attorney's Office
SOURCE OF FUNDS:	N/A
COST:	N/A
REVIEWED BY:	City Manager
STAFF RECOMMENDATION PRESENTED BY:	N/A - For discussion and direction to staff as necessary.
POTENTIAL MOTION:	N/A - For discussion and direction to staff as necessary.
AGENDA ITEM APPROVED BY:	<hr/> William D. Denny, City Manager
ATTACHMENTS:	<ul style="list-style-type: none">• Ordinance No. 11-2014

ORDINANCE NO. 11– 2014

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, ADDING A NEW CHAPTER 36, “DELTONA RENTAL REGULATORY LICENSE ORDINANCE”; PROVIDING INTENT, AUTHORITY, FINDINGS OF FACT, AND DEFINITIONS; REQUIRING A RENTAL REGULATORY LICENSE AND FEE, PROVIDING FOR AN APPLICATION; PROHIBITING CERTAIN OCCUPANCY; PROVIDING FOR INTERIOR RENTAL INSPECTIONS FOR CAUSE, EMERGENCY INSPECTIONS AND REMEDIATION, AND DELINQUENCIES, REVOCATION AND PENALTIES; REQUIRING CERTAIN DOCUMENTS PRIOR TO UTILITY ACTIVATION, AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA:

BE IT ORDAINED by the City Commission of the City of Deltona, Florida, as follows:

SECTION 1. Chapter 36, “Deltona Rental Regulatory License Ordinance,” is added to the Code of Ordinances of the City of Deltona to read as follows:

Sec. 36-1. Short title

This article shall be known and may be cited as the "Deltona Rental Regulatory License Ordinance".

Sec. 36-2. Authority

This chapter is enacted under the home rule of power of the city in the interest of the health, peace, safety and general welfare of the people of the city, and pursuant to Florida Statutes, Section 166.221.

Sec. 36-3. Intent

The intent of the city commission in adopting this chapter is to i) establish reasonable and uniform regulations for the rental of residential dwelling units that will protect the health, safety, property values and general welfare of the people, businesses and industries of the city; ii) provide the means to give adequate notice to owners of residential dwelling units in the city who do not reside in that property as to their responsibilities under city codes and ordinances; iii) ensure that rental residential dwelling units are maintained in a high quality manner as

required of all residential properties; and iv) maintain the tax base of the City of Deltona.

Sec. 36-4. Findings of fact

The City of Deltona is primarily a residential community composed of residential dwelling units with a mix of owner-occupied residential dwelling units and rental residential dwelling units. Historically, rental residential dwelling units in Deltona have disproportionately been the subject of code enforcement violations, and the expense of code enforcement activities by the city relating to rental residential dwelling units is disproportionately high compared to the expense of code enforcement activities relating to owner-occupied residential dwelling units. The property values of all residential dwelling units can be dramatically negatively impacted by rental properties in the area that are not appropriately maintained in compliance with applicable city codes. The rental of a residential dwelling unit is a business that can be regulated by the city to protect the health, safety, property values and general welfare of the people, businesses and industries of the city. The ability of City of Deltona code enforcement to contact a responsible party designated by the owner of a rental property greatly aids in the successful resolution of code enforcement issues.

Sec. 36-5. 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:

Immediate family means any individual who is a relative or legal dependent of the property owner, to include spouse, children, step-children, parent, step-parent, foster parent, foster children, grandparent, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, or legal guardian.

Local point of contact means a person who resides or has a business location within a 50-mile radius of the subject property.

Residential dwelling unit means a single family residence or a duplex.

Rent means to lease or rent, or allow a person or persons who are not a member of the owner's immediate family to occupy, a residential dwelling unit.

Rental inspector means any designated employee or agent of the city whose duty it is to enforce codes and ordinances enacted by the city.

Sec. 36-6. Rental Regulatory License Required; Exception

Prior to the rental of any residential dwelling unit in the City of Deltona, the owner of the property to be rented must obtain a Rental Regulatory License. In the case of a duplex, if one of the two parts of the duplex is occupied by the owner of the duplex, a Rental Regulatory License is not required for the rental of the other part of the duplex.

Sec. 36-7. Rental Regulatory License Fee

The city commission of the City of Deltona shall annually, as a part of its budgeting process, set the amount of the Rental Regulatory License Fee. Such fee shall be determined to generate revenue commensurate with the cost of the regulatory activity.

Sec. 36-8. Application for license

On or before September 30 of each year, or at the same time thereafter as a residential dwelling unit is first offered for rent, an owner of a residential dwelling unit desiring to rent such residential dwelling unit shall file with the city manager, or his or her authorized designee, a sworn license application on a standard application form supplied by the city manager, or his or her authorized designee. Such application shall set forth the address of the rental property, and a local point of contact person ("Contact Person") of each rental property. A separate Rental Regulatory License is needed for each and every tax parcel on which a rental residential dwelling unit is located. A Contact Person of one or more owners may apply for multiple Rental Regulatory Licenses, upon certifying that such person has received written authorization from each owner represented provided that such authorization acknowledges receipt of a copy of this ordinance and applicable sections of the International Property Maintenance Code and acknowledges that failure to abide by this ordinance or other applicable codes and ordinances may result in a lien upon the property of the owner. The owner of record shall notify the city within 30 days when the Contact Person changes.

Sec. 36-9. Prohibition of rental without license

It shall be unlawful for any owner of a residential dwelling unit to rent any residential dwelling unit within the city, without first obtaining a Rental Regulatory License as required by the provisions of this article.

Sec. 36-10. Copies of Violations sent to Contact Person

In the event a rental residential dwelling unit, or its occupant, is cited for a code violation, a copy of the violation shall be also sent to the Contact Person of the rental residential dwelling unit.

Sec. 36-11. Interior rental inspections for cause

Nothing in this Ordinance shall prohibit the rental inspector from inspecting the interior of properties if he or she has probable cause, supported by a sworn affidavit, or by invitation of the tenant or the property owner, to believe a health or safety violation exists inside the dwelling.

Sec. 36-12. Emergency inspections and remediation

(a) Nothing in this Ordinance shall limit or supplant the power of the rental inspector under the International Property Maintenance Code to placard and order the vacation of property which:

(1) Is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a serious hazard to the health or safety of the occupants or the public.

(2) Lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants of the public.

(b) Nothing in this Ordinance limits the right of the city to abate or remediate such emergency or nuisance by any other lawful means or proceedings.

Sec. 36-13. Delinquencies, revocation; penalties

(a) If a Rental Regulatory License is required under this article and it is not renewed when due and payable, it shall be deemed delinquent and subject to a delinquency fee of ten percent (10%) for the first month of delinquency, plus an additional five percent (5%) delinquency fee for each subsequent month or portion thereof that the fee remains paid. However, the total delinquency fee may not exceed twenty-five percent (25%) of the Rental Regulatory License fee for the delinquent property.

(b) Any person owning or operating a rental residential dwelling unit without first obtaining a Rental Regulatory License, if required in accordance with this article, shall be subject to a fee of twenty five percent (25%) of the license fee, in addition to any other fee or penalty provided by law or ordinance.

(c) Any person who owns or operates a residential dwelling unit covered by this article, who does not pay the required Rental Regulatory License Fee within 150 days after the initial notice of license fee due, and who does not obtain the required license is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and an additional fee of up to \$250.00.

(d) All costs of collection and enforcement of the terms of this article, to include attorneys' fees whether or not litigation is commenced, shall be the responsibility

of the person or corporation for which a Rental Regulatory License is or was required.

(e) Notifications to the Contact Person when applicable will be mailed by First Class U.S. Mail, or hand delivered.

(f) As an additional means of ensuring compliance with the provisions of this article, the City of Deltona Special Magistrate shall have jurisdiction and authority to hear and decide alleged violations occurring in the corporate limits of the city and to impose administrative fines and liens for violations. Proceedings before the special magistrate shall be governed by its rules and procedures, and Chapter 162, Florida Statutes.

Sec. 36-14. Utility Accounts

Deltona Water shall require, prior to activating water and/or sewer accounts, that any applicant for service, other than the record owner of the property as determined in accordance with the Volusia County Property Appraiser's Office, or as determined by the city attorney, shall provide a copy of the rental regulatory license for the rental or other use of the property, and shall provide a notarized statement of authorization to turn on the water and/or sewer service by the record owner of the property.

SECTION 2. CONFLICTS. All Ordinances or parts of Ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any conflict.

SECTION 3. CODIFICATION. The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered or relettered to accomplish such intention.

SECTION 4. SEVERABILITY. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its final passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2014.

FIRST READING: _____

ADVERTISED: _____

SECOND READING: _____

JOHN C. MASIARCZYK SR., MAYOR

ATTEST:

JOYCE RAFTERY, CITY CLERK

Approved as to form and legality for use
and reliance by the City of Deltona, Florida

GRETCHEN R. H. VOSE, CITY ATTORNEY



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 6/23/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 4 - C
SUBJECT: Discussion re: Ordinance No. 12-2014 regarding anti-blight.

LOCATION:

N/A

BACKGROUND:

This proposed ordinance would require first mortgagees, (only ones that have have the contractual right to enter unto the mortgaged property to secure and repair the property upon default by the property owner - which includes most institutional mortgagees), to actually maintain the property during a mortgage foreclosure if the property is either abandoned or is in disrepair. Prior to filing a mortgage foreclosure, a mortgagee is required to register with the city and designate a property maintenance company to monitor the property being foreclosed, and maintain and repair the property if it is abandoned or falls into disrepair. If the mortgagee does not comply with the ordinance, the Special Master can assess a fine against the mortgagee not to exceed \$250. Every day of non-compliance is a separate offense. A certified copy of an order imposing fines can be recorded and constitutes a lien upon any real or personal property owned by the mortgagee in violation.

ORIGINATING DEPARTMENT:

City Attorney's Office

SOURCE OF FUNDS:

N/A

COST:

N/A

REVIEWED BY:

City Manager

STAFF RECOMMENDATION PRESENTED BY:

N/A - For discussion and direction to staff as necessary.

POTENTIAL MOTION:

N/A - For discussion and direction to staff as necessary.

**AGENDA ITEM
APPROVED BY:**

William D. Denny, City Manager

ATTACHMENTS:

- Ordinance No. 12-2014

ORDINANCE NO. 12– 2014

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, ADDING A NEW CHAPTER 37, “DELTONA ANTI-BLIGHT ORDINANCE”; PROVIDING AUTHORITY, PURPOSE, INTENT, FINDINGS, AND DEFINITIONS; REQUIRING REGISTRATION OF DISTRESSED PROPERTIES, MAINTENANCE AND SECURITY; REQUIRING FULL UTILITIES FOR OCCUPANCY; DECLARING A PUBLIC NUISANCE; PROVIDING FOR A CIVIL FINE; PROVIDING FOR NO CONTINUING OBLIGATION OR LIABILITY ON CITY; PROVIDING PENALTY FOR OBSTRUCTING AN ENFORCEMENT OFFICER; PROVIDING IMMUNITY FOR ENFORCEMENT OFFICER; PROVIDING FOR ISSUANCE OF BUILDING PERMITS; AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA:

SECTION 1. Chapter 37, “Deltona Anti-Blight Ordinance,” is added to the Code of Ordinances of the City of Deltona to read as follows:

Sec. 37-1. Short title

This article shall be known and may be cited as the "Deltona Anti-Blight Ordinance".

Sec. 36-2. Authority

This ordinance is enacted under the city’s home rule powers under Florida Statutes, Chapter 166, and is supplemental and cumulative to the city’s powers under Florida Statutes, Chapter 162. The city’s special magistrate shall have the power to adjudicate matters under this ordinance.

Sec. 37-3. Purpose, intent and finding

It is the purpose and intent of this ordinance to establish a process to address the deterioration and blight of city neighborhoods caused by an increasing amount of abandoned, foreclosed or distressed real property located within the city, and to identify, regulate, limit and reduce the number of abandoned properties located within the city. It is the city's further intent to establish a registration program as a mechanism to protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of abandoned and foreclosed properties. The

city finds that mortgagees that have first liens on real property situated in the city own significant equitable property interests in the city, and there is a reasonable relationship (rational nexus) between certain actions of such mortgagees and the welfare of the city and its residents.

Sec. 37-4. Definitions

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

Applicable codes includes, but is not be limited to, the city's land use regulations, the city's Code of Ordinances ("City Code"), the Florida Building Code, and the International Building Maintenance Code.

Blighted property means:

- (1) Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or
- (2) Properties that are accessible through a comprised/breached gate, fence, wall, window, door, etc. or a structure that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons; or
- (3) Properties cited for a public nuisance pursuant to the City Code; or
- (4) Properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lack maintenance as required by the applicable codes;
- (5) Properties that are inhabited, but do not have active water and electric service accounts through local utility service providers; or
- (6) Properties that have roof tarps or boarded windows or doors for a period in excess of thirty (30) days.

Distressed real property means any real property located in the city that i) has had a lis pendens filed against it by the mortgagee or is subject to an ongoing foreclosure action by the mortgagee; or ii) is subject to an application for a tax deed or pending tax assessor's lien sale; or iii) has been transferred to the mortgagee under a deed in lieu of foreclosure. The designation of a property as "distressed" shall remain in place until such time as the property has been sold or transferred to a new owner, and any foreclosure action has been dismissed.

Enforcement officer means any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or building inspector, or other person authorized by the city to enforce the applicable codes.

Evidence of vacancy means lack of habitation by persons, uncollected mail, lack of furniture, lack of cars in the driveway, accumulation of newspapers, circulars, flyers or notices on the property, and/or lack of active water and/or electric service.

Mortgagee means any person or entity that has a first lien on real property that has the contractual right, upon the mortgagor's failure to perform the covenants and agreements contained in security instruments, to enter upon such real property to secure and repair such property.

Property management company means a local property manager, property maintenance company or similar entity responsible for the maintenance of distressed real property.

Temporary emergency security measures mean the boarding of windows and/or doors, to temporarily secure a property pending the permanent repair of the property, which temporary measures shall not remain in place for longer than thirty (30) days.

Vacant means any building or structure that is not legally occupied.

Sec. 37-5. Establishment of a registry

Pursuant to the provisions of the following section, the city shall establish a registry cataloging each distressed property within the city, containing the information required by this ordinance.

Sec. 37-6. Registration of distressed real property

(a) Prior to filing any foreclosure action, any mortgagee that holds a mortgage on real property located within the City of Deltona shall perform an exterior inspection of the property to be foreclosed. The mortgagee shall, within ten (10) days of the exterior inspection, and no later than ten (10) days after filing any foreclosure documents in circuit court, register the property with city code enforcement on forms provided by the city, and indicate whether the property has evidence of vacancy or is blighted, all as provided herein.

(b) Mortgagees that have pending foreclosure actions at the time of the adoption of this ordinance shall register that property within thirty (30) days of being noticed by the city of the requirements under this ordinance. A separate registration is required for each property.

(c) As to each distressed property that is either blighted or shows evidence of vacancy, the mortgagee shall have the duty to designate a property management company to ensure compliance with the maintenance and security requirements as provided hereunder.

(d) As to each distressed property that is not blighted and is occupied, the mortgagee shall have the duty to designate a property management company to ensure compliance with the maintenance and security requirements as provided hereunder in the event the distressed property becomes either blighted or shows evidence of vacancy.

(e) If the distressed real property is occupied, but the mortgage thereon remains in default, the mortgagee's designated property management company shall conduct an exterior inspection of the property no less often than once per month until either (i) the mortgagor or other party remedies the default and the mortgage foreclosure action is dismissed, or (ii) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned. Once the property is deemed abandoned, the mortgagee shall, within ten (10) days of that determination, update the property registration with the city to a vacancy status on forms provided by the city, and thereafter its designated property management company shall ensure compliance with the maintenance and security requirements as provided hereunder.

(c) Registration pursuant to this section shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number for the mortgagee, facsimile number and e-mail address for mortgagee, the folio or tax I.D. number of the property, and the name and 24-hour contact phone number of the property management company designated by the mortgagee.

(d) A non-refundable annual registration fee in the amount of \$200.00 per property, shall accompany the registration form.

(e) Properties subject to this section shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this section as long as they remain distressed properties, blighted properties, or are vacant.

(f) Any person or legal entity that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.

(g) Failure of the mortgagee to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this article is a violation of the article and shall be subject to enforcement.

Sec. 37-7. Maintenance requirements

Properties subject to this chapter shall be maintained to the following standards and in full compliance with all applicable codes:

- (a) 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, large and small appliances, printed material or any other items that give the appearance that the property is abandoned;
- (b) kept free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure;
- (c) front, side, and rear yards, including landscaping, maintained in accordance with the applicable codes;
- (d) cut grass or ground covering, and trim bushes, shrubs, hedges or similar plantings with removal of all trimmings;
- (e) pools and spas maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable codes.

Sec. 37-8. Security requirements

- (a) Properties subject to these sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- (b) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child or adult to access the interior of the property or structure. Broken windows, doors, gates and other openings of such size that may allow a child or adult to access the interior of the property or structure must be repaired. Broken windows shall be secured by re-glazing of the windows, and broken or damaged doors shall be secured by newly installed doors. Boarding of windows and/or doors shall not be permitted except as temporary emergency security measures.
- (c) If a distressed property shows evidence of vacancy, or the property is blighted, the property manager designated by the mortgagee shall perform the work necessary to bring the property into compliance with the applicable codes, and the property manager must perform regular exterior inspections, no less often than every thirty (30) days, to verify compliance with the requirements of this article, and any other applicable laws.

Sec. 37-9. Full utilities required for occupancy

No person(s) shall occupy any property in the city unless such property is properly and legally serviced by both electricity and water, (with electricity and water turned on), provided to the specific location by the utility provider in the area. If any person is found to be occupying any property in violation of this section, the special magistrate shall enter an order providing for the removal of all persons occupying such property.

Sec. 37-10. Public nuisance

All blighted and distressed real properties are hereby declared to be public nuisances, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the city.

Sec. 37-11. Civil fine

The mortgagee of a distressed property shall be liable for a civil fine of not to exceed \$250 for failure to comply with the terms of this ordinance, such civil fine to be imposed by the city's special magistrate. Each day that the mortgagee fails to comply with the terms of this ordinance shall constitute a separate violation. In addition, if the mortgagee fails to comply with the maintenance and/or security requirements hereunder, the city may, but shall not be required, to take actions to fulfill those requirements, and the special magistrate shall assess an additional civil fine against the mortgagee equal to the costs of such actions by the city to include a \$200 administration fee. The city's special magistrate shall enter an order assessing fines as provided herein. A certified copy of an order imposing such fine may be recorded in the public records and thereafter shall constitute a lien upon any real or personal property owned by the mortgagee in violation.

Sec. 37-12. No continuing obligation or liability on city

In the event the city takes actions to fulfill the maintenance and/or security requirements hereunder, such action shall not create a continuing obligation on the part of the city to make further repairs or to maintain the property, and shall not create any liability against the city for any damages to the property if such actions were taken in good faith.

Sec. 37-13. Opposing, obstructing enforcement officer; penalty

Whoever opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement officer in the discharge of duties as provided in this chapter shall be punishable as provided in the applicable codes or by a court of competent jurisdiction.

Sec. 37-14. Immunity of enforcement officer

Any enforcement officer or any person authorized by the enforcement officer to enforce the sections set forth herein shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge of duties imposed by this article.

Sec. 37-15. Mortgagee allowed to apply for and obtain building permits

Mortgagees utilizing the services of properly licensed contractors shall be permitted to apply for and obtain building permits to carry out the requirements under this ordinance.

SECTION 2. CONFLICTS. All Ordinances or parts of Ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any conflict.

SECTION 3. CODIFICATION. The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered or relettered to accomplish such intention.

SECTION 4. SEVERABILITY. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its final passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2014.

FIRST READING: _____

ADVERTISED: _____

SECOND READING: _____

JOHN C. MASIARCZYK SR., MAYOR

ATTEST:

JOYCE RAFTERY, CITY CLERK

Approved as to form and legality for use
and reliance by the City of Deltona, Florida

GRETCHEN R. H. VOSE, CITY ATTORNEY



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 6/23/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 4 - D
SUBJECT: Discussion re: Ordinance No. 18-2014 regarding unfit and unsafe structures.

LOCATION:	N/A
BACKGROUND:	This ordinance sets forth all the procedures for the city to demolish unfit and unsafe structures within the city and assess the costs as a lien on the property that can also be collected through non-ad valorem tax procedures.
ORIGINATING DEPARTMENT:	City Attorney's Office
SOURCE OF FUNDS:	N/A
COST:	N/A
REVIEWED BY:	City Manager
STAFF RECOMMENDATION PRESENTED BY:	N/A - For discussion and direction to staff as necessary.
POTENTIAL MOTION:	N/A - For discussion and direction to staff as necessary.
AGENDA ITEM APPROVED BY:	<hr/> William D. Denny, City Manager
ATTACHMENTS:	<ul style="list-style-type: none">• Ordinance No. 18-2014

ORDINANCE NO. 18-2014

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, ADOPTING A NEW ARTICLE IV, "UNFIT AND UNSAFE STRUCTURES", OF CHAPTER 18, "BUILDINGS AND BUILDING REGULATIONS", PROVIDING FOR THE HANDLING OF UNFIT OR UNSAFE STRUCTURES, AND THE PROCEDURES TO DEMOLISH, REMOVE, SECURE, ETC. SUCH STRUCTURES; PROVIDING FOR NOTICES, ASSESSMENT OF COSTS, LIENS, EMERGENCY CONDEMNATIONS, APPEALS AND NON-AD VALOREM ASSESSMENTS; AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA:

SECTION 1: A new Article IV, "Unfit and Unsafe Structures", of Chapter 18, "Buildings and Building Regulations," of the Code of Ordinances of the City of Deltona is hereby adopted to read as follows:

ARTICLE IV –UNFIT AND UNSAFE STRUCTURES

Sec. 18-101. Unfit or unsafe structures

When any structure in the City is found to be unfit or unsafe by the building official, the building official shall require the repair, securing, demolition or removal thereof. In this ordinance, the term "structure" includes all buildings, dwellings, accessory structures, pools and spas, and any part or portion thereof. A structure shall be deemed unfit or unsafe when any part of it, by reason of inadequate maintenance, acts of God, fire, age, decay, filth, deterioration, structural defects, improper design, unstable foundation, mold, termites, affording the opportunity of being a nuisance to the public or a haven for vagrants or criminals, or other causes, shall be dangerous to the occupants thereof, or to surrounding buildings and the occupants thereof, a menace to public health, a fire hazard, or so unsafe as to endanger life or property, or render the use of the public streets dangerous.

Sec. 18-102. Notice of violation; notice of condemnation/order to demolish

When the building official verifies that a structure is unfit or unsafe, the building official shall determine the owner of record of the real estate upon which the structure is located as set forth on the records of the Volusia County Property Appraiser, and shall provide an initial notice of violation by First Class U.S. Mail, postage paid, to such owner of record at the address listed for such owner on the records of the

Volusia County Property Appraiser, and post such notice on the property. The initial notice of violation shall state the requirements to secure or repair, and/or an initial notice of condemnation/order to demolish requiring demolition and removal.

Sec. 18-103. Authority to order demolition, removal, securing, etc.

(a) If the conditions identified in the notice are not remedied within the time set forth in the notice, the building official shall order the vacation, demolition, removal or securing of the structure. Notice of the order shall be provided to the interested parties as set forth in section 18-105.

(b) When a structure is required to be secured, open windows and doors shall be secured with exterior plywood and suitably coated with an appropriate neutral color blending with or harmonizing with the exterior colors of the building so as to be as inconspicuous as possible. When securing with exterior plywood is not possible because existing structural damage or design features will not support a sound, secure application of plywood or for any other reason, the building official shall order securing against access and shall specify the method and materials to be installed. Pools and spas must be secured in a manner so as to eliminate any drowning or infection hazard, or must be filled completely with clean fill dirt or sand and adequate drainage provided so that water is not retained, does not accumulate, and does not pond.

(c) If the owner or other parties in interest do not repair, restore, demolish, secure or replace such part or parts of such structure within the specified time or such other reasonable time fixed in such order, the building official may order vacation of the premises and proceed to remedy the conditions. If the building official verifies the existence of a rodent infestation in any structure that is to be demolished and removed, in order to preclude the migration of rodents, the building official shall require that the owner or person in charge carry out effective rodent extermination methods by a licensed structural pest control operator prior to demolition. Extermination techniques shall include ectoparasite control measures.

(d) Prior to the demolition of any structure, a determination of the presence of asbestos in the structure shall be made by a properly licensed asbestos contractor. In the event asbestos is present in any structure to be demolished, such demolition shall proceed in a manner in full compliance with all applicable laws and under the supervision of a properly licensed asbestos abatement contractor.

(e) Prior to the demolition of any structure, a determination of the presence of mold in the structure shall be made by a properly licensed mold contractor. In the event mold is present in any structure to be demolished, such demolition shall proceed in a manner in full compliance with all applicable laws and under the supervision of a properly licensed mold abatement contractor.

(f) All unfit or unsafe structures which have been secured as a result of a notice of violation shall be subject to inspection and the owner of the structure shall be assessed a fee for each and every such inspection. For the purpose of ensuring that the vacant and unfit or unsafe structure is locked and/or secured, inspections will be conducted at thirty (30) day intervals and the following fee collected in the manner provided by this ordinance for each and every inspection conducted.

(1) Residential, commercial, institutional and industrial structures, per structure: \$50.00.

(2) Other structures (detached garages, accessory buildings, etc.), per structure: \$25.00.

Sec. 18-104. Condition of lot after demolition

A lot from which a structure is demolished shall be properly filled, graded and seeded with grass seed or sodded within five (5) days of the date of completion of the demolition.

Sec. 18-105. Manner of serving notice; interested parties

(a) For the purpose of providing notice, interested parties shall be the owner of the property as shown on the records of the Volusia County Property Appraiser, and the tenant or occupant of the property, if any can be determined, as well as other persons of record interest, which may include the mortgagee, contract purchaser (if known), agent with power of attorney (if known), and any person claiming an interest under a *lis pendens*.

(b) Ten (10) days or more prior to the demolition or securing of any unfit or unsafe structure, the notice of condemnation/order to demolish shall be posted on the front of the property and shall be delivered to the interested parties either:

(1) By personally delivering a copy thereof to the party to be notified;

(2) By leaving a copy at such person's usual place of residence with some person of the household above 15 years of age and informing such person of the contents thereof; or

(3) By either registered or certified United States mail with return receipt requested, with a copy of such notice also sent by First Class U.S. Mail, postage paid.

If the name of any interested party or their place of residence or their post office address cannot be ascertained after diligent search, or in the event a notice sent by either registered or certified mail shall be returned undelivered, and such interested party has not otherwise indicated (in writing or verbally) that such interested party is

aware of the content of the notice, notice shall be given by publishing a copy thereof one time in a newspaper of general circulation in Volusia County as set forth in subsection (d) of this section.

(c) A copy of such notice and order shall be posted in a conspicuous place at City Hall and upon the subject structure.

(d) If needed, publication notice shall be substantially in one of the following forms:

Notice of Intent to Secure and Inspect

The owner and other interested parties having failed to either repair and/or secure the structure at (address) as ordered by the City of Deltona are hereby notified that the City of Deltona will proceed to have the structure secured on or after (date) and a lien will be placed against the property to recover all costs.

If, as result of this notice, the structure is secured, notice is hereby given that the structure may be inspected on a monthly basis by the City of Deltona, a fee charged for that inspection, and a lien placed against the property for such fees.

To appeal this notice, interested parties must follow the procedure in section 18-108, of the Deltona City Code. Interested parties may contact (contact person, address, and phone number) for information."

or

Notice of Intent to Demolish

The owner and other interested parties having failed to demolish and remove the structure (address) as ordered by the City of Deltona are hereby notified that the City of Deltona will proceed to have the structure demolished and removed on or after (date), and a lien will be placed against the property to cover all costs.

To appeal this notice, interested parties must follow the procedure set forth in section 108 of the Deltona City Code. Interested parties may contact the (contact person, address, and phone number) for information."

(e) If the interested parties have obtained a building or demolition permit within the specified period and in good faith and in due time have begun work to comply with the order, but it appears that they will not be able to complete the work by the date ordered, they may file a written request to the building official stating the reasons they have been unable to fully comply, and if reasonable grounds are shown therefor, the building official is authorized to issue extensions in writing not to exceed a total of sixty (60) days in which to fully comply with the original order.

(f) In exceptional cases, the building official may approve an additional thirty (30) days extension upon written request if the party shows special hardship, unusual difficulty or unique problems. Requests for this extension shall be made either in person or by certified mail, return receipt requested, to the building official.

Sec. 18-106. Action on failure to comply

In the event that the owner or other interested parties shall fail to comply with any order issued under this ordinance within the time therein fixed, the City, acting through the building official, is authorized to demolish, remove or secure, either with City forces or by independent contractor, submitting the lowest and best bid, any such structure.

Sec. 18-107. Assessment of cost of demolition, etc.; lien on property

(a) Upon expiration of the appeal period with no appeal having been taken, or upon expiration of a thirty (30) day period following the denial of an appeal, or following an emergency demolition authorized and conducted in accordance with section 18-110, the building official, after proceeding under this ordinance, shall report the abatement of the nuisance by the City; and the City Council shall assess the entire cost of such demolition, removal or securing against the real property upon which such cost was incurred. The costs which may be assessed include the cost of rodent extermination, mold abatement, and asbestos abatement where employed, an administrative fee of \$200, plus postal expenses, newspaper publication fees and other costs reasonably and necessarily incurred by the City, and attorney's fees and costs. Such costs when assessed and when recorded in the public records of Volusia County as provided in subsection (c) below, shall constitute a lien upon such property superior to all others except taxes.

(b) In those instances where the owner has repaired, secured or demolished a structure or caused such work to be done as the result of having received notice from the City ordering such repair work, demolition or securing, all costs described in subsection (a) of this section reasonably and necessarily incurred by the City shall be assessed against the property and shall constitute a lien upon such property superior to all others except taxes.

(c) The City shall record a notice of lien in the public records of the county. The notice of lien shall show the nature of such lien, the amount thereof, the names of persons having an ownership or other property interest of record and an accurate legal description of the property, which lien shall date from the date of recording of the notice of lien. Such lien shall bear interest from such date at the rate established by the comptroller of the State of Florida pursuant to Florida Statutes, Section 55.03, and shall be enforceable if unsatisfied, after the expiration of one month from the date of recording such notice of lien, as other liens may be enforced by the City.

(d) Failure to affect personal notice on an interested party shall not prevent the City from performing the demolition or securing the property, or attaching a lien on the property.

Sec. 18-108. Appeal procedure

(a) Appeals may be taken from an order, a notice of condemnation/order to demolish, or notice of violation/order for securing a structure issued pursuant to this ordinance by an interested party who has been aggrieved, except in emergency cases as set forth in section 18-110. As used in this ordinance, "interested party" means a person who possesses a present legal right of present or future enjoyment of the property by virtue of a deed, other instrument of title, mortgage, fully executed contract for purchase, lien on or estate in the property, judgment of court, being a named beneficiary entitled to an interest in the property under a will or trust of a deceased owner, or the legal spouse of the property owner. Such party is afforded a right of hearing before the City special magistrate. A written request for such hearing filed with the city special magistrate's clerk within ten (10) days of service of the notice of violation/order for securing, or the posting or publication (if required) of the notice or notice of condemnation/order to demolish, whichever is later. A cashier's check payable to the City of Deltona, in the amount of \$100.00, to cover the special magistrate's fee at the time of the request for a hearing is made. Said deposit will be used to pay the special magistrate should such party be declared the losing party. If the special magistrate's fee exceed the deposit, the losing party will be responsible for any and all additional fees. If the city fails to prevail the deposit will be returned within 30 days of the special magistrate's ruling.

(b) A notice of the appeal hearing before the City special magistrate shall be served by First Class U.S. Mail, postage paid, upon the appealing party no less than ten (10) days prior to the date of the hearing. In the event the findings of the special magistrate sustain the building official, the Special magistrate may set a new deadline date for compliance, or authorize the building official to proceed to take the code action that was appealed, or demolish and remove the structure and report the cost to the City Council.

(c) In any hearing before the special magistrate, formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a trial in the courts of the State of Florida. Each party shall have the right to be represented by counsel, to call and examine witnesses under oath, to introduce documentary evidence or exhibits, to cross-examine opposing witnesses on any relevant matter even though the matter was not covered under direct examination, to impeach any witness regardless of which party first called him or her to testify, and to submit rebuttal evidence.

(d) The burden of proof by a preponderance of the evidence is upon the City to show that the structure is unfit or unsafe as defined in this chapter. At the hearing, the special magistrate, shall affirm, modify, or reverse the findings of the building official that the structure is unfit or unsafe as defined in this chapter. If the special magistrate agrees with the determination of the building official, he or she shall enter a final order approving the code action or demolition.

(e) Any person aggrieved by the decision of the special magistrate may seek judicial review in accordance with the laws of the State of Florida or other applicable law.

(f) An interested party appearing before the special magistrate may appear in person or through legal counsel.

Sec. 18-109. Reports of unsafe dwellings or structures

Any person, including City employees, may make reports to the building official concerning dwellings or structures which appear to be unfit or unsafe. The building official is authorized to utilize the services of private engineers, architects or other professionals in order to determine the condition of the structure in question and such costs shall be assessed in the same manner as provided for in section 18-107.

Sec. 18-110. Emergency condemnations, authority to take action; lien on property

(a) In cases where there is imminent peril to the public safety or general welfare or immediate danger to the life or safety of any person, or where the public is endangered by weather conditions, fire, other natural disasters or the particular location of the subject property, and in instances in which unless an unfit or unsafe structure is immediately repaired, demolished, or removed, the building official shall promptly cause such structure to be made safe or removed. For this purpose the building official may at once enter such a structure or land on which it stands, or abutting land or structures, to perform an inspection with such assistance and at such cost as may be deemed necessary.

(b) Upon inspection, the building official shall determine whether or not the structure requires immediate emergency demolition in order to maintain the safety and welfare of the owner, tenants, or public. A written report will document results of these inspections. Exterior and interior photographs of the building, structure, or portion thereof will be taken when feasible.

(c) The building official may order the vacation of adjacent structures and may require the protection of the public by appropriate fencing or such other means as may be necessary, and for this purpose may close any public or private right of way.

(d) If the building official determines there is sufficient time prior to demolition, a notice of intent to demolish will be provided to interested parties via priority mail, courier delivery, or telephone, (if the phone numbers of interested parties are readily

ascertainable by the building official), informing him/her/them of the emergency demolition. This notification must state the findings of the building official documenting cause for demolition or removal. Where the owner or other interested party fails to take immediate corrective action as ordered by the building official, the building official shall have the authority to promptly proceed with the abatement of the unsafe structure in accordance with this ordinance. Failure to give personal notice upon the individual owner or interested parties shall not prevent the City from performing the emergency demolition or removal and assessing a lien on the property. All costs incurred in the evaluation, vacation, securing and emergency demolition are the responsibility of the property owner, shall be reported to City Council, and the Council shall place a lien on the property as set forth in section 18-107.

Sec. 18-111. Appeal and hearing of notice of emergency condemnation/order to demolish

(a) Appeals may be taken by any interested party of a notice of emergency condemnation/order to demolish only in cases where the structure has not been secured or demolished. Such interested party is afforded a right of hearing before the city special magistrate. A written request for such hearing filed with the city special magistrate's clerk within five (5) days of receipt of actual or constructive notice of the emergency condemnation/order to demolish. A cashier's check payable to the City of Deltona, in the amount of \$100.00, to cover the special magistrate's fee at the time of the request for a hearing is made. Said deposit will be used to pay the special magistrate should such party be declared the losing party. If the special magistrate's fee exceed the deposit, the losing party will be responsible for any and all additional fees. If the city fails to prevail the deposit will be returned within 30 days of the special magistrate's ruling. The written request shall include the cell phone number of the applicant.

(b) The hearing will be scheduled as soon as possible after receipt of the appeal. Notice of the public hearing of the appeal of emergency cases shall be given by telephone notice to the appellant if possible and by posting a copy of the special magistrate's agenda or a good and sufficient notice of such hearing in City Hall for at least two days prior thereto. Notice will be mailed by First Class U.S. Mail, postage paid, to interested parties at least two days prior thereto. Failure to give personal notice to an interested party shall not prevent the City from performing the emergency demolition or removal and assessment of a lien on the property as set forth in section 18-107.

Sec. 18-112. Alternative method of collection – non ad valorem assessment

The City of Deltona, in its entirety, is hereby declared a special-assessment district for the purposes of abating and remedying unfit and unsafe structures. The City Council is authorized to levy a non-ad valorem assessment against any property in the City on which there has been a lien created under section 18-107 in the full amount of

such lien. Such non-ad valorem assessment shall be included in the combined notice for ad-valorem assessments as provided in Florida Statutes, Section 197.3635, and shall be subject to all provisions of such state statute.

Sec. 18-113. Penalty.

In the event the owner, agent or occupant fails to comply with the written notice or order of the building official or the special magistrate, the owner, agent and/or occupant shall be in violation of this article.

SECTION 2. CONFLICTS. All Ordinances or parts of Ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any conflict.

SECTION 3. CODIFICATION. The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered or relettered to accomplish such intention.

SECTION 4. SEVERABILITY. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance on which shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its final passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2014.

FIRST READING: _____

ADVERTISED: _____

SECOND READING: _____

JOHN C. MASIARCZYK SR., MAYOR

ATTEST:

JOYCE RAFTERY, CITY CLERK

Approved as to form and legality for use
and reliance by the City of Deltona, Florida

GRETCHEN R. H. VOSE, CITY ATTORNEY