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GLOUCESTER CITY COUNCIL
9 Dale Avenue, Gloucester, MA 01930
Office (978) 281-9720 Fax (978) 282-3051

CITY COUNCIL STANDING COMMITTEE
Ordinances & Administration
Monday, November 14, 2011 – 7:00 p.m.
1st Fl. Council Conference Rm. – City Hall
AGENDA

(Items May be taken out of order at the discretion of the Committee)

1. **Old Business:**

- A) Charter Task Force Review: Motion to be reviewed and recommended by the O&A Committee back to City Council from Special City Council Meeting of 10/11/11
- B) Memorandum from CAO re: establishment of the Emergency Management Department (Cont'd from 09/19/11)

2. **Continued Business:**

- A) CC2011-043 (Tobey) Generate Request for Proposals seeking non-profit cultural partner re: City Hall
- B) CC2011-044 (Verga) Amend GZO §1.5.3, §1.11 and §1.11.2(e), "Appendix A, Rule 25: Rules of Procedure: Special Permit Procedures" – Part I and Part II
- C) Discussion of Distribution of Water: payment of costs by special assessment (Cont'd from 08/01/11).

3. ***CC2011-053 (Verga/Tobey) Establishment of City Ordinance re: Securing and Maintaining Vacant Properties and Properties in the Process of Foreclosure***

COMMITTEE

Councilor Sefatia Theken, Chair
Councilor Ann Mulcahey, Vice Chair
Councilor Bruce Tobey

Committee members – Please bring relevant documentation

Back-up and Supporting Documentation all on file at the City Clerk's Office, City Hall

CC: Mayor Carolyn Kirk
Jim Duggan
Linda T. Lowe
Bill Sanborn

The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

supervised by the Chief. **Councilor Mulcahey** stated it was her understanding that the Assistant Registrar and the Assistant City Clerk report to the City Clerk and the City Clerk reports to the City Council. **Councilor Whynott** contended that is what it used to say, but not what it says now. **Ms. Lowe** stated it says “supervised by the City Clerk”; having been on the Charter Task Force all along, she stated the reason for this was, she believed, the intention by the Councilors who brought it up was due to the situation of the recent layoff and reinstatement of the Assistant City Auditor which prompted a discussion of who does the Assistant City Auditor work for and the Auditor works for the Council. This language was seen as a way of addressing that situation in order to clarify the issue. **Councilor Whynott** thought this was not a clarification. He expressed his preference for a “crisp” chain of command and felt it was cleaner the way it was currently stated in the Charter. **Mr. Gross** stated this is new; there was nothing before this amendment. This language did not exist that referred to the Assistant Auditor. **Ms. Lowe** concurred with **Mr. Gross**’ assertion. **Councilor Whynott** disagreed; that it said that the Clerk and the Auditor report to the City Council. **Councilor Curcuru** pointed out this is Sec. 2-7 (b) and (c). **Ms. Lowe** clarified **Mr. Gross** is saying that this is new language. **Councilor Curcuru** recalled, on inquiry by **Councilor Mulcahey** that the question was both positions are union positions; which they shouldn’t be; rather they should be positions of management. He believed that would be up to the union in giving up those positions. **Councilor Whynott** thought this was not the way to “fix” the language and moved that this should be stricken – that the Assistant Registrar, the Assistant City Clerk and the Assistant City Auditor report to their managers and that the managers should report to the City Council. **Councilor Ciolino** and **Councilor Curcuru** discussed the matter about direct and indirect supervision of these three staff members. **Councilor Curcuru** did agree with **Councilor Whynott** to some degree that the Assistant City Auditor reports to the City Auditor; and that he is the tacit supervisor of the City Auditor in his role as the Chair of B&F. However, that doesn’t preclude another Councilor going in and speaking with the Assistant City Auditor or for that matter the Assistant City Clerk. **Councilor Whynott** said he believed a Councilor could not give those staff members an ‘order’. He recognized while this was not a problem for this particular Council with regards to the supervision, it may become one for a future Council. **Council President Hardy** thought the intention was to protect not only the City Auditor and the City Clerk from layoffs, in other words they’re under the auspices of the City Council not the Executive branch; and would also extend to their assistants because they couldn’t have a “rogue” assistant reporting to the Executive branch while they’re reporting to the Council. **Councilor Whynott** stated it may solve one problem but create another problem. He felt it was hard enough for the City Clerk to have nine “bosses”; and even though they supervise them, they’re still going to be reporting to the City Council. **Council President Hardy** and **Councilor Verga** disagreed. To that end, **Council President Hardy** offered a friendly amendment to satisfy the needs of the Council on this matter that “The Assistant City Clerk and the Assistant Registrar of Voters report to the City Clerk;” to which **Councilor Verga** added, “and are supervised by the City Clerk” and stated that “and to the City Council could be pulled from the motion altogether where it refers to the Assistant City Auditor and the Assistant Registrar of Voters and Assistant City Clerk. **Councilor Curcuru** reiterated the intent was to protect the positions. The Council, by unanimous consent, accepted the friendly amendment to the motion and then voted the amended motion as follows:

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Verga, the City Council voted BY ROLL CALL 6 in favor, 0 opposed, 3 (Tobey, McGeary, Theken) absent to amend the Gloucester City Home Rule Charter by ADDING in Sec. 2-7 City Clerk; City Auditor (a) following after the words “unexpired term” as follows: “The city clerk and auditor report to and are supervised by the City Council. The assistant city clerk and assistant registrar of voters report to and are supervised by the city clerk. The assistant city auditor reports and is supervised by the city auditor.”

The following discussion relates to the Charter Task Force’s recommendation to revise and clarify language contained in Sec. 2-9 Council Standing Committees which was proposed as follows:

To amend the Gloucester City Home Rule Charter by clarifying language contained in Sec. 2-9 Council Standing Committees (a) into three subsections as follows:

(a) Designation of Committees – There shall be three standing committees of the city council:

- (i) A committee on Budget and Finance, to which may be referred by a simple majority vote of the full city council every matter which would involve an expenditure by the city.**
- (ii) A committee on Ordinances and Administration, to which may be referred by a simple majority vote of the full city council every matter which in the form of adoption is categorized an “ordinance” or**

- the effect of which is more than temporary significance, all matters the effect of which would be to alter the administrative structure of the city government and which shall have general oversight of the department of the city clerk.
- (iii) A committee on Planning and Development, to which may be referred by a simple majority vote of the full city council all matters which affect land use, planning, zoning and other development of the city.

Councilor Whynott noted he believes that there is no such thing as a “simple majority of the full City Council”. When there is a quorum, it is a simple majority of those present and voting. They can pass things according to the Charter [§2-5(b)] with four votes and go up to five votes if everyone is in attendance. The Council wouldn’t want to have something that can be passed with fewer votes than it requires referring them. (i) is fine because it takes six votes to pass it and is appropriate; but (ii) and (iii) should be just a simple majority. **Mr. Gross** stated that it was changed in 2002 from two-thirds to a simple majority. **Councilor Whynott** contended that was due to a typographical error then; and it got passed. It said “simple majority of the full Council”, and there is no such thing. **Ms. Lowe** understood the Councilor’s point but that is what is in the Charter now, and they wish to change that language. **Councilor Whynott** reiterated there was no such thing as a “simple majority of the full City Council”. In (i) saying it s a majority of the City Council is fine because that is a vote of six Councilors; but (ii) and (iii) should be just “simple majority”. Councilor Curcuru believed Councilor Whynott was asking them to remove the word “simple”; that ultimately it should read majority of the City Council”, which **Councilor Whynott** confirmed. “Of the full Council should come out of (ii) and (iii). If it reads “simple majority” then an ordinance could be passed with a simple majority of four. But it would take you five votes to refer it. He felt that made no sense. **Ms. Lowe** understood the Councilor but her problem was that wasn’t discussed at all by the Charter Task Force; and they didn’t make that change. Now it is coming back as a change without having gone through the vetting of the Charter Task Force. **Council President Hardy** asked if it were to remain as it is currently, would that affect anything else that was changed that is coming before them. Ms. Lowe responded some of the changes Mr. Gross took to the School Committee where they were trying to make things parallel, it might mean they are no longer parallel. **Councilor Whynott** noted the charter states you can pass an appropriation with five votes “with the majority of the full Council”. Anything else requires four votes which is a simple majority. There is only a simple majority and a majority of the full Council. **Ms. Lowe** noted that was confusing because it is not four votes. It is dependent on who is at the meeting. If there aren’t nine Councilors, and the numbers are dropping down, then you go to the four votes. If all nine Councilors this evening were taking up, say, a motion on handicapped parking, and four people voted in favor of it, it would fail. **Councilor Whynott** stated even if seven councilors are in attendance a simple majority remains four and you can pass things other than requires a simple majority; ordinances, all kinds of things. **Ms. Lowe** respectfully disagreed with the Councilor. Her only concern was that what is in front of them has been in the Charter for a long time. **Councilor Whynott** responded it was wrong even when it was in it. **Council President Hardy** asked the Council if they wished to put aside the matter to be considered further at another time, so that they may continue on to the rest of the matters before them.

By unanimous consent, the matter of the Charter Task Force’s recommendation to clarify language contained in Sec. 2-9 Council Standing Committees was set aside to be taken up at another Special City Council meeting at a date to be determined.

Councilor Theken entered the meeting at 6:24 p.m.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Verga, the City Council voted **BY ROLL CALL 7 in favor, 0 opposed, 1 (McGeary) absent to amend the Gloucester City Home Rule Charter by DELETING in Sec. 2-11(b) all words that follow the phrase “in the measure” and by ADDING after the phrase “following their adoption unless” the words “a vote of the City Council in conformity with the procedures for measures generally is passed extending it for a period not to exceed an additional sixty days or...”**

Councilor Whynott also questioned the matter. In the past when they needed a resolution or something of the like to go to the State House right out the next day, they worked around this by making a motion to reconsider so as not to wait until 48 hours later to act. They still need a vehicle to be able to do that. He noted the Charter always overrules Roberts Rules of Order. So if it says that every Councilor has the right until the close of business the next day, there is nothing that can be done via parliamentary procedure to take that right away from a City Councilor. He

City Hall
Nine Dale Ave
Gloucester, MA 01930



TEL 978-281-9700
FAX 978-281-9738
ckirk@gloucester-ma.gov

CITY OF GLOUCESTER
OFFICE OF THE MAYOR

Memorandum

To: City Council President Hardy and Members of the Gloucester City Council
From: Jim Duggan, Chief Administrative Officer 
Date: July 29, 2011
Re: **Establishment of the Emergency Management Department**

One of the goals of the Administration has been to provide the citizens of Gloucester with an improved method of preparing for, responding to and building capacity to recover from small and large disasters.

With the support of the city council, we have taken the first step to fulfill that goal by renaming the Civil Defense position to an Emergency Management Director (EMD). As we have appreciated over the course of recent weather related events, an experienced and trained EMD has been vital in:

- Coordinating the emergency management efforts of the multiple local and state agencies, as well as local health care providers; and
- Providing consistent information to the general public and private businesses, which is essential to ensuring the safety of the citizens.

The proposed next step is to replace the existing language in the Code of Ordinances for the "Civil Defense" Department (Part II GCO Chapter 2 - Administration, Article VII) with the Emergency Management Department. I have attached for your review the existing language in the Code of Ordinances for the Civil Defense Department and the proposed language for the Emergency Management Department. As you will discover, the language changes are minimal.

I request that this matter be referred to Ordinance and Administration Committee for their review and recommendation to the full City Council.

Appropriate personnel will be available to answer any questions.

Thank you.

Director shall mean the director of the city office of civil defense, appointed as prescribed in this article.

Mayor shall mean the mayor or the acting mayor as provided in Charter, § 3-10(a), except that the acting mayor shall assume such office immediately upon the mayor's becoming unable to perform the duties of the office.

Regulations shall include plans, programs and other emergency procedures.

Volunteer shall mean contributing a service, equipment or facilities to the civil defense organization without remuneration.

(Ord. of 1-28-1996 § 3)

Sec. 2-653. - Organization and appointments.

- (a) The mayor is authorized and directed to establish an organization for civil defense in accordance with the commonwealth civil defense plan and program. Said organization is to be known as the city office of civil defense.
- (b) The organization shall be constituted as follows:
- (1) There shall be a director who shall be appointed by the mayor and who shall have direct responsibility for the organization, administration and operation of the city office of civil defense, subject to the direction and control of the mayor.
 - (2) Every agency and all members of every department and division of the government of the city may be employed as part of the civil defense organization.
 - (3) Whenever the federal government or any agency or officer thereof, or any person, firm or corporation, shall offer to the city services, equipment, supplies, materials or funds, by way of gift, grant or loan for purposes of civil defense, the city, acting through its city council, may accept such offer, and upon acceptance, the city council may authorize any officer of the city to receive such services, equipment, supplies, materials or funds on behalf of the city, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

(Ord. of 1-28-1996 § 4)

Sec. 2-654. - Emergency powers and duties.

- (a) *The mayor.*
- (1) The mayor may exercise the emergency power and authority necessary to fulfill his general powers and duties as defined in the city Charter, article 3. The city council may convene to perform its legislative and administrative powers as the situation demands, and shall receive reports relative to civil defense activities. Nothing in that article shall be construed as abridging or curtailing the powers or restrictions of the city council as defined in the city Charter, article 2.
 - (2) During any period when disaster threatens or when the city has been struck by disaster, within the definition of this article, the mayor may promulgate such regulations as he deems necessary to protect life and property and preserve critical resources. Such regulations may include, but shall not be limited to, the following:
 - a. Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of civil defense forces, or to facilitate the mass movement of persons from critical areas within or without the city.
 - b. Regulations pertaining to the movement of persons from areas deemed to be hazardous or vulnerable to disaster.
 - c. Such other regulations necessary to preserve public peace, health and safety.
 - d. Regulations promulgated in accordance with the authority above will be given widespread circulation by proclamations published and uttered by newspaper and radio. These regulations will have the force of ordinance when duly filed with the city clerk.
 - (3) The mayor may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life and property of the people, and bind the city for fair value thereof.
 - (4) The mayor may require emergency services of any city officer or employee. If regular city forces are determined inadequate, the mayor may require the services of such other personnel as he is able to obtain, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to such privileges and immunities as are provided by commonwealth law, the city Charter and ordinances for regular city employees and other registered and identified civil defense and disaster workers.
 - (5) The mayor shall cause to be prepared the basic plan herein referenced, shall exercise his ordinary powers as mayor, all of the special powers conferred upon him by the city Charter and this Code, and all powers conferred upon him by any commonwealth statute, or other lawful authority.

(b) *Director of the office of civil defense.*

- (1) The director, under the supervision of the mayor, shall be responsible for the planning, coordination and operation of the civil defense activity in the city. He shall maintain liaison with the commonwealth and federal authorities and the authorities of other nearby political subdivisions as to ensure the most effective operation of the civil defense plan. The director's duties shall include, but shall not be limited to, the following:
- a. Developing or causing to be developed, in collaboration with other public and private agencies, mutual aid arrangements for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted.
 - b. Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the city for civil defense purposes.
 - c. Developing and coordinating plans for the immediate use of all of the facilities, equipment, manpower and other resources of the city for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety and welfare.
 - d. Negotiating and concluding agreements with owners or persons in control of buildings or other property for the use of such buildings or other property for the civil defense purposes and designating suitable buildings as public shelters which comply with standards for shelters promulgated by the commonwealth director of civil defense.
 - e. Educating the civilian population, through public informational programs, as to actions necessary and required for the protection of their persons and property in case of enemy attack, or disaster, as defined herein, either impending or present.
 - f. Conducting public practice alerts to ensure the efficient operation of the civil defense forces and to familiarize residents with civil defense regulations, procedures and operations.
 - g. Coordinating the activity of all other public and private agencies engaged in any civil defense activity.
 - h. Assuming such authority and conducting such activity as the mayor may direct to promote and execute the civil defense plan.

(Ord. No. 10000)

Sec. 2-655. - Civil defense and disaster basic plan.

- (a) A comprehensive civil defense and disaster basic plan shall be adopted and maintained by resolution of the council upon the recommendations of the mayor. In the preparation of this plan as it pertains to city organization, it is the intent that the services, equipment, facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent. When approved, it shall be the duty of all municipal departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The basic plan shall be considered supplementary to this article and have the effect of law whenever a disaster, as defined in this article, has been proclaimed.
- (b) The mayor shall prescribe in the basic plan those positions within the disaster organization, in addition to his own, for which lines of succession are necessary. In each instance, the responsible person will designate and keep on file with the mayor a current list of three persons as successors to this position. The list will be in order of succession and will as nearly as possible designate persons best capable of carrying out all assigned duties and functions.
- (c) Each service chief and department head assigned responsibility in the basic plan shall be responsible for carrying out all duties and functions assigned therein. Duties will include the organization and training of assigned city employees and volunteers. Each chief shall formulate the operational plan for his service which, when approved, shall be an annex to and a part of the basic plan.
- (d) Amendments to the basic plan shall be submitted to the mayor. If approved, the mayor will submit the amendments to the city council with his recommendations for their approval. Such amendments shall take effect 30 days from the date of approval unless action is taken by the council disapproving the mayor's submission. In the event an amendment is pending at the time that a disaster is proclaimed under provisions of this article, the amendment will be considered approved immediately and will remain effective unless specifically revoked by the council.
- (e) When a required competency or skill for a disaster function is not available within the city government, the mayor is authorized to seek assistance from persons outside of government. The assignment of duties, when of a supervisory nature, shall also grant authority for the persons so assigned to carry out such duties in reasonable anticipation, during, and after the occurrence of a disaster. Such services from persons outside of government may be accepted by the city on a volunteer basis. Such citizens shall be enrolled as civil defense volunteers in cooperation with the heads of city departments affected.
- (f) Some of the duties ascribed to the mayor in this section will ordinarily be handled as a matter of routine by the director, but the responsibility and authority stem from and remain with the mayor.

(Ord. of 1-19-1988, § 6)

Sec. 2-656. - No municipal or private liability.

- (a) This article is an exercise by the city of its governmental functions for the protection of the public peace, health and safety, and neither the city nor agents and representatives of said city, or any individual, receiver, firm, partnership, corporation, association or trustee, or any of the agents thereof in good faith and in the absence of gross negligence, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this article, shall be liable for any damage sustained by persons or property as the result of said activity. The provisions of this section shall not affect the right of any person to benefits to which he would otherwise be entitled under the State Civil Defense Act, Workmen's Compensation Act, pension and other similar law.
- (b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the city the right to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack shall not be civilly liable for the death of, or injury to, any persons on or about such real estate or premises under such license, privilege or other permission, or for loss of, or damage to, the property of such person.

(Ord. of 1-19-1988, § 6)

Sec. 2-657. - Violation of regulations.

It shall be unlawful for any person to violate any of the provisions of this article or of the regulations or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the civil defense organization as herein defined in the enforcement of the provisions of this article or any regulation or plan issued thereunder.

(Ord. of 1-19-1988, § 6)

Sec. 2-658. - Penalty.

Any person, firm or corporation violating any provision of this article, or any rule or regulation promulgated thereunder, upon conviction thereof, shall be punished by a fine of not more than \$300.00 and costs of prosecution or imprisonment in the county jail for a period of not more than 90 days, or both such fine and imprisonment, in the discretion of the court.

(Ord. of 1-19-1988, § 6)

Sec. 2-659. - Severability.

Should any provision of this article be declared invalid for any reason, such declaration shall not affect the validity of other provisions, or of this article, as a whole, it being the legislative intent that the provisions of this article shall be severable and remain valid notwithstanding such declaration.

(Ord. of 1-19-1988, § 6)

Sec. 2-660. - Conflicting ordinances, orders, rules and regulations suspended.

At all times when the orders, rules and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

(Ord. of 1-19-1988, § 6)

Secs. 2-661—2-700. - Reserved.

FOOTNOTE(S):

⁽²⁶⁾ Editor's note-- Sections 1-11 of a nonamendatory ordinance adopted January 19, 1988, has been included herein at the discretion of the editor as article VII, §§ 2-650—2-660. (Back)

ARTICLE VII. – Emergency Management ^[20]

Sec. 2-650. - Short title.

Sec. 2-651. - Intent and purpose.

Sec. 2-652. - Definitions.

Sec. 2-653. - Organization and appointments.

Sec. 2-654. - Emergency powers and duties.

Sec. 2-655. - Emergency management and disaster basic plan.

Sec. 2-656. - No municipal or private liability.

Sec. 2-657. - Violation of regulations.

Sec. 2-658. - Penalty.

Sec. 2-659. - Severability.

Sec. 2-660. - Conflicting ordinances, orders, rules and regulations suspended.

Secs. 2-661—2-700. - Reserved.

Sec. 2-650. - Short title.

This article shall be known and may be cited and referred to as the "Emergency Management Ordinance of the City of Gloucester."

Sec. 2-651. - Intent and purpose

(a)

It is the intent and purpose of this article to establish a department that will ensure the complete and efficient utilization of all the city's facilities and combat disasters resulting from attack or other emergency situations.

(b)

The city department of Emergency Management will be the coordinating agency for all activity in connection with emergency management and will be the instrument through which the mayor may exercise the authority and discharge the responsibilities vested in him/her in the appendix of to M.G.L. c. 33, as amended, and this article.

Sec. 2-652. - Definitions.

The following definitions shall apply in the interpretation of this article:

Emergency management shall mean the preparation for and the carrying out of all emergency functions, other than functions for which military forces other than the National Guard are primarily responsible, for the purpose of minimizing and repairing injury and damage resulting from disasters caused by attack, sabotage or other hostile action; or by riot or other civil disturbance; or by fire, flood, earthquake or other natural causes. Said functions shall include specifically, but without limiting the generality of the foregoing, firefighting and police services other than the actual control or suppression of riot or other civil disturbance, medical and health services, rescue, engineering and air raid warning services, evacuation of persons from stricken areas, emergency welfare services, communications, radiological, chemical and other special weapons of defense, emergency transportation, existing or property assigned functions of plant protection, temporary restoration of public utility services and other functions.

Emergency management forces shall mean the employees, equipment and facilities and all city departments, boards, institutions and commissions; and, in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.

Emergency management volunteer shall mean any person duly registered, identified and appointed by the director of the department of emergency management and assigned to participate in the emergency management activity.

Director shall mean the director of the city department of emergency management, appointed as prescribed in this article.

Mayor shall mean the mayor or the acting mayor as provided in Charter, § 3-10(a), except that the acting mayor shall assume such office immediately upon the mayor's becoming unable to perform the duties of the office.

Regulations shall include plans, programs and other emergency procedures.

Volunteer shall mean contributing a service, equipment or facilities to the emergency management organization without remuneration.

Sec. 2-653. - Organization and appointments

(a)

The mayor is authorized and directed to establish an organization for emergency management in accordance with the commonwealth emergency management plan and program. Said organization is to be known as the city office of emergency management.

(b)

The organization shall be constituted as follows:

(1)

There shall be a director who shall be appointed by the mayor and who shall have direct responsibility for the organization, administration and operation of the city department of emergency management, subject to the direction and control of the mayor.

(2)

Every agency and all members of every department and division of the government of the city may be employed as part of the emergency management organization.

(3)

Whenever the federal government or any agency or officer thereof, or any person, firm or corporation, shall offer to the city services, equipment, supplies, materials or funds, by way of gift, grant or loan for purposes of emergency management, the city, acting through its city council, may accept such offer, and upon acceptance, the city council may authorize any officer of the city to receive such services, equipment, supplies, materials or funds on behalf of the city, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

Sec. 2-654. - Emergency powers and duties.

(a)

The mayor.

(1)

The mayor may exercise the emergency power and authority necessary to fulfill his/her general powers and duties as defined in the city Charter, article 3. The city council may convene to perform its legislative and administrative powers as the situation demands, and shall receive reports relative to emergency management

activities. Nothing in that article shall be construed as abridging or curtailing the powers or restrictions of the city council as defined in the city Charter, article 2.

(2)

During any period when disaster threatens or when the city has been struck by disaster, within the definition of this article, the mayor may promulgate such regulations as he/she deems necessary to protect life and property and preserve critical resources. Such regulations may include, but shall not be limited to, the following:

a.

Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of emergency management forces, or to facilitate the mass movement of persons from critical areas within or without the city.

b.

Regulations pertaining to the movement of persons from areas deemed to be hazardous or vulnerable to disaster.

c.

Such other regulations necessary to preserve public peace, health and safety.

d.

Regulations promulgated in accordance with the authority above will be given widespread circulation by proclamations published and uttered by newspaper and radio. These regulations will have the force of ordinance when duly filed with the city clerk.

(3)

The mayor may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life and property of the people, and bind the city for fair value thereof.

(4)

The mayor may require emergency services of any city officer or employee. If regular city forces are determined inadequate, the mayor may require the services of such other personnel as he/she is able to obtain, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to such privileges and immunities as are provided by commonwealth law, the city Charter and ordinances for regular city employees and other registered and identified emergency management and disaster workers.

(5)

The mayor shall cause to be prepared the basic plan herein referenced, shall exercise his/her ordinary powers as mayor, all of the special powers conferred upon him/her by the city Charter and this Code, and all powers conferred upon him/her by any commonwealth statute, or other lawful authority.

(b)

Director of the department of emergency management.

(1)

The director, acting under the authority of the mayor, shall be responsible for the planning, coordination and operation of the emergency management activity in the city. He/she shall maintain liaison with the commonwealth and federal authorities and the authorities of other nearby political subdivisions as to ensure the most effective operation of the emergency management plan. The director's duties shall include, but shall not be limited to, the following:

a.

Developing or causing to be developed, in collaboration with other public and private agencies, mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted.

b.

Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the city for emergency management purposes.

c.

Developing and coordinating plans for the immediate use of all of the facilities, equipment, manpower and other resources of the city for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety and welfare.

d.

Negotiating and concluding agreements with owners or persons in control of buildings or other property for the use of such buildings or other property for the emergency management purposes and designating suitable buildings as public shelters which comply with standards for shelters promulgated by the commonwealth director of emergency management.

e.

Educating the civilian population, through public informational programs, as to actions necessary and required for the protection of their persons and property in case of enemy attack, or disaster, as defined herein, either impending or present.

f.

Conducting public practice alerts to ensure the efficient operation of the emergency management forces and to familiarize residents with emergency management regulations, procedures and operations.

g.

Coordinating the activity of all other public and private agencies engaged in any emergency management activity.

h.

Assuming such authority and conducting such activity as the mayor may direct to promote and execute the emergency management plan.

Sec. 2-655. - Emergency management and disaster basic plan.

(a)

A comprehensive community emergency management plan shall be adopted and maintained by resolution of the council upon the recommendations of the mayor. In the preparation of this plan as it pertains to city organization, it is the intent that the services, equipment, facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent. When approved, it shall be the duty of all municipal departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The basic plan shall be considered supplementary to this article and have the effect of law whenever a disaster, as defined in this article, has been proclaimed. Such plan shall be electronic in accordance with MEMA standards and updated annually.

(b)

The Emergency Management Director shall prescribe in the basic plan those positions within the City, in addition to his own, for which lines of succession are necessary. In each instance, the responsible person for each city organization will provide when asked, a current list of three persons as successors to his/her position. The list will be in order of succession and will as nearly as possible designate persons best capable of carrying out all assigned duties and functions.

(c)

Each public safety chief and department head assigned responsibility in the basic plan shall be responsible for carrying out all duties and functions assigned therein. Duties will include the organization and training of assigned city employees and volunteers. Each public safety chief and each department head shall formulate the operational plan for his/her service or department which, when approved, shall be an annex to and a part of the basic plan.

(d)

Amendments to the basic plan shall be submitted by the Emergency Management Director to the mayor. If approved, the mayor will submit the amendments to the city council with his/her recommendations for their approval. Such amendments shall take effect 30 days from the date of approval unless action is taken by the council disapproving the mayor's submission. In the event an amendment is pending at the time that a disaster is proclaimed under provisions of this article, the amendment will be considered approved immediately and will remain effective unless specifically revoked by the council.

(e)

When a required competency or skill for a disaster function is not available within the city government, the mayor is authorized to seek assistance from persons outside of government. The assignment of duties, when of a supervisory nature, shall also grant authority for the persons so assigned to carry out such duties in reasonable anticipation, during, and after the occurrence of a disaster. Such services from persons outside of government may be accepted by the city on a volunteer basis. Such citizens shall be enrolled as emergency management volunteers in cooperation with the heads of city departments affected.

(f)

Some of the duties ascribed to the mayor in this section will ordinarily be handled as a matter of routine by the Emergency Management Director, but the responsibility and authority stem from and remain with the mayor.

Sec. 2-656. - No municipal or private liability.

(a)

This article is an exercise by the city of its governmental functions for the protection of the public peace, health and safety, and neither the city nor agents and representatives of said city, or any individual, receiver, firm, partnership, corporation, association or trustee, or any of the agents thereof in good faith and in the absence of gross negligence, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this article, shall be liable for any damage sustained by persons or property as the result of said activity. The provisions of this section shall not affect the right of any person to benefits to which he would otherwise be entitled under the State Emergency management Act, Workmen's Compensation Act, pension and other similar law.

(b)

Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the city the right to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice community emergency shall not be civilly liable for the death of, or injury

to, any persons on or about such real estate or premises under such license, privilege or other permission, or for loss of, or damage to, the property of such person.

Sec. 2-657. - Violation of regulations.

It shall be unlawful for any person to violate any of the provisions of this article or of the regulations or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the emergency management organization as herein defined in the enforcement of the provisions of this article or any regulation or plan issued thereunder.

Sec. 2-658. - Penalty.

Any person, firm or corporation violating any provision of this article, or any rule or regulation promulgated thereunder, upon conviction thereof, shall be punished by a fine of not more than \$300.00 and costs of prosecution or imprisonment in the county jail for a period of not more than 90 days, or both such fine and imprisonment, in the discretion of the court.

Sec. 2-659. - Severability.

Should any provision of this article be declared invalid for any reason, such declaration shall not affect the validity of other provisions, or of this article, as a whole, it being the legislative intent that the provisions of this article shall be severable and remain valid notwithstanding such declaration.

Sec. 2-660. - Conflicting ordinances, orders, rules and regulations suspended.

At all times when the orders, rules and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

Secs. 2-661—2-700. - Reserved.

DRAFT



**CITY OF GLOUCESTER 2011
CITY COUNCIL ORDER**

ORDER:	#CC2011-043
Councillor	Bruce Tobey

DATE RECEIVED BY COUNCIL:	09/13/11
REFERRED TO:	O&A
FOR COUNCIL VOTE:	

ORDERED that the Administration, the Council, and the City Hall Restoration Committee work together to generate a Request for Proposals seeking a non-profit cultural partner to share in the use and maintenance of City Hall, as per the model of this article:

<http://www.preservationnation.org/magazine/story-of-the-week/2011/a-beautiful-duet.html>

Bruce Tobey
Councillor At Large

and Council President Hardy explained the proceedings to the young men and then finished the meeting by taking up the following matter.

- D) CC2011-044 (Verga) Amend GZO Sec. 1.5.3, Sec. 1.11 and 1.11.2(e) "Appendix A, Rule 25: Rules of Procedure: Special Permit procedures "Part I and Part II" (Cont'd from 10/19/11)

Councilor Verga, who brought forward the Council Order prompting the discussion to move forward an ordinance change on the Rules of Procedure: Special Permit Procedures "Park I and Part II" stated that this came as a result of picking up a Council packet that was 15" worth of paper. It made sense to put as much electronically as possible so as to reduce the volume of paper. He noted that the Planning Board held a public hearing on October 20, 2011 to consider these proposed zoning amendments to promote the submission of special permit application in digital form and reduce the required number of copies. The Board, who has been receiving digital applications for several years, recognizes that the technology for doing so is reliable and has become common practice. Therefore the Board voted unanimously (6 in favor, 0 opposed) to recommend to the City Council the adoption of the proposed amendments as drafted. This information came in the form of a memo from the Planning Board to the City Clerk dated October 26, 2011 (on file). While O&A made their recommendation for an increased number of copies, he asked the Committee to vote to recommend to the Council as per his order which is one full original and one copy and the rest is submitted electronically. The Councilor noted now these all start electronically anyway, and the reproduction cost is very high. The applicants will prefer the electronic submission versus all the copies now required. He thought this was a great way to save paper, save time and go green. **Council President Hardy** stated they will need to put money in the City Clerk's budget for FY13 to come up to date to project the information that is digitally submitted for view by the Council in Kyrouz Auditorium and to read it also. When asked by the Committee, both **Mr. Rielly** and **Mr. Bartholomew** agreed that using electronics was a good way to go.

MOTION: On motion by Councilor Whynott seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND pursuant to MGL c. 40A, §5 and Gloucester Zoning Ordinance Sec. 1.11 and Sec. 1.11.2(e) by DELETING in Sec. 1.5.3(a) references to "11 copies thereof"; and Sec. 1.5.3(b) "five (5) full size sets and eleven (11) 11" x17" sets" and Sec. 1.5.3 (c) "five (5) full size sets and eleven (11) 11" x 17" sets of"; and ADDING "one original and one copy thereof providing that the applicant also provides the application and all required submissions in digital form. Digital submission is strongly preferred, otherwise eleven (11) 11" x 17" (11x17 inches) and five (5) copies 2' 3" (2 feet x 3 feet) must be provided"; and by AMENDING Gloucester Zoning Ordinance "Appendix A – Rule 25: Rules of Procedure Special Permit Procedures" – Part I and Part II to be consistent with Sec. 1.5.3 as amended AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

2. *Cape Ann Chamber of Commerce request to hold one-day blues festival at Stage Fort Park on August 11, 2011*

Attorney Catherine Henry, representing the Chamber of Commerce explained to the Committee that the Chamber would like to sponsor a one-day blues festival at Stage Fort Park on August 11, 2012 from 11 a.m. to 7 p.m. She asked for a continuance, stating that they are not quite ready to go forward with all the details for the event for approval. She noted Mr. Hale, DPW Director, has no objection as to the park being used for this purpose and that a letter is on file to that effect. **Councilor Ciolino** stated some things for the organizers to consider for their planning and Council approval would be if propane is in use at the park it involves the Fire Department since they'll be having food vendors. They'll need a traffic plan; they need to pay attention to the noise ordinance. **Attorney Schlichte** stated they would speak to the neighbors who abut the park. **Council President Hardy** suggested a copy of the new Special Event Permit application form be forwarded to Attorney Schlichte. The form has approved by the City Council but no fee has been attached to the filing as yet. **Chief Lane** discussed with Attorney Henry what is required for the Licensing Commission regarding vendors. **Councilor Verga** discussed with Bob Hastings, former Chamber of Commerce Executive Director and now working on behalf of the Festival where the actual location would be within Stage Fort Park. Mr. Hastings produced a colored plot map of Stage Fort Park given to him by the DPW Director for planning purposes. It was not made a part of the record. He stated Cressy's Beach would have to be closed for the day of the event but Half Moon Beach would remain open. **Attorney Schlichte** stated they would also close Hough Avenue from the parking lot to Western Avenue beyond the Cupboard. The asphalt will be kept open all the way for emergency access. They would have parking barriers. **Chief Lane** and **Councilor Verga** stated they must appropriate signage indicating the road closures and parking area(s), along with

This matter is continued to October 3, 2011.

Councilor Curcuru left the meeting at 8:00 p.m. There was no longer a quorum of the City Council.

 4. *Discussion of Distribution of Water; payment of costs by special assessment (ref'd from 7/26/11 City Council Mtg.)*

Mr. Hale showed the Committee a line map showing Becker Lane and explained that the City mains were renewed in the 1990s. Since the mid-1960's there have been seventeen divisions of land with no requirement to improve utilities. There are no hydrants up there. If you were going to be fighting a fire on Becker Lane they'd have to start from Concord Street. This water service continues to break. They run through yards, etc. and are "a mess". The City could take property by eminent domain to put water mains there. To put in a water main is \$185 per linear foot just for pipe; and he estimated it would cost about \$800,000 to \$900,000 to do. It's all granite there; and there are wetlands issues. This isn't the only neighborhood like this nor is it the most vulnerable. There are those neighborhoods that have "summer water", like Rust Island – all of it is fed by summer water or wells. There is no way to fight a fire in a traditional manner there. They'd have to relay pump to fight a fire from Sudbay's (automotive dealership). They couldn't have this project in the ground at Becker Lane until the spring even if he had the money with design, permitting and right of way taking. They better sewer projects all the time. The residents of Way Road and Page Street couldn't do a sewer project on their own. They were willing to pay for it if the City would manage the project. He showed the Committee the MGL that relates to water betterment (on file).

Councilor Tobey stated the betterment authority is the DPW Director. The problem here is that the water service is not adequate and wondered would this project be eligible for betterment treatment. **Ms. Lowe** stated most germane is that it is not part of the public system. The introduction of a new public system would be a 'betterment'. It is considered an "unwatered place". **Councilor Tobey** asked if it is enough of a distinction. **Ms. Lowe** believed that to be the case. She pointed out in their packet the MGL sections (c. 40, §42G, H, I and K) that if adopted locally, they could do 100% betterment. **Mr. Hale** stated it would need close review but they're looking at other tools also, as this is a big ticket project, prohibitive to some neighborhoods financially. It would be at a cost of about \$35,000 per household on Becker Lane for a water project. **Councilor Theken** pointed out that this would be an option to be examined. **Mr. Hale** stated they're coming forward with water projects quickly as it is time now to invest in the City's infrastructure. **Councilor Theken** asked they come back in October with other problem roads/areas of the City so that they know where they are so they can have a better picture of the situation. **Mr. Hale** stated they have a Water Master Plan under development now and hope to have it done by the first of the year, and confirmed they'll have a "snapshot in the fall."

By unanimous consent by the O&A Committee a request by Councilor Tobey is forwarded to the City Solicitor as follows: To obtain an opinion from General Counsel as to whether the water betterment procedures in MGL c. 40, §42 G, H, I, and K apply once accepted by the City if the City constructs a public distribution system in an area thereby replacing the preexisting private water system.

This matter is continued to November 14, 2011.

5. *Vehicle Traffic Speed Rates on Woodward Avenue (ref'd from 7/26/11 City Council Mtg.)*

Councilor Theken explained that this matter is with the Traffic Commission for a JAMAR study. The matter will be continued to September 19, 2011 to give the Traffic Commission time to make their recommendation.

This matter is continued to September 19, 2011.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:22 p.m.

Respectfully submitted,

Dana C. Jorgensson
Clerk of Committees



**CITY OF GLOUCESTER 2011
CITY COUNCIL ORDER**

ORDER: #CC2011-053
Councillor Greg Verga and Bruce Tobey

DATE RECEIVED BY COUNCIL: 10/25/11
REFERRED TO: O&A
FOR COUNCIL VOTE:

ORDERED that the Ordinances and Administration Committee in consultation with the Health Department, the Inspectional Services Department, the Fire Department, and the Affordable Housing Trust Committee review any City of Gloucester existing ordinances or regulations which relate to abandoned, bank-owned, or absentee owner properties to determine if any such ordinances or regulations adequately address health and public safety issues as well as matters of neighborhood blight and in conjunction with such consultation and review amend the Gloucester Code of Ordinances by

ADDING: a new section in Chapter 5, Article V "Buildings" to be entitled "Securing and Maintaining Vacant Properties and Properties in the Process of Foreclosure".

Background: This Order seeks to resolve a quality of life issue caused by the presence of abandoned buildings in neighborhoods in the City. Discussion should focus on existing ordinances in other cities in the Commonwealth which have been successful in dealing with this issue, such as the ordinance enacted by the City of Worcester in 2009 which is attached to this Order.

Greg Verga
Ward 5 Councillor

Bruce Tobey
Councillor at Large

Worcester

~~apply whenever, in the opinion of the building commissioner, the condition of any designated historic building requires immediate emergency action to abate a threat to the health or safety of the public. Nor shall the provisions of said subsection (c) apply to the demolition of a designated historic building located on any priority development site designated by the city council pursuant to G.L. c. 43D.~~

§14. **Securing and Maintaining Vacant Properties and Foreclosing Properties - (Amended December 15, 2009 - 9415)**

(a) Unsecured and unmaintained vacant properties and foreclosing properties present a danger to the safety and welfare of public safety officers, the public, occupants, abutters and neighborhoods, and as such, constitute a public nuisance. This section is enacted to promote the health, safety and welfare of the public, to protect and preserve the quiet enjoyment of occupants, abutters and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties.

(b) The following words and phrases, when used in this section, shall have the following meanings:

building - any combination of materials having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons or property.

certificate of closure - certificate issued by the director to the owner of a vacant or foreclosing property upon compliance with the provisions of paragraph (c) herein.

director - the director of health and housing inspection.

days - consecutive calendar days.

fire chief - the chief of the Worcester Fire Department or his or her designee.

foreclosing - the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

initiation of the foreclosure process - taking any of the following actions:

- (i) taking possession of a residential property pursuant to General Laws chapter 244 § 1;
- (ii) delivering the mortgagee's notice of intention to foreclose to borrower pursuant to General Laws Chapter 244 § 17B;
- (iii) commencing a foreclosure action on a property in any court of competent jurisdiction; or
- (iv) recording a complaint to foreclose with the registry of deeds.

local - within twenty miles of the property in question

mortgagee - the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

owner – every person, entity, service company, or property manager who alone or severally with others:

- (1) has legal or equitable title to any real property, including, but not limited to a dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
- (2) has care, charge or control of real property, including but not limited to any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, or any administratrix, trustee or guardian of the estate of the holder of legal title; or
- (3) is a mortgagee of any such property;
- (4) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- (5) is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, "owner" shall not mean a condominium association created pursuant to General Laws chapter 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association; or
- (6) every person who operates a rooming house; or
- (7) is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process; or
- (8) has recorded a complaint to foreclose with the registry of deeds.

property – any real property, or portion thereof, located in the city, including buildings or structures situated on the property; provided, however, that "property" shall not include property owned or under the control of the city, the commonwealth or the United States of America.

secured, securing – making the property inaccessible to unauthorized persons.

vacant – any property not currently legally occupied and not properly maintained or secured.

(c) Any owner of a vacant and/or foreclosing property shall forthwith:

1. Provide written notification to the director and the fire chief of the status of such property, including in such notice, the name, address and telephone number of the owner; the location of the property; the length of time the building has been vacant; the estimated time the building will remain vacant; and the nature of the contents of the building; and,
2. As may be required by the fire chief, file one set of space utilization floor plans for any buildings on said property with the fire chief and one set of said plans with the director. The owner shall certify space utilization plans as accurate twice annually, in January and July; and,
3. Remove from the property, to the satisfaction of the fire chief, hazardous material, as that term is defined in Massachusetts General Laws, chapter 21K, as that statute may be amended from time to time; and,

4. At the discretion of the fire chief or director, secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board up Procedures or provide twenty-four (24) hour on-site security personnel on the property. When a vacant or foreclosing property is located within a complex of buildings owned by a single owner, twenty-four (24) hour on-site security shall be provided within the building or within the complex wherein the building is located; and,
5. Post "No Trespassing" signs on the property. Said signs shall be no smaller than 8 inches by 11 inches with lettering no smaller than 2 inches high, and shall be visible from the street. However, this requirement may be waived by the director upon written request from the owner or designee; and,
6. Maintain the property in accordance with Chapter 8, § 42 of these Ordinances, free of overgrowth, trash and debris, and pools of stagnant water, and ensure that structures are maintained in a structurally sound condition; and,
7. If the property is vacant, drain all water from the plumbing and turn off all electricity between September 15 and June 15 of each calendar year to guard against burst pipes and fires; however, this requirement may be waived by the director upon written request from the owner or designee; and,
8. Maintain the property in accordance with all other relevant state codes and local regulations concerning the maintenance of property; and,
9. Provide the fire chief and director with the name, local address, and telephone number of a responsible person who can be contacted in case of emergency. The owner shall cause the name and contact number to be marked on the front of the property as may be required by the fire chief or director; and,
10. Maintain liability insurance on the property and furnish the director with a copy of said certificate of insurance; and,
11. Provide a cash bond acceptable to the director, in the sum of not less than five thousand dollars, to secure the continued maintenance of the property throughout its vacancy and remunerate the city for any expenses incurred in inspecting, securing, marking or making such building safe. A portion of said bond shall be retained by the city as an administrative fee to fund an account for expenses incurred in inspecting, securing and marking other such buildings that are not in compliance with this Section. Any owner of a vacant or foreclosing property providing a bond pursuant to this section must also provide bonds for all other vacant or foreclosing properties it owns in the City.
12. Notify the director and fire chief in writing when the property is sold or transferred.

Upon satisfactory compliance with the above-provisions, the director shall issue a certificate of building closure. Said certificate shall be valid for the length of time prescribed by the director and noted thereon; provided however, the certificate shall be subject to continued compliance with the provisions of this section.

(d) Signs/Markings - When required pursuant to this section, signs or markings on buildings determined to be especially unsafe in case of fire shall be applied on the front of the property, and elsewhere as the fire chief may require, at or above the second floor level and shall not be placed over doors, windows, or other openings. All signs/markings shall be visible from the street and, when requested by the fire chief, shall be placed on the sides and rear of the property. Signs/markings shall be a minimum of 24 inches by 24 inches, with lines of 2-inch width, and shall have a reflective background, or be painted with reflective paint, in contrasting colors. Signs/markings shall be applied directly on the surface of the property and shall state the date of posting and the most recent date of inspection by the fire chief and director.

(e) Enforcement - Failure to comply with any provision of paragraph (c) above shall be punished by a fine of three hundred (\$300.00) dollars with each day of violation constituting a separate offence. This section may also be enforced by civil, criminal process or non-criminal process, including injunctive relief. The director and/or the fire chief shall be enforcing persons for purposes of this section.

(f) The director or fire chief, upon being informed of the existence of a vacant or foreclosing property without a certificate of building closure, shall cause notice to issue to the owner of the status of said property and shall order said person to immediately obtain a certificate of building closure. If any person fails to comply with said order, the fire chief or director may enter the premises to inspect, secure and mark the property, and/or remove rubbish or overgrowth, or to abate a stagnant pool of water. The fire chief or director may also seek enforcement pursuant to section (e).

(g) Expenses - The owner of a vacant or foreclosing property who fails to obtain a certificate of building closure as required herein, shall be liable to the city for expenses incurred by the city in securing such property, for removing rubbish and overgrowth, and/or for abating stagnant pools of water. The director shall provide the owner with a written statement of all costs associated with inspecting, securing and marking the property, and removing rubbish or overgrowth, or abating stagnant pools of water. If the owner fails to pay or reimburse the city within seven days of notice of expenses, the city shall draw down upon the bond paid by the owner as required in subsection 10, above. If there is no bond available, the director shall record the notice of claim in the Worcester District Registry of Deeds (or the Land Court Department) forthwith, establishing a lien on the property for the balance due.

(i) No owner of a vacant or foreclosing property shall allow said property to become or remain unsecured, or to contain an accumulation of rubbish, or to contain overgrowth, or to have a stagnant pool of water. If it appears that any vacant or foreclosing property is unsecured, contains rubbish, overgrowth, or a stagnant pool of water, the director, shall send written notification to the owner, requiring that the owner promptly secure the property, remove the rubbish or overgrowth, or abate the stagnant pool of water.

If the owner fails to comply with any order issued pursuant to this provision (h), the fire chief or director may immediately seek to obtain the proceeds secured by the bond filed pursuant to paragraph (c) (11) herein and shall enter upon the premises and cause the property to be inspected, secured and marked, or to remove rubbish, overgrowth, or stagnant pools using said proceeds.

(i) All unsecured vacant or foreclosing properties shall be immediately referred to the director for a determination relative to whether the property is a nuisance or dangerous pursuant to chapter 139 and procedures promulgated thereunder.

(j) Notices required pursuant to this section shall be served in the following manner:

1. Personally on any owner as defined in this section, or on the contact person specified pursuant to paragraph (c)(9); or,
2. Left at the last and usual place of abode of any owner, or contact person as specified pursuant to paragraph (c)(9), if such place of abode is known and is within or without the commonwealth; or,
3. By certified or registered mail, return receipt requested, to any owner, or the contact person specified pursuant to paragraph (c)(9).

~~§ 15. Abandoned Shopping Carts~~

~~(a) Introduction. Commercial establishments, for the convenience of their customers, provide shopping carts. However, they often end up being abandoned on streets (public and private), sidewalks, in public parks and cemeteries and other public property other than that of the commercial establishment. When this happens, the carts constitute a hazard and a nuisance. Municipalities have tried a number of approaches to combat this problem in an attempt to keep carts on the respective premises. Legislation is enacted to require shoppers to promptly return the cart; to declare abandonment of carts unlawful; to require that carts are permanently identified, including the name of the establishment, the address and telephone number; to require that signs are posted, stating that it is illegal to remove carts from the premises; and to require that no carts can remain unsecured in the parking lot after business hours. Furthermore, the city is authorized to impound abandoned carts. The establishment, upon payment of a fee, may retrieve them and any unclaimed carts become the property of the city.~~

~~(b) Legislative Intent. The city council of the city finds and declares that the unlawful taking, misuse and abandonment of shopping carts and similar conveyances constitute a hazard to the health, safety and general welfare of the populace of the city adversely affecting the legitimate conduct of business in the city and constitute a nuisance detrimental to individual neighborhoods and the community at large. The purpose of this section is to reduce the incidences of unlawful taking, misuse and abandonment of these devices through reasonable safeguards, by discouraging and preventing their removal from the property of the owner and by the establishment of penalties for violations of this section.~~



Gloucester City Council
CERTIFICATE OF VOTE
Certificate Number: 2008-054

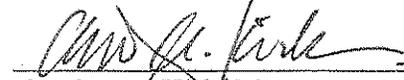
The Gloucester City Council, at a meeting held on **Tuesday, September 2, 2008**, at 7:00 p.m. in the Kyrouz Auditorium voted to approve the following action

IN CITY COUNCIL:

MOTION: The Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council amendment of Chapter 1, Section 1-15, entitled "Penalty for violation of certain specified sections of Code" by ADDING the vacant building registration fee schedule based on square footage, as proposed and by ADDING Chapter 5, Article II, Division 3, entitled "Vacant Buildings", Sections 5-30 through 5-36, as proposed.


Robert D. Whynott, City Clerk

APPROVAL OF THE MAYOR


Carolyn A. Kirk, Mayor

VETOED BY THE MAYOR

Carolyn A. Kirk, Mayor

SIGNED THIS 18 DAY OF Sept., 2008

*All Ordinances shall become effective 31 days after passage except:
Emergency Orders shall become Effective Next Day
Zoning Changes shall be Effective Next Day.*

AMENDMENT TO THE GLOUCESTER CODE OF ORDINANCES

In order to accommodate Section 5-36 of the proposed Vacant Buildings ordinance, Section 1-15 of the Code of Ordinances needs to be amended by adding the following:

"Chapter 5, Article II, Division 3, sections 5-30 - 5-37 (vacant buildings):

Each day a violation continues will be treated as a separate offense. A violation of this ordinance shall be three hundred dollars (\$300.00) per day.

Enforcing person: Inspector of Buildings or his/her designee."

February 26, 2008

ORDERED to a first reading.

April 17, 2008

ORDERED to a second reading.

May 8, 2008

ORDERED to a third and final reading.

ORDERED ENGROSSED AND ORDAINED

On a Roll Call: Councilors.....

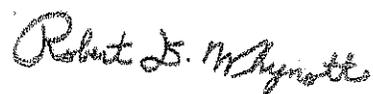
..... 9/2/2008 8-0

Approved by:


Mayor Carolyn A. Kirk

September 18, 2008
Date

Attest:

City Clerk 

A True Copy

ATTEST:

Robert D. Whynott, City Clerk

Date: _____



CITY OF GLOUCESTER
INSPECTIONAL SERVICES
3 POND ROAD
GLOUCESTER, MA 01930

AN ORDINANCE PERTAINING TO VACANT BUILDINGS
AND AMENDMENT TO SECTION 1-15 OF THE
GLOUCESTER CODE OF ORDINANCES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLOUCESTER AS
FOLLOWS:

Chapter 5. Article II. Division 3. VACANT BUILDINGS

Section 5-30. Purpose

The City has found that vacant buildings are eyesores and hazards which often offer easy shelter for criminal activities, arson and accidental fires. As well, vacant buildings cause surrounding areas to suffer from stagnant or declining property values and create significant costs to the City by virtue of the need for constant monitoring and occasional cleanup. Accordingly, the purpose of this Ordinance is to require the registration of all vacant buildings, both residential and commercial, which will assist the City government in protecting the public health, safety and welfare of its residents by encouraging the prompt rehabilitation and permanent occupancy of such abandoned structures.

Section 5-31. Definition

For purposes of this Ordinance, a "vacant" building means any commercial building in which no person or entity actually conducts a lawfully licensed business in such building; or any residential building in which no person lawfully resides in any part of the building; or a mixed use building in which neither a licensed business nor a lawful resident exists. Further, any building in which more than one half of the total exterior windows and doors are broken, boarded or open without a functioning lock shall be deemed "vacant" regardless of occupancy.

Section 5-32. Registration

Within 45 days of a building becoming vacant, each owner of a vacant building shall register the building with the Inspectional Services Department by filing a form, created by the Department, with the name, address and telephone number of each owner, and the street address, map, and lot number of the building. If none of the owners reside in the Commonwealth of Massachusetts, then the registration shall also include the name, address and telephone number of a Massachusetts resident who is authorized to accept service of process on behalf of the owners, and who shall be designated as a responsible local agent, both for purposes of notification in the event of an emergency affecting public health, safety and welfare, and of service of any and all notices issued pursuant to this Ordinance. The failure to timely register a vacant building shall be a violation of this Ordinance.

Section 5-33. Registration Fees

On or before November 15 of each calendar year, the owners of any vacant building shall pay to the Inspectional Services Department a registration fee to cover the administrative cost of monitoring and enforcing proper maintenance of the vacant building. The annual registration fee shall be based on the duration of the vacancy as of November 15 of each year according to the following schedule:

Residential Buildings containing up to three dwelling units, the registration fee shall be:

\$500.00 - For properties that have been vacant for less than one year.

\$1,000.00 - For properties that have been vacant for one year or more but less than two years.

\$2,000.00 - For properties that have been vacant for two years or more but less than three years.

\$3,000.00 - For properties that have been vacant for three years or more.

Commercial Buildings including residential with 4 or more dwelling units, and mixed use that are less than 7,500 ft. of floor area, the registration fee shall be:

\$500.00 - For properties that have been vacant for less than one year.

\$1,000.00 - For properties that have been vacant for one year or more but less than two years.

\$2,000.00 - For properties that have been vacant for two years or more but less than three years.

\$3,000.00 – For properties that have been vacant for three years or more.

For any Commercial Building over 7,500 sq. ft of floor space, the following formula shall be added to the above registration fees: sq. ft area of floor space x \$.20 = \$ Amount. This extra fee would be justified by the work involved by the inspector to verify that both the sprinkler and fire alarm systems are maintained.

A failure to timely pay the registration fee shall be a Violation of the City of Gloucester Code of Ordinances. The full fee shall be deemed an assessment resulting from a Violation of this Ordinance. Said fee shall be a municipal charges lien and shall be collected in accordance with M.G.L. Ch. 40, Sec. 58.

Section 5-34. Billing Statement

On or before October 15 of each calendar year, the Inspectional Services Department shall send a billing statement, setting forth the required Registration Fee, to each owner of a vacant building. However, the Registration Fees set forth in Section 5-65 shall be due and payable on November 15 of each year regardless of the delivery or receipt of such billing statement.

Section 5-35. Other Violations

The provisions of this Ordinance are in addition to, and not in lieu of, any and all other applicable provisions of the Code of Ordinances of the City of Gloucester, and the laws of the Commonwealth of Massachusetts.

Section 5-36. Enforcement

Any person or entity violating this Ordinance, by failing to register a vacant building, or failing to pay the registration fee, shall be subject to a fine of up to \$300.00 per offense. Each day that the owner is in violation shall constitute a separate offense. The Inspector of Buildings or his/her designee shall have the right to enforce this Ordinance pursuant to the non-criminal disposition procedures set forth in Section 1-15 of the City of Gloucester Code of Ordinances.

Secs. 5-37 – 5-39. Reserved.

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