LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE
A G E N D A

FEBRUARY 11, 2013 - 6:00 P.M.

CITY HALL COUNCIL CHAMBERS
15 LOOCKERMAN PLAZA, DOVER, DELAWARE

Public comments are welcomed on any item and will be permitted at appropriate times. When possible, please notify the City Clerk (736-7008 or e-mail at CityClerk@dover.de.us) should you wish to be recognized.

AGENDA ADDITIONS/DELETIONS

1. **Purchase of In-Car Computers that Integrate with the Ten Video Systems Purchased Previously with Office of Highway Safety (OHS) Funds**
   (Staff Recommends Approval of the Purchase of Ten (10) In-Car Computers and Associated Vehicle Mounts Necessary for the Operation of the In-Car Video Systems)

2. **Proposed Ordinances**
   A. **Staff Substitute #1 for Ordinance #2013-03 - Amending Chapter 22 - Buildings and Building Regulations, Article XII - Vacant Buildings *(Referred Back to Staff on January 14, 2013 to Allow Them to Hold a Workshop to Develop Amendments for Consideration and That Staff Be Instructed to Include Residential Properties)***
   (Staff Recommends Adoption of Staff Substitute #1 for Ordinance #2013-03)

   B. **Staff Substitute #1 for Ordinance #2013-04 - Amending Chapter 22 - Buildings and Building Regulations, Article X - Rental Dwellings *(Council Referred Back to Committee on January 28, 2013)***
   (Staff Recommends Adoption of Staff Substitute #1 for Ordinance #2013-04)

3. **Proposed Charter Amendments**
   A. **Article II - Mayor and Council, Section 13 - Vacancies; Forfeiture of Office; Filling of Vacancies**
   (Approval of the Proposed Charter Amendment Requires that a Resolution Requesting the General Assembly to Amend the City of Dover Charter be Prepared for Council's Review and Adoption)
   B. **Article II - Mayor and Council, Section 5 - Council to Be Legislative Body; Size; Districts; Terms of Mayor and Councilmen; Qualifications**
   (Staff Recommends Approval of the Proposed Charter Amendments and that a Resolution Requesting the General Assembly to Amend the City of Dover Charter be Prepared for Council's Review and Adoption)
   C. **Article I - Powers of the City, Section 1.05 - Procedure to Extend Boundaries**
   (Staff Recommends Approval of the Proposed Charter Amendments and that a Resolution Requesting the General Assembly to Amend the City of Dover Charter be Prepared for Council's Review and Adoption)

4. **Adjournment by 6:55 P.M.**

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THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS.

COMMITTEE ACTION FORM

PROCEEDING: Legislative, Finance and Administration Committee	**AGENDA ITEM NO.:** 2/11/13
DEPARTMENT OF ORIGIN: Police	**DATE SUBMITTED:** 1/30/13
PREPARED BY: Captain Robert Scott / Administrative Division Commander	
SUBJECT: Purchase of In-Car Computers that integrate with the Ten Video Systems purchased previously with Office of Highway Safety (OHS) Funds	
REFERENCE: General Fund Computer Replacements Budget & Grant Funding	
RELATED PROJECT: N/A	
APPROVALS: City Manager, Controller/Treasurer	
EXHIBITS: None	
EXPENDITURE REQUIRED: $64,490.00	**PROJECT BUDGET:** $64,490.00
FUNDING SOURCE (Dept./Page in Budget): FY13 Computer Replacements (page239 of General Fund budget) and Grant Funding	
TIMETABLE: After approval, the in-car computers will be ordered in two increments to accommodate the installation schedule.	
RECOMMENDED ACTION: Leg & Fin Committee and Council approval.	

BACKGROUND

On January 14th, the Council approved the purchase of ten in-car video systems with funds granted from the Office of Highway Safety. These systems are not stand alone systems in the vehicles and require an integrated computer component be installed in the vehicle to function as intended. The computer component is proprietary and must be purchased from the same sole source vendor; HubData911.

There are five mobile computer replacements and associated vehicle mounts funded in the Police Department's FY13 computer replacement and vehicle equipment funding lines. In addition, grant funds are being secured to fund the additional five mobile computers and associated vehicle mounts for a total of ten in-car computer and video systems for our Patrol fleet. These ten systems will upgrade and replace ten older systems in the fleet, which will replace the last of our VHS technology in-car camera systems as well as update a few of the older digital camera systems.

FUNDING

Following is the funding summary for the equipment purchases:

Police Department General Fund	$32,245.00
State Grant Funding	$32,245.00
Total	$64,490.00

ACTION REQUESTED

The Legislative and Finance Committee approve the new grant and recommend approval by the Council.

CITY OF DOVER
STAFF SUBSTITUTE #1 FOR
ORDINANCE #2013-03

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Chapter 22 – Buildings and Building Regulations, Article XII – Vacant Buildings be amended by deleting the text shown in red bold strikethrough and inserting the text in blue bold italics as follows:

ARTICLE XII. - VACANT BUILDINGS

Sec. 22-400. - Purpose; applicability; definitions.

(a) Purpose. The purpose and intent of this article is to establish a registration and identification program of vacant buildings within the city. Vacant buildings are detrimental to the surrounding buildings and neighborhoods in which they exist. The article is also to ensure the public health, safety and welfare insofar as they are affected by vacant buildings within the city. The health, safety and welfare of the neighborhoods in which vacant buildings are located are of the utmost importance to the city, as is the general community character in which these vacant buildings are located.

(b) Applicability. The provisions of this article shall apply to all matters affecting or relating to vacant buildings. Where, in this article, different sections of this Code may specify different requirements, the most restrictive shall govern.

(c) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribe to them in this subsection, except where the context clearly indicates a different meaning.

(1) Vacant building means a building, structure, ***or dwelling that has been unoccupied for more than three consecutive months; or a commercial tenant space greater than 10,000 square feet in an otherwise occupied building, that has been left unoccupied for more than three consecutivemonths.*** ~~**residential structure or a dwelling unit or commercial unit within a building that has been left unoccupied or unattended for three months or more.**~~

(2) Actively for sale or lease means the building is being actively marketed through a licensed real estate broker ~~**or the owner**~~ who is regularly advertising the property in newspapers circulated in and around Dover, it is being offered for sale or lease at a cost of no more than 25 percent over market rate as determined by the city assessor, and the building is in reasonable condition for sale or lease, including but not limited to: no trash has collected inside or outside of the building, the utilities are functional, and it is not being used as storage that is unrelated to the former use.

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Sec. 22-401. - Monitoring, inspection and condition standards.

(a) The building inspector shall inspect any premises in the city for the purpose of enforcing and assuring compliance with the provisions of this article. Upon request of the building inspector, an owner shall provide access to all interior portions of a vacant building in order to permit a complete inspection.

Once a building/structure/unit or residence (hereon after referred to as building) is registered as a vacant building, the vacant building shall be inspected annually for as long as it is considered vacant.

(b) The vacant building shall be secured; ~~**however the windows and other entrances shall not be boarded or made opaque.**~~ ***the exterior building and premises shall be maintained in accordance with all City of Dover Code requirements.***

(c) The vacant building shall be in reasonable condition (all utilities shall be functional, there shall be no trash or debris inside or outside the building and it shall not to be used as storage that is unrelated to the former use).

Sec. 22-402. - Agent—Responsible person required.

(a) Property manager. Any owner of a vacant building, residing outside of the county, shall be required to have a licensed property manager residing or having an office located in the county, or a family member or other designated individual who does not manage any other real estate for a fee and who resides in the county acting as a property manager. The property manager, including family members and designated individuals, shall have charge, care and control of the vacant building, and shall provide access to the vacant building for inspection upon request by the building inspector, within ~~**90**~~ ***30*** days.

(b) Corporate or partnership owners. Any corporation or partnership owning a vacant building shall have a designated member, partner, or employee having charge, care and control of the vacant building. The designated member, partner or employee shall reside in or have an office located in the county, or shall be required to have a licensed property manager residing or having an office located in the county, or other designated individual who does not manage any other real estate for a fee, and who resides in the county, acting as a property manager. The property manager, or other designated individuals shall have charge, care and control of the vacant building, and shall provide access to the vacant building for inspection, upon request by the building inspector, within ~~**90**~~ ***30*** days.

Sec. 22-403. - Registration and registration fee.

(a) Registration of building. There are two ways to register the building as vacant.

(1) The owner shall register with the city not later than 30 days after any building in the city becomes vacant, as defined.

The registration of the vacant building shall include the site address, the name of the current owner or owners, current address of the owner and of all applicable owners, tax parcel number, proof of insurance on the building, description of the condition of the building, plans for the building (to eliminate the vacancy), the responsible person or agent and their contact information and any other applicable information. If any information changes the owner is responsible for informing the city of those changes in a timely manner.

(2) The building inspector or his designee, shall investigate any property that may be subject to registration. Based upon his findings, the building inspector may register the property as a vacant building subject to this chapter.

a. Notice of registration. Within five business days of such registration, the licensing and permitting office shall notify the owners of the registered property by certified mail at their last known address according to the records of the city and Kent County.

b. Registration fee.

(i) The annual registration fee shall be paid at the time of registration. If the building inspector registers the building as vacant the fee shall be due not later than 30 days after the building is registered as vacant. The annual registration fee will then be due ~~**by the 31st of March**~~ ***on the registration anniversary date*** every year after that as long as it remains vacant. The starting point for counting a building as being vacant will begin on the date of the enactment of this article **[**June 26, 2006].

~~**(ii) The registration fee will be prorated for a building when it is first registered as vacant from the date it is registered until the March 31 annual fee is due.**~~

(iii) The annual fee is as provided for in Appendix F—Fees and Fines.

Sec. 22-404. - Violation and penalties.

(a) If the registration fee is not paid within 30 days of being due, the owner shall be in violation of this article.

(1) A lien can be assessed against the property. Such fees shall be entered in the municipal lien docket as a lien owing the city, and the same may be turned over to the city solicitor for collection.

(2) The fee will be assessed to the parcel's tax bill.

(3) The fee shall be paid in full prior to the transfer of title.

(4) The fee shall be paid in full prior to the issuance of any building permits for the subject building and for any other building that is owned by the owner within the city.

~~a. If the building is taken off of the list during the year the owner is entitled to receive a prorated portion of that year's registration fee.~~

Sec. 22-405. - Exemptions—Types of buildings eligible for exemption status from the registration fee.

(a) The following are exempt from the registration: The building has fire damage. The owner has 90 days to file for a permit to start construction or demolition or it will be determined a vacant property.

(b) The following properties shall be registered as vacant, but they are exempt from the registration fee:

(1) The building is actively being offered for sale or lease ***by a licensed real estate agent or broker*** for a maximum period of ~~three~~ ***five*** years. After such time this article will be in effect ***with fourth year fee due***. Proof of activity shall fall on the owner to provide. See definition.

(2) The owner has obtained a building permit and is progressing in an expedient manner to prepare the premises for occupancy.

(3) The property is in probate or where the owner has entered a long term care facility within six months of the building being vacant.

(4) The property is undergoing currently environmental cleanup or assessment.

(c) Failure to register. If the property is registered by City of Dover staff after the property owner has been notified that the building(s) is vacant per definition then the property owner/agent will not be entitled to exemption from fees.

Sec. 22-406. - Appeals.

(a) ~~An~~ ***Any*** appeal of the building inspector's decision must be made in writing within 30 days of the decision. The appeal would be heard by the property maintenance code board of appeals.

(b) An appeal of the 25 percent over market rate (from the actively for sale or lease definition) can be considered through an appraisal using accepted appraisal standards to determine market rate. The owner has the option of asking the city tax assessor to perform the appraisal or having one performed (using accepted appraisal standards) at their own expense.

BE IT FURTHER ORDAINED:

That Appendix F – Fees and Fines, Chapter 22 – Buildings and Building Regulations, Article XII – Vacant Buildings, be amended

Chapter 22—Buildings and Building Regulations, Article XII—Vacant Buildings
Fines not paid within 14 days of the day the fine was issued, including the day the fine was issued,

shall be automatically doubled in amount.			
Sec. 22-403	Registration and Registration Fees		
	Subsec. (a)(2)b.(iii)	Registration fee	
	Residential buildings and non-residential buildings <10,000 SF	Buildings vacant one year or less;	$250.00
	Residential buildings and non-residential buildings <10,000 SF	Buildings vacant for more than one year but less than two years	$500.00
	Residential buildings and non-residential buildings <10,000 SF	>Buildings vacant for more than two years but less than five years;	$1,000.00
	Residential buildings and non-residential buildings <10,000 SF	Buildings vacant for five years or longer	$2,000.00
	Non-residential buildings ≥ 10,000 SF	***Buildings vacant one year or less; .....***	***$500.00***
	Non-residential buildings ≥ 10,000 SF	***Buildings vacant for more than one year but less than two years .....***	***$1,000.00***
	Non-residential buildings ≥ 10,000 SF	***>Buildings vacant for more than two years but less than five years; .....***	***$2,000.00***
	Non-residential buildings ≥ 10,000 SF	***Buildings vacant for five years or longer .....***	***$4,000.00***

SYNOPSIS

The proposed ordinance is primarily housekeeping and would improve the administration of the Vacant Building Ordinance. In addition, it would set separate, increased fees for vacant commercial properties greater than or equal to 10,000 square feet in floor area.

From: Phil McGinnis <pjm@mcginnisrealty.com>
Date: February 5, 2013, 4:57:01 PM EST
To: Ann Marie Townshend <ATownshend@dover.de.us>, "Lynn, Sean M." <slynn@thedelawarelawyers.com>
Subject: Proposed New Ordinances

Ann Marie-
I reviewed the two new ordinances with my committee this morning, and there are just a couple of questions to review.

(I) Vacant Building Ordinance:

On line 28 you are excluding the "owner" from marketing his or her own property, and further, you have left remaining the balance of the line concerning advertising in the newspaper. We believe (1) the owner should not be excluded from marketing his or her own property; and (2) newspaper advertising should be taken out, as nobody does that anymore. We prefer the line to read, "…licensed real estate broker or by the owner; it is being offered…"
We think the newspaper advertising and the owner were intended to be linked. For your information, very few, if any, brokers use the newspaper anymore.

On line 117, the word "fourth" should the word "sixth" since we extended the exemption from three years to five.

Finally, we would like to add a new #2 after line 118 to read "The building is actively being offered for sale or lease by the owner of the property."

A Committee of REALTORS struggles with private property rights concerns balanced against a governmental influence to hire real estate brokers. We recognize you intended to strike owners from the exemption and exclusions, however, we would like to discuss that one more time.

(II) Crime Spree Ordinance:

The entire section 22-373, lines 163 to 169, are confusing.
The title is "Suspension of Rental Permit," however, no actual discussion of a suspension is written.

Secondly, my guys still have heartburn over eviction for arrest versus conviction, regardless of the number of arrests.

Finally, we want to add a provision for "authoritative notification," the concern being that a tenant may be in fact be arrested, and may even be convicted, and the property manager or owner may not even be made aware. While ignorance is no defense, people try to hide arrests, and convictions for that matter, and it is possible that a landlord or property manager is guilty of innocent ignorance, and we would like to be excused for that.

Please give me a call and we can get this resolved quickly. Thank you.

Phil McGinnis, CCIM, GAA, ACoM, ALC, e-PRO
McGinnis Commercial Real Estate Company
302-736-2710 office
302-270-0656 cell
mailto:pjm@mcginnisrealty.com

CITY OF DOVER
STAFF SUBSTITUTE 1 FOR
ORDINANCE #2013-04

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Chapter 22 – Buildings and Building Regulations, Article X – Rental Dwellings be amended by deleting the text indicated in bold, red strikethrough and inserting the text indicated in bold, blue italics as follows:

Division I. Generally

Sec. 22-331. - Purpose; applicability; definitions; compliance.

(a) *Purpose.* The purpose and intent of this article is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of dwellings operated for lease to the public. The health, safety and welfare of the occupants of the dwellings are of the utmost importance to the city, as is the general community character in which these dwelling units are located.

(b) *Applicability.* The provisions of this article shall apply to all matters affecting or relating to rental dwellings. Where, in this article, different sections of this Code may specify different requirements, the most restrictive shall govern.

(c) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dwelling unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Multiple-family dwellings means dwelling units operated as a group, and located in the same building. This shall include departments, roominghouses, condominium dwelling units, and accessory apartments located within structures principally used for owner occupancy.

Rental dwelling means a dwelling unit that is leased for occupancy to a person or persons in exchange for monetary payment or provision of goods or services to the owner of the dwelling unit.

Single-family dwellings means dwelling units operated singly, and separated from other units. In general, this definition shall apply to single-

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family detached dwellings, including mobile homes, and attached units, including duplexes, and townhouses.

(d) *Compliance required.* No person shall operate, occupy or let to another for occupancy any dwelling which is not in compliance with the International Property Maintenance Code adopted in section 22-221 and all other applicable codes.

Sec. 22-332. - Inspection required.

(a) The code enforcement office, in accordance with the procedures set forth in the International Property Maintenance Code adopted in section 22-221, shall inspect rental dwellings for compliance with the property maintenance code and all other applicable codes to ensure compliance.

(b) Following an inspection, the code enforcement office shall issue a letter and/or report of any code violations and provide a timeline for compliance. There shall be no fee for the first followup inspection. Each subsequent reinspection shall be subject to a fee as provided for in Appendix F—Fees and Fines.

Sec. 22-333. - Agent required.

(a) *Property manager.* Any owner of a rental dwelling, residing outside of the county, shall be required to have a licensed property manager residing or having an office located in the county, or a family member or other designated individual who does not manage any other rental real estate for a fee and who resides in the county acting as a property manager. The property manager, including family members and designated individuals, shall have charge, care and control of the rental dwelling, and shall provide access to the rental dwelling for inspection, upon request by the building inspector or city planner, within a reasonable time.

(b) *Corporate or partnership owners.* Any corporation or partnership owning a rental dwelling shall have a designated member, partner, or employee having charge, care, and control of the rental dwelling. The designated member, partner or employee shall reside in or have an office located in the county, or shall be required to have a licensed property manager residing or having an office located in the county, or a family member or other designated individual who does not manage any other rental real estate for a fee, and who resides in the county, acting as a property manager. The property manager, family members or other designated individuals shall have charge, care and control of the rental dwelling, and shall provide access to the rental dwelling for inspection, upon request by the building inspector or city planner, within a reasonable time.

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Secs. 22-334—22-350. - Reserved.

Division 2. Permit

Sec. 22-351. - Generally.

(a) *Single-family dwellings.* It shall be unlawful for any person to operate any single-family rental dwelling without obtaining a permit from the licensing division of the department of planning and inspections in order to determine compliance with the appropriate provisions of this article. The permit shall expire annually on January 31. The fee for the annual permit shall be as provided for in Appendix F—Fees and Fines. ***The permit fee for rental dwelling permits issued after January 31st will be prorated from the date the permit is issued until the next January 31st.***

(b) *Multiple-family dwellings.* It shall be unlawful for any person to operate any multiple dwelling without first obtaining an annual permit therefor from the licensing division of the department of planning and inspections in order to determine compliance with the appropriate provisions of this article. The permit shall expire annually on January 31, and the fee for the annual permit shall be as provided for in Appendix F—Fees and Fines. ***The permit fee for rental dwelling permits issued after January 31st will be prorated from the date the permit is issued until the next January 31st.***

(c) *Late payment penalty.* In the event that the permit fee set forth herein is not paid on the date due, then the permittee shall incur a penalty fee as provided for in Appendix F—Fees and Fines until the same is paid.

(d) *Reinstatement fee.* An owner whose permit has been suspended in accordance with section 22-352 shall pay a reinstatement fee as provided for in Appendix F—Fees and Fines.

(e) *Lien.* In the event that the property owner fails to pay said fees within 30 days from the date a notice thereof is mailed to the owner, then such fees shall be entered in the municipal lien docket as a lien owing the city; and the same may be turned over to the city solicitor for collection.

(f) *Utilities.* The owner or occupant of any rental unit shall not be entitled to receive city utilities until the permit fee required in this section is paid in full and city personnel shall refuse to provide sewage, water and electricity to the property until satisfactory proof is furnished that such permit fee has been paid.

Sec. 22-352. - Suspension.

(a) *Grounds; duration.* The building inspector shall suspend the permit issued or withhold the permit paid for, pursuant to this division, when

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(1) The building inspector determines that any dwelling or the premises surrounding the dwelling fails to meet the requirements of this chapter or any rule or regulation issued pursuant thereto;

(2) ***The failure of the property owner or property manager to initiate and prosecute with effect eviction proceedings following notification by the City that the terms of the crime free housing lease addendum have been violated, or***

(3) The failure of the property owner or property manager to attend the required crime free housing seminar required by §22-371.

Suspension shall last until the violations have been corrected to the satisfaction of the building inspector, or the suspension shall have been reversed ~~**or appealed**~~.

(b) *Notice of violations.* Upon suspending any permit under this section or withholding the permit paid for, the building inspector shall notify the owner of the violations of the applicable code and shall prescribe a period in which the violation shall be corrected.

(c) *Appeal.* Any owner or operator of any dwelling, whose permit to operate the structure is suspended by the building inspector pursuant to the procedures of this section, shall have the right to appeal and notice as provided in section 22-225

(d) *Effect of appeal.* Upon suspension of a permit, or withholding of a permit ordered by the building inspector and upon the permittee serving the city clerk with a notice of appeal pursuant to section 22-225, the permit suspension shall be stayed and an existing permit shall remain in force until the appeal is decided.

Secs. 22-353—22-~~380~~ *370*. - Reserved.

Division 3. Crime free housing

Sec. 22-371. – Crime free housing seminar required.

(a) All persons applying for a rental dwelling permit, and all persons administering, managing or controlling the operation of any rental dwelling unit must attend a crime free housing seminar, administered by the Dover police department to be offered in person or on-line, within 12 months of issuance of the permit. Each rental permit holder and each rental property manager must attend a seminar every three years. Documentation shall be submitted to the department of planning and inspections and kept on file within the department.

(b) Persons holding a real estate sales license shall be exempt from the requirement to attend the crime free housing seminar. If a rental permit held by a person holding a real estate

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sales license is suspended in accordance with Section 22-373, he shall be required to attend a crime free housing seminar before reinstatement of the suspended rental permit.

Sec. 22-372. – Crime free housing lease addendum.

(a) All residential leases shall include a crime free lease addendum, signed by the property owner and tenant, in the following form:

In addition to all other terms of the lease, landlord and tenant agree as follows:

1. The tenant, any member of the tenant's household, any guest or any other person associated with the tenant on or within 500 feet of the leased premises:

i. Shall not engage in criminal activity, including drug-related criminal activity, on or within 500 feet of the leased premises. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession of any illegal or controlled substance defined by Title 16, Chapter 47.

ii. Shall not engage in any act intended to facilitate criminal activity.

iii. Shall not permit the dwelling unit to be used for or to facilitate any criminal activity.

2. Any activity prohibited by this addendum shall constitute a substantial violation of the lease, material noncompliance with the lease, and grounds for termination of tenancy and eviction.

(b) The department of planning and inspections shall provide a crime free lease addendum template.

(c) A copy of the signed crime free lease addendum shall be submitted to the city of Dover prior to establishment of utility services to any residential property.

Sec. 22-373. – Suspension of Rental Permit.

(a) The following crime free lease addendum violations shall require that the property owner or manager initiate immediate eviction:

1) Any arrest for a Felony;

2) Three or more arrests for Class A Misdemeanors within a 12-month period; or

3) Other arrests, where the Chief of Police recommends eviction due to the frequency or nature of the arrests.

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(b) Upon notification by the Chief of Police that eviction is required in accordance with subsection (a), the Department of Planning and Inspections shall notify the property owner and property manager that he has 30 days to initiate the eviction. Such notice shall be sent by certified mail to the property owner and property manager if a property manager is on record with the Department of Planning and Inspection, prior to suspension of the rental permits.

SYNOPSIS

The proposed ordinance adds the requirement that landlords participate in a crime free housing program that includes participation in a crime free housing seminar offered by the Dover Police Department and including a crime free housing addendum to leases. In addition, the proposed ordinance allows for prorating of rental permit fees for permits purchased after the beginning of the permit year.

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From: Phil McGinnis <pjm@mcginnisrealty.com>
Date: February 5, 2013, 4:57:01 PM EST
To: Ann Marie Townshend <ATownshend@dover.de.us>, "Lynn, Sean M." <slynn@thedelawarelawyers.com>
Subject: Proposed New Ordinances

Ann Marie-
I reviewed the two new ordinances with my committee this morning, and there are just a couple of questions to review.

(I) Vacant Building Ordinance:
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We think the newspaper advertising and the owner were intended to be linked. For your information, very few, if any, brokers use the newspaper anymore.

On line 117, the word "fourth" should the word "sixth" since we extended the exemption from three years to five.

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Please give me a call and we can get this resolved quickly. Thank you.

Phil McGinnis, CCIM, GAA, ACoM, ALC, e-PRO
McGinnis Commercial Real Estate Company
302-736-2710 office
302-270-0656 cell
mailto:pjm@mcginnisrealty.com

ACTION FORM

PROCEEDING: Legislative, Finance, and Administration Committee **MEETING DATE:** 02/11/13
DEPARTMENT OF ORIGIN: City Council
PREPARED BY: Traci A. McDowell, City Clerk, on Behalf of Councilman David Anderson

SUBJECT: Proposed Charter Amendment-Temporary Succession **DATE SUBMITTED**: **01-30-2013**
RELATED PROJECT: N/A
APPROVALS: City Council/General Assembly
EXHIBITS: Proposed Amendment to Sec. 13. - Vacancies; forfeiture of office; filling of vacancies
EXPENDITURE REQUIRED: $ N/A **AMOUNT BUDGETED**: $ N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIMETABLE: Charter Amendments will require adoption of a Resolution requesting the General Assembly to approve the amendments. The Resolution will be presented to City Council on 2/25/13 and, upon adoption, staff will forward to local legislators for submission.

RECOMMENDED ACTION: Approval of the proposed amendments to the City of Dover Charter and adoption by City Council of the subsequent Resolution requesting the General Assembly to amend the charter.

BACKGROUND AND ANALYSIS

At the request of Councilman Anderson, staff prepared the attached amendment to Sec. 13. - Vacancies; forfeiture of office; filling of vacancies of the City of Dover Charter. This amendment would add a provision for elected officials to designate temporary successors in the event that they are absent or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of the office for an extended period of time.

Additionally, the amendment would change the provisions regarding the filling of vacancies for the Mayor and Council seats to specify that offices vacated within six months of the next election would remain vacant until the next election; however, those offices vacated for more than six months from the next election would be filled through a Special Election.

CITY OF DOVER - PROPOSED CHARTER AMENDMENTS IN FULL CONTEXT

Article II - Mayor and Council

Section 13. - ***Temporary successors;*** Vacancies; forfeiture of office; filling of vacancies

(a) Temporary successors. Within 30 days of entering upon the duties of their office, each elected official shall designate by name and order of succession no less than three nor more than seven temporary successors to exercise the powers and discharge the duties of their office, but not hold the office, in the event that the elected official is absent from the city or unable, for physical, mental, or legal reason, to exercise the powers and discharge the duties of their office.

(1) Qualifications of temporary successors. No person shall be designated to serve, nor serve, as a temporary successor unless such person is legally qualified under the charter and the code of ordinances of the City of Dover to hold the office of the person whose powers and duties they are designated to succeed.

(2) Assumption of powers and duties by temporary successor. Temporary successors shall take the same oath of office as prescribed for the elected official upon assuming the powers and duties of the office.

(3) Term of temporary successors. The temporary successor designation is assigned and revoked at the pleasure of the elected official.

(4) Periodic review of temporary successor designations. It shall be incumbent upon each elected official to review and revise as necessary their temporary successor designees to ensure that at all times there are at least three duly authorized temporary successors for each elected official of the City.

(5) Recording and publication of successors. The name, address, and rank in order of succession of each temporary successor designee shall be filed with the city clerk. Any changes to the elected official's designations shall become effective when the elected official files those changes with the city clerk. The city clerk shall maintain a current list of the names and order of succession of each designee for temporary successors and it shall be open to public inspection.

(6) Compensation. Temporary successors shall serve without salary. They shall, however, be entitled to reimbursement for actual expenses necessarily incurred in the performance of their powers and duties.

(~~a~~)(***b***) Vacancies. The office of a council member shall become vacant upon the member's death, resignation, or removal from office or forfeiture of office in any manner authorized by law.

(~~b~~)(***c***) Forfeiture of office. A council member shall forfeit that office if the council member:

(1) Fails to meet the residency requirements,

(2) Violates any express prohibition of this charter,

(3) Is convicted of a crime involving moral turpitude, or

(4) Fails to attend three consecutive regular meetings of the council without being excused by the council.

In the case of any such vacancy or of any vacancy created by death, resignation or otherwise for which said vacancy shall be less than six months ***from the next election*** ~~**in duration**~~, the office shall remain vacant. If such vacancy should be in excess of six months ***from the next election*** ~~**in duration**~~, a Special Election shall be held to fill such vacancy, this Special Election to be held no sooner than 30 days from the date of the vacancy, but said ~~**s**~~***S***pecial ~~**e**~~***E***lection to be held no later than 60 days after the date of the vacancy. If council fails to call for a Special Election, the Special Election shall be called by the Election Board.

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ACTION FORM

PROCEEDING: Legislative, Finance, and Administration Committee **MEETING DATE:** 02/11/13
DEPARTMENT OF ORIGIN: City Council
PREPARED BY: Traci A. McDowell, City Clerk

SUBJECT: Proposed Charter Amendment-Correction to Age Requirement/Language cleanup **DATE SUBMITTED**: **01-30-2013**
RELATED PROJECT: N/A
APPROVALS: City Council/General Assembly
EXHIBITS: Proposed Amendment to Sec. 5. - Council to be legislative body; size; districts; terms of mayor and councilmen; qualifications
EXPENDITURE REQUIRED: $ N/A **AMOUNT BUDGETED**: $ N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIMETABLE: Charter Amendments will require adoption of a Resolution requesting the General Assembly to approve the amendments. The Resolution will be presented to City Council on 2/25/13 and, upon adoption, staff will forward to local legislators for submission.

RECOMMENDED ACTION: Approval of the proposed amendments to the City of Dover Charter and adoption by City Council of the subsequent Resolution requesting the General Assembly to amend the charter.

BACKGROUND AND ANALYSIS

It was brought to staff's attention that the current wording of Section 5 - Council to be legislative body; size; districts; terms of mayor and councilmen; qualifications, indicates that in order to be eligible to be elected as mayor or as a member of council, the person must as of the date of the election be: (4) Eighteen years of age. This amendment corrects that language to be "Eighteen years of age or older".

Additionally, amendments are proposed to make the language in this section more concise.

CITY OF DOVER - PROPOSED CHARTER AMENDMENTS IN FULL CONTEXT

Sec. 5. - Council to be legislative body; size; districts; terms of mayor and councilmen; qualifications.

The council shall be the legislative body of the city and composed of nine members nominated and elected as herein provided.

~~**In order that the members of council shall be distributed over the city, the**~~ ***The*** city shall be divided into four election districts, the ~~**district**~~ boundaries of which shall ~~**he**~~ ***be*** established by council so that ~~**the districts**~~ ***they*** are nearly equal in population ~~**as shown by the most recent federal decennial census**~~ ***based on the latest federal decennial census information***. The district boundaries established for municipal elections shall ***be used for the next regular municipal election and shall*** continue in effect until the next succeeding federal decennial census is made available for use by municipalities in the State of Delaware**.** ~~**, at which time council shall redistrict the city so that the districts shall be nearly equal in population in accordance with said census, which redistricting shall be used for the next regular municipal election, which procedure shall be followed by council after each succeeding federal decennial census in this manner so that the districts shall be maintained as nearly equal in population as possible at all times.**~~

At the regular municipal election held in April of 2012, the mayor shall be elected at-large. The term of mayor elected at the April 2012 regular municipal election shall be for a period of three years, commencing on the second Monday in May following his***/her*** election and continuing for a term of three years until the second Monday in May 2015, or until his/her successor has been duly elected and qualified.

Thereafter, commencing with the regular municipal election to be held in April of 2015, the term of mayor shall be for a period of four years commencing on the second Monday in May following his/her election and continuing for a term of four years until the second Monday in May, or until his/her successor has been duly elected and qualified.

At the regular municipal election held in April of 2012, four councilmen shall be elected by district voting from each of the districts of the city. The term of the councilmen elected at the April 2012 regular municipal election shall be for three years, commencing on the second Monday in May following their election and continuing for a term of three years until the second Monday in May 2015, or until their successors have been duly elected and qualified.

At the regular municipal election held in April of 2013, five councilmen shall be elected, four by district voting being from the districts and one at-large. The term of the councilmen elected at the April 2013 regular municipal election shall be for a period of four years, commencing on the second Monday in May following their election and continuing for a period of four years until the second Monday in May, or until their successors have been duly elected and qualified.

Thereafter, commencing with the regular municipal election to be held in April of 2013, the terms of the councilmen shall be for a period of four years, commencing on the second Monday in May following their election and continuing for a term of four years until the second Monday in May, or until their successors have been duly elected and qualified. The mayor and at-large councilman shall be elected at alternating biennial regular municipal elections.

In order to be eligible to be elected as mayor or as a member of council, the person must as of the date of the election be:

(1) A citizen of the United States and of the State of Delaware;

(2) A resident of the city and having continuously resided therein or in an area annexed to the city during the two years ~~next~~ ***immediately*** preceding the day of the election;

(3) A resident of the election district from which they are seeking election, unless they are seeking election as an at-large councilman or mayor;

(4) Eighteen years of age ***or older***; and

(5) Nominated therefore, as hereinafter provided.

Holding Other Office. Except where authorized by law, no council member~~s~~ shall hold any other elected public office**,** ***city office, or city employment*** during the term for which the member was elected to the council. ~~**No council member shall hold any other city office or employment during the term for which the member was elected to the council.**~~ No former council member~~s~~ shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the member was elected to the council, unless granted a waiver by the Board of Ethics (Ethics Commission).

(Amd. of 7-12-2005 (S.B. 126); Amd. of 7-8-2009 (S.B. 165, § 6); Ord. No. 2010-23, 8-23-2010 (S.B. 8); Res. No. 2011-11, 10-10-2011, (S.B. 165))

ACTION FORM

PROCEEDING: Legislative, Finance, and Administration Committee **MEETING DATE:** 02/11/13
DEPARTMENT OF ORIGIN: City Council
PREPARED BY: Ann Marie Townshend, Director of Planning and Community Development and Traci McDowell, City Clerk

SUBJECT: Proposed Charter Amendment - Procedure to Extend Boundaries DATE: **01-30-2013**
RELATED PROJECT: N/A
APPROVALS: City Council/General Assembly
EXHIBITS: Proposed Amendment to Section 1.05 - Procedure to Extend Boundaries
EXPENDITURE REQUIRED: $ N/A **AMOUNT BUDGETED**: $ N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIMETABLE: Charter Amendments will require adoption of a Resolution requesting the General Assembly to approve the amendments. The Resolution will be presented to City Council on 2/25/13 and, upon adoption, staff will forward to local legislators for submission.

RECOMMENDED ACTION: Approval of the proposed amendments to the City of Dover Charter and adoption by City Council of the subsequent Resolution requesting the General Assembly to amend the charter.

BACKGROUND AND ANALYSIS

The Planning Office and City Clerk's Office began work on a proposed charter amendment regarding annexation several years ago when the City was receiving a lot of interest in annexation. Currently, the charter requires that all petitions for annexation be subject to an election of the owners and residents of the property proposed for annexation. In reviewing many annexation requests, it became apparent that the added step of an election in cases where the only person(s) voting were those who requested annexation was an inefficient use of City staff and financial resources, as well as an added burden to the property owner(s). A charter amendment is required to eliminate this unnecessary step.

The proposed charter amendment developed by staff would eliminate the requirement for an election when the property owner has requested annexation of their property. The proposal would require an election in the cases where the entirety of the area proposed for annexation is not the subject of a request from the property owners. As proposed, the City would not be able to annex land against the owner's wishes without the opportunity for the owner to vote in an election.

The proposed charter amendment would simplify the annexation process and reduce unnecessary costs, but still allow property owners a vote if their property is the subject of an annexation proposal that is not petitioned by the owners.

CITY OF DOVER - PROPOSED CHARTER AMENDMENTS IN FULL CONTEXT

Article I - Powers of the City

Sec. 1.05. - Procedure to extend boundaries.

~~In order to extend the boundaries of the City of Dover the council shall adopt a resolution proposing the inclusion of territory or territories within the limits of the City of Dover and calling for a special election to be held in said territory or territories in accordance with Title 22, Chapter 1, Section 101, Delaware Code (22 Del. C. § 101) insofar as applicable. Said resolution shall contain a description of the territory or territories proposed to be annexed and shall specify the date of such election, which shall be not less than 30 nor more than 60 days after the adoption of said resolution, and the place or places of said election. Said resolution shall be published in at least two issues of a newspaper of general circulation within the City of Dover at least two weeks prior to the day of said election.~~

The City may, from time to time, extend its boundaries in accordance with Title 22, Chapter 1, Section 101 (22 Del. C. § 101) through the following annexation processes:

(1) In the case where annexation is petitioned by ~~***the owner or***~~ ***all owners of all property considered for annexation, no election shall be required.***

For an annexation petition not requiring an election, such petition shall be processed in accordance with procedures established for amendments to the zoning map, specified in Dover Code, Appendix B - Zoning. All annexation petitions shall be processed concurrently with the rezoning of the property considered for annexation and shall be subject to public hearing before City Council. Public notice shall be completed in accordance with the provisions of the Dover Code relating to amendment of the ~~***zone***~~ ***zoning map.***

(2) In the case where annexation is not petitioned by ~~***the owner or***~~ ***all owners of all*** ~~***subject***~~ ***property considered for annexation, such annexation shall be subject to an election, as follows:***

(a) In order to extend the boundaries of the City of Dover***,*** the council shall adopt a resolution proposing the inclusion of ~~***territory or territories***~~ ***all property considered for annexation*** within the limits of the City of Dover and calling for a special election to be held ***not less than 30 nor more than 60 days after the adoption of the resolution,*** ~~***in said territory or territories***~~ in accordance with Title 22, Chapter 1, Section 101, Delaware Code (22 Del. C. § 101) ~~***insofar as applicable***~~.

~~***Said***~~ ***The*** resolution shall contain a description of ~~***the territory or territories proposed to be annexed***~~ ***all property considered for annexation,*** ~~***and shall specify***~~ the date of ~~***such***~~ ***the*** election, ~~which shall be not less than 30 nor more than 60 days after the adoption of said the resolution,~~ and the place or places of said election. ~~***Said***~~ ***The*** resolution shall be published in at least two issues of a newspaper of general circulation within the City of Dover at least two weeks prior to the day of said election.

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(b) ~~Any such~~ ***The annexation*** election shall be held by the ***city's*** election officers~~. of the election district or districts of Kent County which shall include the territory proposed to be annexed. Every person 18 years of age or upwards who is duly registered upon the books of registered voters for said election district, or districts, who is a resident of the territory proposed to be included within the limits of the City of Dover, and who does not own real estate within said territory shall be entitled to one vote at the election to determine whether said territory shall be annexed; and every person who is the owner of real estate within a territory proposed to be included assessed to them on the assessment records of Kent County,~~ ***Each owner of the property considered for annexation*** shall be entitled to one vote. Owners of real estate in common shall be entitled to one vote each. Life tenants shall be entitled to one vote each ***,*** but the holders of the remainder interest or similar interest subject to the life estate shall not be entitled to vote. Corporations, firms or associations shall be entitled to one vote, the same as private persons.

~~Elections may be held in more than one of said territories on the same day, but the said elections shall be separate; only the votes of qualified voters of a territory as herein described shall be counted in the election to determine whether the territory shall be annexed.~~

More than one annexation election may be held on the same day; however, the elections shall be separate.

The Council of the City of Dover shall provide the ballots for ~~any such election~~ and ~~shall~~ bear the cost of holding ~~such~~ ***annexation*** election***s***. The ballots shall briefly indicate the ~~territory~~ ***property*** proposed ~~to be included~~ ***for annexation*** and shall provide two boxes on the ballot beside which shall appear the words "FOR inclusion within the City of Dover," and "AGAINST inclusion within the City of Dover." Each voter shall indicate their preference by making a mark within the box beside the words expressing their preference.

~~At any such election~~ ***For the annexation election,*** the polls shall ~~he~~ open ~~from~~ ***at*** 11:00 a.m. ~~to~~ ***and remain open until each eligible voter has cast their vote or until*** 8:00 p.m., ***whichever occurs first.*** When the polls are closed the election officers shall publicly count the votes and forthwith certify to the clerk of the council the number of votes cast for and against inclusion within the city limits. At the next regular or special meeting of the council ***,*** the mayor and council shall receive the results of the election and make the same a part of the minutes of said meeting.

If a majority of the votes cast in an ***annexation*** election ~~held in a territory proposed to be annexed shall be in~~ favor ~~of~~ the inclusion of that ~~territory~~ ***property***, the council may thereupon adopt a resolution annexing said ~~territory~~ ***property*** and including same within the limits of the City of Dover. Upon the adoption of a resolution of annexation***,*** a copy thereof certified by the clerk of council and a map of the area annexed shall be forthwith filed for record with the Recorder of Deeds of Kent

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County, and the area so annexed shall for all purposes thenceforth be part of the City of Dover.

If a majority of the votes cast in an ***annexation*** election ~~**held in a territory proposed to be annexed**~~ shall be against the inclusion of that ~~**territory**~~ ***property*** within the limits of the City of Dover, the proposed annexation of said ~~**territory**~~ ***property*** shall be declared to have failed. Nothing in this Charter shall prohibit the council from resubmitting a proposal ~~**of**~~ ***for*** annexation to the ***eligible*** voters ~~**of**~~ ***for*** said ~~**territory**~~ ***property***, or any portion thereof, under the authority of this section and in accordance with the provisions thereof.

(Amd. of 7-8-2009 (S.B. 165, § 2))

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