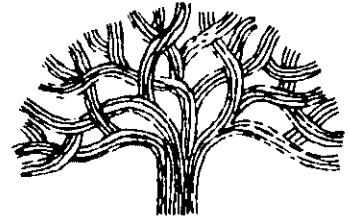


FILED
OFFICE OF THE CITY CLERK
OAKLAND

09 DEC -2 AM 10:01

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Council

(510) 238-3266

December 15, 2009

Community and Economic Development Committee

Chairperson De La Fuente and Members of the Committee

RE: **A Report And Two Ordinances**

- **Amending The Oakland Municipal Code To Establish A New Chapter 8.54 Requiring The Registration Of Foreclosed And Vacant Residential Buildings**
- **Amending The Master Fee Schedule (Ordinance No. 12948 C.M.S.) To Establish New Registration And Inspection Fees**

SUMMARY

At the March 3, 2009, regular meeting of the City Council, an ordinance for a new program to register vacant buildings was presented which had the following substantive provisions:

Prior Vacant Building Registration Ordinance					
OCCUPANCIES	REGISTRATION "TRIGGER"	FEES	PROPERTY MANAGER	PENALTY	REGISTRATION DEAD LINE
residential and ground-floor commercial	vacant for 45 days	\$175 for year 1 \$5,000 for year 10	owner	Municipal Code up to \$5,000 or Calif Civil Code \$1,000 daily	within 30 days, following "triggering" event

A subsequent ordinance is being presented now which has the following substantive provisions:

Proposed Vacant Building Registration Ordinance					
OCCUPANCY	REGISTRATION "TRIGGER"	FEES	PROPERTY MANAGER	PENALTY	REGISTRATION DEAD LINE
up to 4 residential units	vacant for 30 days following foreclosure (and not re-sold)	\$500 annually	owner or local agent, contact information posted on building	same as prior ordinance	same as prior ordinance

Item: _____
CED Committee
December 15, 2009

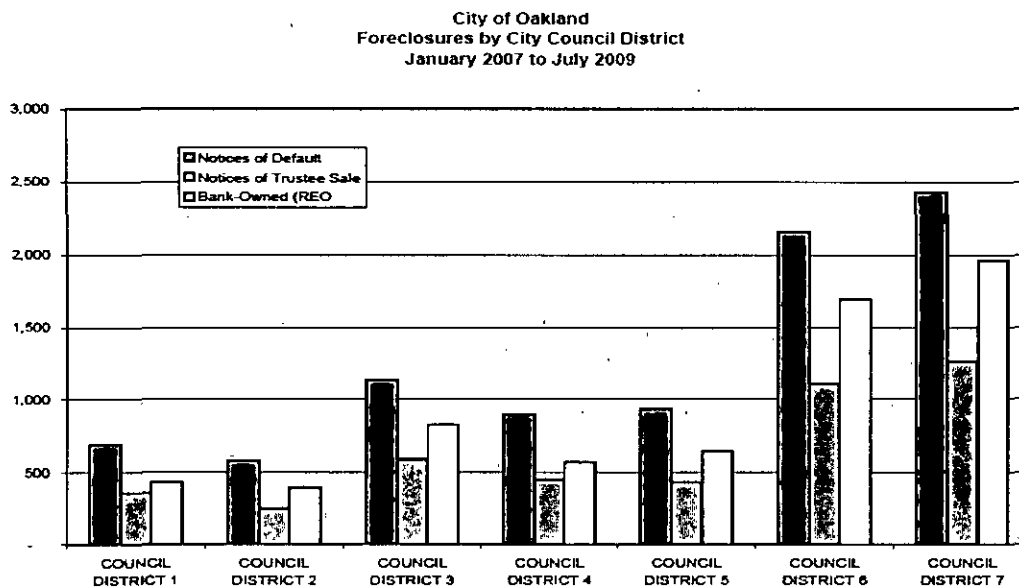
Requiring the early registration with the Community and Economic Development Agency (CEDA) of foreclosed and vacant residential buildings will effectively transfer the burden from neighbors and Code Enforcement staff to mortgage holders of monitoring and maintaining potential nuisance properties before the accumulated effects of trespassers, blight, pollutants, and vectors devastate a neighborhood. Registration will also allow CEDA to develop a situational data base which will assist emergency responders and real estate marketers in identifying "opportunity clusters". Requiring the posting of property managers' contact information (see "Posting and Monitoring" below) will allow neighbors and emergency responders to advise the local agent (within 40 driving miles) immediately of maintenance problems before they magnify.

FISCAL IMPACT

Staff costs for administering the registration program will be covered by the proposed new fees and will not require an additional appropriation. Revenue will be deposited in the special revenue Development Service Fund (2415), Code Enforcement Organization (88454), Miscellaneous Fines Account (43115), Development Permit and Inspection Program (PS31).

BACKGROUND

The nationwide financial crises has not diminished. The number of foreclosed residences (bank owned properties) in Oakland is estimated at 1,778 in 2009 and 6,452 since 2007:



Lending institutions have yet to accept their full responsibilities for maintaining foreclosed properties, and Oakland's residential neighborhoods continue to be overwhelmed with the

revival of crime and blight resulting from the absence of responsible occupants and owners. There is no consolidated federal, state, county, or industry data base which identifies vacant properties. Consequently, police, fire, and code enforcement resources in Oakland have not been able to respond pro-actively to stabilize deteriorating conditions in target areas.

California cities and counties have reacted to this crisis by implementing registration programs for foreclosed properties which have companion regulations for maintenance, periodic monitoring, administrative fees, and penalties:

VACANT BUILDING REGISTRATION PROGRAM - SAMPLE OF CALIFORNIA JURISDICTIONS						
JURISDICTION	OCCUPANCY	REGISTRATION "TRIGGER"	FEE	PENALTY	REGISTRATION DEAD LINE	MONITORING
Chula Vista	residential	defaulted and vacant 1 day	\$70 annually	n.a.	within 10 days	weekly (local agent)
Fresno	residential & non-residential	defaulted and vacant 1 day	\$100 annually	\$1,000 \$10,000 \$50,000	within 10 days	monthly (local agent)
Riverside County	residential	Notice of Default and vacant 1 days	Recorders Office	\$100 \$200 \$500	within 10 days	monthly (trustee)
Stockton	residential	Notice of Default and vacant 180 days	n.a.	\$500 per occurrence	n.a.	monthly (owner)
San Jose	residential	vacant 30 days	\$420 quarterly	up to \$100,000	within 10 days	semi-monthly (local agent)
<i>Oakland (proposed)</i>	<i>residential up to 4 units</i>	<i>foreclosed and vacant 30 days</i>	<i>\$500 annually</i>	<i>up to \$5,000</i>	<i>within 30 days</i>	<i>appvd plan (local agent)</i>

Unlike most other cities and counties in California, Oakland has had effective property and building maintenance regulations for more than fifty (50) years. Oakland has a common need, however, for a registration program which will incentivize mortgage holders and re-sale businesses who have transitory control of a property to notify the City when residences become vacant. This will enable the City to marshal its resources and effectively invest time in target areas with comprehensive Code Enforcement abatement actions.

KEY ISSUES AND IMPACTS

▪ Purpose and Scope

The ordinance will protect and preserve the livability, appearance, and social fabric of the City. It applies only to residential buildings with up to four (4) residential units which have been foreclosed and which have all units vacant for thirty (30) days. The foreclosing lender is required to register the vacant building within thirty (30) days of vacancy and to pro-actively monitor and maintain the property. Chapter 8.54 will be part of Title 8 - Health and Safety, which includes the Blight Code (Chapter 8.24).

- Fees

An annual fee (\$500) will be charged for registering the vacant building (currently, mail submittal) and inspecting the property following registration to verify that the contact information (name, address, telephone number) for agent or firm responsible for property maintenance is posted, and the yard is clean, and the building is secured.

- Collections

As with Code Enforcement charges, the ordinance provides several methods for collecting delinquent registration fees and penalties, which include property liens and property taxes (administrative action) and judgment liens (judicial action). The ordinance also explains that state law obligates the buyer to pay delinquent fees if a lien is recorded on the property title (constructive notice). Should the buyer not be responsible for payment (lien not recorded), the City will pursue a collection action against the seller.

- Penalties and Fines

The OMC allows the assessment of administrative penalties (up to \$5,000) and civil penalties (up to \$365,000) against the foreclosing lender for failure to register, maintain, or secure a vacant residential property. Penalties may be appealed to an independent Hearing Officer contracted by the Building Services. California Civil Code Section 2929.3 allows the assessment of fines (\$1,000 per day) against the foreclosing lender for failure to maintain or secure the vacant residential property. Collected fines must be directed to a nuisance abatement program.

The City Attorney has previously provided a confidential legal opinion to the City Council concerning the assessment of OMC penalties and Civil Code fines. Fines and penalties cannot be assessed for the same violation. The Civil Code does not preempt Oakland's Blight Code and the independent assessment of OMC penalties.

OAKLAND MUNICIPAL CODE PENALTIES (for non-registration or blight or trespass)				CALIFORNIA CIVIL CODE FINES (for blight or trespass)
ADMINISTRATIVE (proposed)		CIVIL (not proposed)		
day 1	\$100	day 1 thru 365	\$1,000 daily	\$1,000 daily
day 2	\$150			
day 3	\$250			
day 4 thru 12	\$500 daily			
total	up to \$5,000	total	up to \$365,000	

- Owner

The definition of owner in the ordinance is consistent with the definition in California Civil Code Section 2929.3 (residential foreclosure civil fines) and necessarily includes entities other than the property owner to assure that there will be someone who is responsible for registering, inspecting, and monitoring a vacant building in the event the owner is unmotivated, missing, incapacitated, deceased, etc.

- Posting and Monitoring

The ordinance requires the owner to provide a plan for periodic inspections and to identify the person or firm who is responsible for monitoring the property. The contact information (name, mailing address, telephone, e-mail) must be prominently posted on the property and kept updated.

- Assessments

An explanation of state law requirements for actual and constructive notice both to owners and purchasers is provided in the ordinance to clarify the responsibility of buyers for paying delinquent registration fees and penalties.

- Exemption

The State, the City, Alameda County, along with the Oakland Housing Authority and the Oakland Redevelopment Agency, are exempted from the provisions of the ordinance.

- Public Records Act

Pursuant to California Government Code Section 6251, et seq., all information collected from the Statements of Registration and Code Enforcement actions are public records and may be accessed and reviewed by the public.

- Staffing

As proposed in the companion ordinance amending the Master Fee Schedule, revenue derived from registration fees will be deposited in Building Service's Code Enforcement account. It is not possible at this time to forecast with any precision the anticipated funds which will be generated by this program. Consequently, an increase in authorized staffing (FTE) to administer this program has not been requested. Staff will evaluate a need to increase the fee during the mid-cycle budget process (FY 2010 – 2011).

SUSTAINABLE OPPORTUNITIES

Economic

The proposed ordinance will retard the deterioration of property values and will support future development and assist the economic growth and revitalization of the City.

Environmental

The proposed ordinance will reduce blight, including accumulation of garbage, dispersal of pollutants and target-organ toxins, and uncontrolled growth of vector populations.

Social Equity

The proposed ordinance will encourage the infusion and recurrence of diverse multi-cultural activities, businesses, and events.

DISABILITY AND SENIOR CITIZEN ACCESS

This ordinance will not directly impact access for disabled or senior citizens.

RECOMMENDATIONS

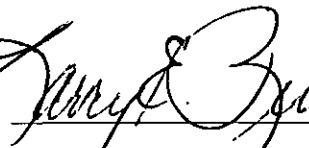
We recommend that the Committee accept this report and forward it to the City Council for adoption of the proposed ordinance.

ACTIONS REQUESTED OF THE CITY COUNCIL


We recommend that the City Council adopt the proposed ordinances:

- adding a new Chapter 8.54 in the Oakland Municipal Code mandating the registration of foreclosed buildings with up to four (4) residential units which have been vacant for thirty (30) days or longer;
- adding new registration and inspection fees in the Master Fee Schedule to implement the vacant building program (annual fee of approximately \$500).

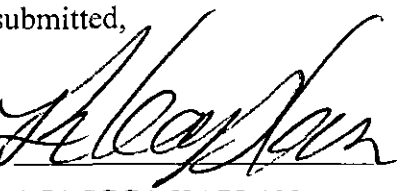
Respectfully submitted,



LARRY REID
Councilmember and
President Pro Tempore
District 7



JEAN QUAN
Councilmember
District 4



REBECCA KAPLAN
Councilmember
At-Large

ATTACHMENT A

City of Oakland

**Community and Economic
Development Agency**

**Vacant Building
Registration Program**

Oakland Municipal Code
Chapter 8.54

Building Services
Permit Center – 2nd floor
Dalziel Administration Building
250 Frank H. Ogawa Plaza
Oakland, CA 94612
510/ 238-3891
www.oaklandnet.com

Municipal Code Regulations

CHAPTER	DESCRIPTION
1.12	Administrative Penalty
5.05	Business Tax
6.04	Animal Control
8.12	Hazardous Materials
8.24	Property Blight
10.04	Abandoned Vehicles
12.04	Sidewalk Maintenance
12.36	Protected Trees
13.08	Building Sewers
15.04	Building Construction
15.08	Building Maintenance
15.12	Fire Code
15.64	Bedroom Window Bars

Contacts

DEPARTMENT	TELEPHONE
Zoning	510/ 238-3911
Business Tax	510/ 238-3704
Fire Prevention	510/ 238-3851
Code Enforcement	510/ 238-3381
Vehicle Abatement	510/ 777-8538
County Hazardous Waste Disposal	800/ 606-6606

Permit Center - Registration Program

information - 510/ 238-3891

facsimile - 510/ 238-2263

WEEKDAY	BUSINESS HOURS
Mon - Tues - Thurs - Fri	8:00 am - 4:00 pm
Wed	9:30 am - 4:00 pm

Registration Program

Oakland Municipal Code Chapter 8.54 applies to foreclosed residential buildings with not more than 4 dwelling units which have all been vacant for more than 30 days. Property owners, property managers, mortgagors, executors, trustees, etc. are responsible for registering vacant residential buildings, paying fees, and monitoring the property for blight, hazardous conditions, and trespassing.

Program Purpose

The purpose of the program is to protect and preserve the livability, appearance, and social fabric of the City by requiring owners and others who may control a property, rather than neighbors or Code Enforcement staff, to inspect vacant residential buildings periodically.

Statement of Registration

A Statement of Registration form must be filed at the Permit Center not more than 30 days after a building is foreclosed and vacant for 30 days. An inspection report of the exterior yard and building interior must be submitted with the Registration form. The owner or an approved property manager whose office is located within 40 driving miles must re-inspect the property periodically to assure that the yard is maintained (OMC Chapter 8.24) and the building is secured (OMC Chapter 15.08). The contact information for the owner or property manager must be posted on the building. The City will inspect the property within 90 days following the filing of the Registration form.

Fees

Annual fees must be paid when a Statement of Registration is filed.

ANNUAL FEES	AMOUNT
Processing	\$390
Inspection	\$110
total	\$500

Fees are subject to increase at any time.

Vacant or Occupied

Residential Buildings

The program does not apply if one or more dwelling units in a foreclosed residential building are physically occupied on a continuing basis by the owner or a legal tenant.

Mixed- Use and Commercial Buildings

The program does not apply to buildings which have commercial tenant space.

Collections

Unpaid fees, penalties, and accruing interest are subject to the following collection actions:

Lien - A priority lien can be recorded on the property title and will be superior to all other recorded liens and deeds of trust.

Taxes - Unpaid fees and penalties can be included on the property tax bill (general levy).

Garnishee - A judgment action can be filed in Superior Court to attach wages and assets of owners and others having control of the foreclosed vacant building.

Maintenance Plan

The owner and property manager must be identified on the Statement of Registration. A maintenance plan must be included which describes the means, methods, and time frames for re-inspecting the property.

Maintenance Standards

Premises - Trash, debris, unregistered/ inoperative vehicles, tires, etc. must be removed. Landscaping must be trimmed and grass cut (6" maximum height). Fencing must be repaired. Pools must be drained. Feral pets, insects, rodents, etc. must be removed.

Building - Graffiti, posters, etc. must be removed. Broken glazing, doors, guardrails, and signs and leaking roofs must be repaired. Sewer traps must be primed or capped. Gas appliance valves must be turned-off. Deteriorated exterior paint must be restored.

Trespassers - Breached openings must be boarded and painted to City specifications. Utility meters must be removed.

Hazardous Material - Pesticides, herbicides, solvents, caustics, flammables, paints, etc. must be removed (County Hazardous Waste Disposal - 2100 E 7th St).

Site Posting

The name, mailing address, and telephone number of the owner or property manager must be posted on the front door for neighbors to contact.

Penalties and Fines

Penalties (OMC Chapter 1.12) and Fines (Civil Code Section 2929.3) may be assessed against owners or others having control of a foreclosed and vacant residential building for failing to register, pay fees, maintain the premises, or secure the building.

ASSESSMENT	AMOUNT
Municipal Code Penalty	\$500 per day up to \$5,000
Civil Code Fine	\$1,000 per day

Penalties may be appealed to an independent Hearing Officer hired by the City.

NOTICE AND DIGEST

AN ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ESTABLISH A NEW CHAPTER 8.54 REQUIRING THE REGISTRATION OF FORECLOSED AND VACANT RESIDENTIAL BUILDINGS

This ordinance will establish a new program requiring the annual payment of fees, totaling approximately \$500, and the registration of foreclosed residential buildings with not more than four (4) dwelling units which have been vacant for thirty (30) days or longer.

2009 NOV 32 AM 9:59

Mr. Reid, Ms. Quan, Ms. Kaplan
Councilmembers

City Attorney

OAKLAND CITY COUNCIL

Ordinance No. _____ C.M.S.

AN ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ESTABLISH A NEW CHAPTER 8.54 REQUIRING THE REGISTRATION OF FORECLOSED AND VACANT RESIDENTIAL BUILDINGS

WHEREAS, vacant buildings throughout the City of Oakland have been and continue to be significant and unnecessary attractors for blighting conditions that create severe health hazards in neighborhoods, including explosions of vector populations, accumulations and dispersals of pollutants and target-organ toxins, and degradation of air quality, and that adversely impact the quality of life in neighborhoods and deny residents their enjoyment of life; and

WHEREAS, vacant buildings throughout the City also have been and continue to be significant and unnecessary attractors for trespassers and transient occupants that foster and enable criminal activities, including theft, vandalism, prostitution, and the sale and use of narcotics and other controlled substances; and

WHEREAS, vacant buildings throughout the City also have been and continue to be a significant and unnecessary discourager to economic development and contributor to the decline of property values in neighborhoods; and

WHEREAS, the City has expended and continues to expend vast and unnecessary amounts of limited resources and scarce funds investigating vacant buildings, mitigating the detrimental effects of neglected maintenance, curtailing associated criminal activity, and monitoring the recurrence of nuisance activities; and

WHEREAS, a critical and immediate need therefore exists to safeguard life and limb, health, property, and public welfare and to reduce the substantial and unnecessary economic toll on the business community and the citizens of Oakland resulting from the effects of vacant buildings by implementing a program for identifying and monitoring these properties; and

WHEREAS, the costs to the City for implementing and sustaining such a program for vacant buildings should be born by the property owners and those mortgagees, vendees, assignees, trustees, lessees, agents, firms, companies, corporations, partnerships, and similar entities who otherwise have control of or financial interest in the property, rather than the citizens of Oakland; and

WHEREAS, said costs may be recovered from the property owners and others having control of or financial interest in the properties by imposing and collecting necessary and equitable fees and interest; and

WHEREAS, historically, the resource requirements for monitoring vacant buildings increases with the time that building remains vacant by involving an escalating commitment from Code Enforcement administrative, fiscal, and supervisory staff, and involving a proliferating interaction with other City departments and agencies, including Real Estate, Finance, City Attorney, Fire, and Police and by City officers and officials; and

WHEREAS, historically, Code Enforcement has tracked its costs, through its computerized accounting system, for processing complaints of vacant buildings, for field monitoring of vacant buildings, and for interacting with property owners and the public concerning vacant buildings; and

WHEREAS, the registration and inspection fees set by ordinance in the City of Oakland's Master Fee Schedule reflects the amounts for the Code Enforcement costs pertaining to vacant buildings; and

WHEREAS, historically, said Code Enforcement costs have increased with each successive year that a building remains vacant at a rate not less than three (3) times the costs associated with the initial processing of a complaint for a vacant building and inspecting the property; and

WHEREAS, historically, there are additional citywide costs of said resource requirements in areas of real estate divestiture and acquisition, fire prevention and suppression, neighborhood revitalization, nuisance and criminal activities, hazardous material identification and disposal, litigation, liens and collections, degradation of the general tax levy, and public notification and hearings; and

WHEREAS, vacant buildings impose additional financial burdens on neighbors, prospective purchasers, and the business community in the City of Oakland; and

WHEREAS, pursuant to California Government Code section 50076, setting the initial fee and applying said rate-of-increase to the initial implementation costs of a registration program in order to establish fees to sustain such a program is a reasonable, fair, and equitable methodology, the results of which would be proportionately representative and would not exceed the estimated direct costs incurred for services provided by Code Enforcement nor the estimated indirect costs incurred by other City departments, agencies, officers, and officials; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA), the Guidelines as prescribed by the Secretary of Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act: City of Oakland, have been satisfied, and that in accordance with CEQA Guidelines Section

15301 (existing facilities) and Section 15061(b)(3), this project is categorically exempted; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals

- A. The Council of the City of Oakland finds and determines that the foregoing recitals are true and correct and hereby incorporates them as part of this ordinance.
- B. The Council of the City of Oakland further finds and determines that the adoption of an ordinance requiring the registration with the City of vacant buildings complies with the California Environmental Quality Act.

SECTION 2. Regulations

Chapter 8.54, entitled "Vacant Building Registration", is hereby added to Title 8 – Health and Safety of the Municipal Code of the City of Oakland as follows:

Chapter 8.54 - Vacant Building Registration

Article I - Intent

Section 8.54. 010 - Title

This chapter and the provisions herein shall be know as the "Vacant Building Registration" program and may be cited as such, and will be referred to herein as "this Chapter".

Section 8.54. 020 - Purpose

The purpose of this Chapter is to promote the health, safety, and general welfare of the residents, workers, visitors, owners, and proprietors of the City of Oakland and the economic stability and viability of businesses, industries, and neighborhoods in the City by requiring the registration and monitoring of vacant buildings. This program will protect and preserve the livability, appearance, and social fabric of the City and will also protect the public from health and safety hazards and the impairment of property values resulting from the neglect and deterioration of real property and improvements.

Section 8.54. 030 - Scope

The provisions of this Chapter shall apply solely to a building that:

- is foreclosed upon, and

- contains only residential Groups R-2, R-3, and R-7 occupancies, as set forth in the Oakland Building Construction Code, with or without attached storage and automobile parking facilities, and
- contains not more than four (4) dwelling and live-work units, all of which are vacant.

Section 8.54.040 - Authority

The Building Official and his or her designees are authorized to enforce the provisions of this Chapter.

Section 8.54.050 - Exclusions

The provisions of this Chapter shall not apply to buildings owned by the United States of America, the State of California, the County of Alameda, the City of Oakland, or to any of their respective agencies or political subdivisions; nor shall it apply to the Oakland Redevelopment Agency or the Oakland Housing Authority.

Article II - Definitions

Section 8.54.100 - Construed Meanings

For the purposes of this Chapter, certain words and phrases are defined and certain provisions shall be construed as set forth herein, unless it shall be apparent from the context that they have different meanings. Words in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

BLIGHTED has the same meaning as set forth in Chapter 8.24 of the Oakland Municipal Code.

BOARDED means the partial or full covering, securing, or reinforcing with plywood, lumber, or comparable materials of windows, skylights, doors/ sidelights/ transoms, underfloor access, and similar exterior openings in buildings or portions thereof which is intended to dissuade, mitigate, and prevent vandalism and unauthorized entry.

BUILDING means a roofed structure that exceeds one-hundred twenty (120) square feet in gross floor area (orthogonal planer projection) for which the Building Official is authorized to determine and assign an occupancy classification as set forth in the Oakland Building Construction Code.

BUILDING DEPARTMENT has the same meaning as set forth in the Oakland Building Construction Code.

BUILDING - MIXED-USE means a building which contains both residential and non-residential occupancies, as set forth in the Oakland Building Construction Code, except for attached storage and automobile parking facilities.

BUILDING - NON-RESIDENTIAL means a building which does not contain a residential occupancy, as set forth in the Oakland Building Construction Code.

BUILDING OFFICIAL has the same meaning as set forth in the Oakland Building Construction Code.

BUILDING - RESIDENTIAL means a building which only contains a residential occupancy, as set forth in the Oakland Building Construction Code, except for attached storage and automobile parking facilities.

FORECLOSED means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults..

INHABITABLE has the same meaning as set forth in Chapter 15.08 of the Oakland Municipal Code.

LOCAL means having a current Business Tax Certificate issued by the City of Oakland and having business office space located within forty (40) driving miles of the City of Oakland.

OAKLAND BUILDING CONSTRUCTION CODE means Chapter 15.04 of the Oakland Municipal Code, as may be amended from time to time.

OCCUPANCY has the same meaning as set forth in Chapter 3 of the Oakland Building Construction Code.

OCCUPANT means one or more individuals having legal tenancy in a building or portion thereof.

OCCUPIED means the physical presence of an occupant on a continuing and non-transient basis.

OPEN means a window, skylight, door/ sidelight/ transom, underfloor access, or similar exterior opening in a building which is broken; or cannot be fully closed; or has an improperly functioning, unapproved, or missing securing device; or is partially or fully missing; or any combination of these conditions.

OWNER means any person, co-partnership, association, corporation, limited liability company or fiduciary having a legal or equitable title or any interest in the vacant building.

OWNERSHIP means owner.

SHALL/ WILL means a definitive directive which includes the ordinary accepted meaning of the word “must”.

VACANT means the absence of occupants for thirty (30) consecutive calendar days or longer.

Section 8.54.110 - Accepted Meanings

Where terms are not defined in this Chapter, they shall have their ordinary accepted meanings within the context with which they are used.

Article III - Registration

Section 8.54. 200 - Filing a Statement of Registration

The owner of a building shall file a Statement of Registration with the City on an approved form within thirty (30) calendar days following the date that the building meets the requirements under to Section 8.54.030 of this Chapter. A separate filing shall be required for each building.

The following information shall be provided with a Statement of Registration:

- Street address of the building as designated by the City and parcel number of the real property as designated by the Alameda County Assessor.
- Name, mailing address, and telephone number of the building owner and when applicable, the agent of the owner; the executor of the estate and its trustees, grantors, and beneficiaries; the partners with a financial interest exceeding ten percent (10%) of the assessed value of the building; the principals of an unincorporated association; and the agent for service of process on file with the California Secretary of State for a firm, corporation, limited liability company, or limited partnership.
- Other relevant information that the City may determine is necessary for the identification of a property or an owner or for the enforcement of the provisions of this Chapter.
- Written report in an approved format of an interior and exterior inspection of the premises by an approved local individual or firm attesting to the conditions of the property, including exterior blight, interior habitability, utility service, and secured openings, and a written plan detailing the means, methods, and times for periodic inspections and the local individual or firm who shall be responsible for assuring compliance with the provisions of this Chapter.

Section 8.54.210 - Contact

The owner shall immediately and prominently post on the vacant building, in a form acceptable to the City, contact information identifying the local individual or firm who shall be responsible for periodically inspecting the premises, maintaining the exterior free of blight, securing the

building against unauthorized entry, and responding immediately to contacts from emergency responders and the public. This information shall be continuously updated.

Section 8.54.220 - Fees

Fees for filing and processing a Statement of Registration and for inspecting vacant buildings shall be as established in the Master Fee Schedule. Fees shall be fully paid at the time of submitting the Statement of Registration to the City.

Section 8.54.230 - Status

The owner shall immediately advise the City in writing of a material change in the status of a vacant building, including, but not limited to, becoming blighted, unsecured, fire damaged, hazardous, or inhabitable; becoming occupied; or having a change in ownership:

Article IV - Enforcement

Section 8.54.300 - Compliance

The owner of a vacant building shall comply fully and in all instances with the provisions of this Chapter and with all other applicable requirements of ordinances of the City of Oakland, regulations of the Oakland Municipal Code, statutes of the State of California and the United States Code of Regulations, and decisions, rulings, and orders of courts of competent jurisdiction.

Section 8.54.310 - Violations

A. General

The failure of an owner to comply fully with the provisions of this Chapter shall be a separate violation which shall be immediately subject to abatement actions and fees, assessment of penalties and fines, and collection actions provided herein. Each and every day a violation of any provision of this Chapter exists shall constitute a separate and distinct offense. The owner shall remain liable for any violation of this Chapter even though the owner, by agreement, has imposed such duties on another individual, group, firm, or other entity.

B. Remedies

Remedies provided in this Chapter for violations are in addition to and do not supersede or limit any other remedies, whether civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

C. Notification

The owner shall be notified of a violation in accordance with the provisions for Notification for Abatement of Violations, as set forth in Article II of Chapter 15.08 of the Oakland Municipal Code.

Section 8.54.320 - Assessments

A. Penalties and Fines

Pursuant to California Civil Code Section 2929.3 (e), the assessment of penalties as set forth in Chapter 1.12 of the Oakland Municipal Code or fines as set forth in Section 2929.3 of the California Civil Code shall apply to the enforcement of the provisions of this Chapter.

B. Interest

Unpaid amounts shall be subject to the assessment of accruing interest as established in the Master Fee Schedule.

C. Collection

The City may serve a demand (invoice) to the owner for payment of fees, costs, penalties, and accruing interest by mailing with regular postage to the address identified on the Statement of Registration, or when such Statement has not been filed, to the address as it appears on the last equalized assessment roll of the Alameda County Assessor, or as otherwise may be known to the City. Whenever such amounts are not fully paid within fourteen (14) calendar days of service, the City may recover unpaid amounts by all available legal means including, but not limited to, civil and small claims court action, and may undertake collection by one or more of the following means:

- **Prospective Lien**

The City may file a Prospective Lien with the Alameda County Clerk-Recorder for recordation on the property title. The subsequent filing of a notice of the satisfactory discharge of such lien shall be contingent upon fulfillment of Conditions of Compliance, pursuant to the provisions of this Chapter, including, but not limited to, full payment of unpaid amounts with accrued interest.

- **Priority Lien**

The City may file a Priority Lien with the Alameda County Clerk-Recorder for recordation on the property title which shall remain as a financial encumbrance until such unpaid amounts with accrued interest have been fully paid. The amount of such lien shall draw interest thereon at a rate as established in the Master Fee Schedule or such higher rate as may be established by the Alameda County Assessor for collection of municipal and county taxes from and after the date of service of such Demand. The statute of limitations shall not run against the right of the City of Oakland to enforce payment.

- **Special Assessment of the General Levy**

The City may transmit such unpaid amounts with accrued interest to the Alameda County Assessor, who shall thereupon enter a Special Assessment of the General Levy Taxes on

the County Assessment Book opposite the description of the particular lot or parcel of land, and such Special Assessment shall be collected together with all other taxes levied against the property. Such Special Assessment shall be subject to the same penalties and interest and to the same procedure under foreclosure and sale, in the case of delinquency, as provided for all other municipal and county taxes against the property, and all laws applicable to the levy, collection, and enforcement of general property taxes are hereby made applicable to such special assessment.

▪ **Nuisance Abatement Lien**

The City may file a Nuisance Abatement Lien with the Alameda County Clerk-Recorder for recordation on the property title which shall, from the date of recordation, have the force, effect, and priority of a Judgment Lien. Such Nuisance Abatement Lien may be foreclosed by an action brought by the City of Oakland for a money judgment.

The City may recover from the owner the costs incurred for processing such Demands and liens and non-sufficient funds checks, recording such liens, transferring such special assessments, providing notice for court, collection or foreclosure actions, for other recovery actions, and for reasonable attorneys' fees.

Section 8.54.330 - Actual and Constructive Notice

Pursuant to state law, actual notice of the assessment of fees, penalties, and fines shall be established on the date the City notifies the owner of such assessment. Constructive notice of the pendency of a collection action for an assessment to all other interested parties shall be established on the date a lien is recorded by the Alameda County Clerk-Recorder. A subsequent owner of a vacant building without actual or constructive notice of the assessment under this Chapter shall not be liable for such assessment.

Article V - Appeal

Section 8.54.400 - Appeal

The owner may appeal a notice of a violation or the assessment of fees for the abatement of a violation in accordance with the provisions for Appeals of Deteriorated Conditions, as set forth in Article II of Chapter 15.08 of the Oakland Municipal Code. Appeals of the assessment of penalties shall be in accordance with the provisions set forth in Chapter 1.12 of the Oakland Municipal Code.

Section 8.54.410 - Review of Appeal

The limitation period provided pursuant to California Code of Civil Procedure Section 1094.6 shall apply to all petitioners seeking judicial review of administrative determinations.

SECTION 3. Applicability

A. Construction and Severability

Should any article, section, subsection, sentence, clause, or phrase of this ordinance or exhibit be held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

B. Authority

This ordinance is enacted by the Council of the City of Oakland pursuant to the police powers accorded to the City by and through section 106 of the Charter of the City of Oakland and Article XI of the Constitution of the State of California.

C. Effective Date

Upon final adoption or approval of a reconsideration by sufficient votes of the Council of the City of Oakland, this ordinance shall be effective on and after the day established in section 216 of the Charter of the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID,
AND PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

NOTICE AND DIGEST

**AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE
(ORDINANCE No. 12948 C.M.S.) TO ESTABLISH NEW FEES FOR
REGISTERING VACANT BUILDINGS**

This ordinance will establish new processing and inspection fees with an annual payment totaling approximately \$500 for a new program codified as Chapter 8.54 in the Oakland Municipal Code that will require the registration of vacant buildings.

FILED
OFFICE OF THE CITY CLERK
OAKLAND
Introduced by

DRAFT

Approved for Form and Legality

2009 NOV 32 AM 10:00
Mr. Reid, Ms. Quan, Ms. Kaplan
Councilmembers

City Attorney

OAKLAND CITY COUNCIL

Ordinance No. _____ C.M.S.

AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE (ORDINANCE No. 12948 C.M.S.) TO ESTABLISH NEW FEES FOR REGISTERING VACANT BUILDINGS

WHEREAS, vacant buildings throughout the City of Oakland have been and continue to be significant and unnecessary attractors for blighting conditions that create severe health hazards in neighborhoods, including explosions of vector populations, accumulations and dispersals of pollutants and target-organ toxins, and degradation of air quality, and that adversely impact the quality of life in neighborhoods and deny residents their enjoyment of life; and

WHEREAS, vacant buildings throughout the City also have been and continue to be significant and unnecessary attractors for trespassers and transient occupants that foster and enable criminal activities, including theft, vandalism, prostitution, and the sale and use of narcotics and other controlled substances; and

WHEREAS, vacant buildings throughout the City also have been and continue to be a significant and unnecessary discourager to economic development and contributor to the decline of property values in neighborhoods; and

WHEREAS, the City has expended and continues to expend vast and unnecessary amounts of limited resources and scarce funds investigating vacant buildings, mitigating the detrimental effects of neglected maintenance, curtailing associated criminal activity, and monitoring the recurrence of nuisance activities; and

WHEREAS, a critical and immediate need therefore exists to safeguard life and limb, health, property, and public welfare and to reduce the substantial and unnecessary economic toll on the business community and the citizens of Oakland resulting from the effects of vacant buildings by implementing a program for identifying and monitoring these properties; and

WHEREAS, the costs to the City for implementing and sustaining such a program for vacant buildings should be born by the property owners and those mortgagees, vendees, assignees, trustees, lessees, agents, firms, companies, corporations, partnerships, and similar entities who otherwise have control of or financial interest in the property, rather than the citizens of Oakland; and

WHEREAS, said costs may be recovered from the property owners and others having control of or financial interest in the properties by imposing and collecting necessary and equitable fees and interest; and

WHEREAS, historically, the resource requirements for monitoring vacant buildings increases with the time that building remains vacant by involving an escalating commitment from Code Enforcement administrative, fiscal, and supervisory staff, and involving a proliferating interaction with other City departments and agencies, including Real Estate, Finance, City Attorney, Fire, and Police and by City officers and officials; and

WHEREAS, historically, Code Enforcement has tracked its costs, through its computerized accounting system, for processing complaints of vacant buildings, for field monitoring of vacant buildings, and for interacting with property owners and the public concerning vacant buildings; and

WHEREAS, the registration and inspection fees set by ordinance in the City of Oakland's Master Fee Schedule reflects the amounts for the Code Enforcement costs pertaining to vacant buildings; and

WHEREAS, historically, said Code Enforcement costs have increased with each successive year that a building remains vacant at a rate not less than three (3) times the costs associated with the initial processing of a complaint for a vacant building and inspecting the property; and

WHEREAS, historically, there are additional citywide costs of said resource requirements in areas of real estate divesture and acquisition, fire prevention and suppression, neighborhood revitalization, nuisance and criminal activities, hazardous material identification and disposal, litigation, liens and collections, degradation of the general tax levy, and public notification and hearings; and

WHEREAS, vacant buildings impose additional financial burdens on neighbors, prospective purchasers, and the business community in the City of Oakland; and

WHEREAS, pursuant to California Government Code section 50076, setting the initial fee and applying said rate-of-increase to the initial implementation costs of a registration program in order to establish fees to sustain such a program is a reasonable, fair, and equitable methodology, the results of which would be proportionately representative and would not exceed the estimated direct costs incurred for services provided by Code Enforcement nor the estimated indirect costs incurred by other City departments, agencies, officers, and officials; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA), the Guidelines as prescribed by the Secretary of Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act: City of Oakland, have been satisfied, and that in accordance with CEQA Guidelines Section 15301 (existing facilities) this project is categorically exempted; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals

- A. The Council of the City of Oakland finds and determines that the foregoing recitals are true and correct and hereby incorporates them as part of this ordinance.
- B. The Council of the City of Oakland further finds and determines that the adoption of an ordinance requiring the registration with the City of vacant buildings complies with the California Environmental Quality Act.

SECTION 2. Amendments

Ordinance No. 12948 C.M.S., as amended and referred to as the Master Fee Schedule of the City of Oakland, is hereby amended to establish new fees in the amounts set forth below for annually registering and inspecting vacant buildings. Said fees may be increased, decreased, otherwise modified, or deleted by subsequent ordinance amending the Master Fee Schedule. Such amendments by ordinance of the Master Fee Schedule shall not also require amendments to this ordinance.

COMMUNITY AND ECONOMIC DEVELOPMENT AGENCY

CODE ENFORCEMENT

FEE DESCRIPTION	FEE	UNIT
K. Vacant Building Registration		
1 <u>annual registration processing</u>	<u>\$339.00</u>	<u>each building</u>
2 <u>annual compliance inspection</u>	<u>\$96.00</u>	<u>inspection</u>

SECTION 3. Applicability

A. Construction and Severability

Should any article, section, subsection, sentence, clause, or phrase of this ordinance or exhibit be held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

B. Authority

This ordinance is enacted by the Council of the City of Oakland pursuant to the police powers accorded to the City by and through section 106 of the Charter of the City of Oakland and Article XI of the Constitution of the State of California.

C. Effective Date

Upon final adoption or approval of a reconsideration by sufficient votes of the Council of the City of Oakland, this ordinance shall be effective on and after the day established in section 216 of the Charter of the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

**AYES - BROOKS, DE LA FUENTE, KAPLAN KERNIGHAN, NADEL, QUAN, REID,
AND PRESIDENT BRUNNER**

NOES -

ABSENT -

ABSTENTION -

**ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California**

DATE OF ATTESTATION: _____