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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Fred Blackwell

SUBJECT: Registration & Maintenance of
Defaulted & Foreclosed Properties

DATE: April 16, 2012

City Administrator
Approval

Date

4/16/12

COUNCIL DISTRICT: City-wide

RECOMMENDATION

Staff recommends that the City Council adopt the following pieces of legislation:

An Ordinance Amending And Restating Oakland Municipal Code Chapter 8.54 (The Foreclosed And Vacant Residential Building Registration Program) By Expanding It To Include Both Vacant And Occupied Residential Properties And Multiple Unit Buildings In The Foreclosed And Defaulted Residential Property Registration Program, To Set Out More Specific Maintenance And Security Requirements, And To Provide For Abatement Of Blight And Nuisances At Such Properties; And

An Ordinance Amending The Master Fee Schedule (Ordinance No. 13078 C.M.S.) To Establish New Fees For Registering Defaulted And Foreclosed Properties; And

A Resolution Amending The City Of Oakland's Fiscal Year 2011- 2013 Biennial Budget, Which Was Adopted Pursuant To Resolution No. 83693 C.M.S. On January 31, 2012, Adding The Positions Of Program Manager And An Administrative Support Position To The Building Services Budget For The Administration Of The Foreclosed Properties Registration And Blight Abatement Programs

EXECUTIVE SUMMARY

The City of Oakland has been working to address the problem of blighted properties caused by the foreclosure crisis that has impacted many flatland neighborhoods. In February 2010, the Council passed a new registration program for vacant and foreclosed residential properties with fewer than five (5) units. In Summer 2011, the City developed a new approach to its inspection program, bundling properties for inspection by lender ownership and dealing directly with senior officials at the lending institutions to resolve problems. This new program has been highly effective at getting lenders to cure the violations themselves (rather than the City paying for abatement costs) and to pay any outstanding charges directly to the City (rather than the City

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imposing liens on properties). However, staff reports to the Community and Economic Development (CED) Committee indicated that the City's existing tools only address properties already owned by lenders (Real Estate Owned, or REO properties), but did not address the significant problems of blighted properties that had received a Notice of Default (NOD) for failure to make mortgage payments. The City's inspection program revealed that significant numbers of both occupied and vacant NOD properties were also blighted—more details are provided below.

CED Committee members requested that staff examine policy solutions on the NOD properties and return to Committee with proposals. Staff from the Building Services division of the Department of Planning, Building and Neighborhood Preservation, the Department of Housing and Community Development, and the City Attorney's office worked together to research best practice policies from other California jurisdictions and think through policy details. Staff also met with interested community groups and Council offices as part of the due diligence efforts.

The current proposal seeks to address the following issues:

1. How to ensure that lenders are being responsible for inspecting and maintaining their properties, both NOD vacant and REO properties.
2. How to ensure that City requirements do not trigger undesired consequences, such as adding more pressure to homeowners or tenants who are trying to remain in their homes.
3. How to ensure that the City has adequate information about the status of problem properties and appropriate contact information for responsible parties to address problems.
4. How to connect available funds, through penalties, to prevent foreclosures and the associated blight problems.
5. How to sustain and expand the City's existing registration and blight abatement programs through dedicated staff positions and enhanced program capacity.

The proposed policy solutions are threefold:

First, the proposed new "Foreclosed and Defaulted Property Registration and Abatement Program" would require lenders to:

- 1) Register vacant and *occupied* foreclosed (REO) properties (the current ordinance only requires the registration of vacant REO properties);
- 2) Register, inspect, and maintain vacant NOD properties; and
- 3) Register and inspect NOD occupied properties, without a registration fee, so that there is a clear line of communication with those distressed properties, and both the lender and the City know when the properties become vacant.

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Second, staff proposes that penalty funds, beyond monies needed to cover program costs, be deposited into the City's Affordable Housing Trust Fund and designated for foreclosure prevention purposes.

Third, staff proposes that two new positions be added in Code Enforcement to administer, coordinate and manage the new blighted foreclosed properties registration and inspection programs, which will enable the City to both sustain and expand effective outcomes. Both funding for, and the existence of the new positions, would be linked to the new registration and abatement programs and would be eliminated once the programs are no longer needed.

OUTCOME

Council action would result in the following main outcomes:

1. Approval of an ordinance amending Oakland Municipal Code Chapter 8.54 to:
 - a. Require the registration of vacant and occupied foreclosed (REO) properties with a fee;
 - b. Require the registration of vacant properties that are in default as part of the foreclosure process (NOD) with a fee;
 - c. Require the registration of occupied properties that are in default (NOD) without a fee;
 - d. For those properties that register as vacant or occupied foreclosed properties or vacant defaulted properties, require the payment of an annual fee of \$568 to offset administrative, inspection, and mitigation costs.
 - e. Require that penalties collected through the foreclosed and defaulted property registration and abatement programs be deposited into the Affordable Housing Trust Fund, subject first to covering administrative costs associated with the program, to be used for foreclosure prevention efforts.
2. Approval of an ordinance amending the Master Fee Schedule of the Vacant Building Registration Program with revised and new language to:
 - a. Change the name of the current fee program to "Foreclosed and Defaulted Property Registration and Abatement Program," and
 - b. Add the annual registration fee for those properties that are in default and vacant (abandoned buildings), and
 - c. Clarify how registration and fees apply: 1) vacant REOs (registration fee) 2) occupied REOs (registration fee), 3) vacant NODs (registration fee), 4) occupied NODs (no fee to register).
3. Approval of a resolution adding two staff positions to the Code Enforcement operations budget to administer, coordinate, manage, and expand the foreclosed and defaulted building registration and abatement programs. Funding for the positions would be directly linked to the registration and abatement programs.

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BACKGROUND/LEGISLATIVE HISTORY

On February 2, 2010, the City Council passed a Council resolution and ordinance amending the Oakland Municipal Code to establish a new chapter, 8.54, requiring the registration of foreclosed and vacant residential buildings and amending the Master Fee Schedule (Ord. No. 12948 C.M.S.) to establish new registration and inspection fees. Residential properties, up to four (4) units, were required to be registered within thirty (30) days from when the foreclosed property became vacant.

The new registration requirements were established to address the blight and public health and safety problems associated with foreclosed properties, especially vacant ones, and the City's need to know the foreclosure and vacancy status of properties, as well as the appropriate contact person for maintenance and other purposes.

In Fall 2011, the Community and Economic Development Committee heard reports regarding the outcomes of inspections conducted on blighted foreclosed properties and properties that had received a Notice of Default (NOD) in Oakland that were vacant or occupied. Committee members were concerned about the blight and associated problems with NOD properties. These properties are currently not included in the City's existing registration requirement nor are lenders currently required to maintain such properties. The Committee requested staff to research possible ways to address the problems of blighted NOD properties and to return to the Committee with proposed legislative solutions.

ANALYSIS

The underlying rationale governing the passage of the original registration requirements applies for occupied REO as well as for vacant and occupied NOD properties:

1. Buildings in the foreclosure process throughout the City of Oakland are significant and unnecessary attractors for blighting conditions that create severe health hazards;
2. These buildings are attractors for trespassers and transient occupants that foster and enable criminal activities;
3. These buildings discourage economic development and contribute to the decline of property values in neighborhoods; and
4. The City continues to expend limited resources and scarce funds investigating foreclosed and defaulted buildings, both vacant and occupied, mitigating the detrimental effects of neglected maintenance, curtailing associated criminal activity, and monitoring the recurrence of nuisance activities.

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According to recent information issued by the Urban Strategies Council (USC), there were 10,542 foreclosures from 2007 to 2011, a rate of about 1 in 19 households in foreclosure. <http://www.urbanstrategies.org/foreclosure/> In 2011, there were 3,337 Notice of Defaults filed and 1,342 completed foreclosures or REOs. See www.foreclosureradar.com. The number of REO properties in Oakland for 2011 marks a decrease of 35.6% from 2010 figures.

Year	2007	2008	2009	2010	2011
NODs	3,120	4,225	4,482	3,753	3,337
NOD change		+35.4%	+6.1%	-16.3%	-11.1%
Foreclosures	1,613	3,079	2,424	2,084	1,342
Foreclosure change		+ 90.9%	-21.3%	-14%	-35.6%

In Summer and Fall 2011, City Code Enforcement focused their inspections on banks with significant numbers of properties in foreclosure (NOD) in addition to those that had been foreclosed (REO). The goal was to better understand the blight problems with properties in foreclosure (NOD) or that have been foreclosed (REO) and the conditions contributing to neighborhood decline.

To illustrate the problem of properties in foreclosure see the matrix below. Based upon the sampled inspection information, there are significant numbers of properties that are in default (NOD) and have code compliance violations. For example, for Wells Fargo Bank and its subsidiaries Wachovia and World Savings Bank, there were a total of 182 properties inspected that were either in foreclosure (NOD) or foreclosed (REO). Of those, there were 64 NOD properties that were occupied and had blight conditions—almost half of the NOD properties inspected.

Bank	REO & NOD Total Properties Inspected	REO Vacant & Blighted	REO Occupied & Blighted	NOD Vacant & Blighted	NOD Occupied & Blighted
Wells Fargo (inc. Wachovia, & World Savings Bank Properties)	182 (NODs=131 REOs=51)	11 (22%)	14 (28%)	5 (4%)	64 (49%)
Bank of America	45 (NODs=39 REOs=6)	2 (33%)	0	9 (23%)	15 (39%)
Fannie Mae	106 (NODs=2 REOs=104)	25 (24%)	23 (22%)	1 (50%)	0

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Freddie Mac	32 (NODs=1 REOs=3 i)	7 (23%)	7 (23%)	0	0
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In addition, staff developed a map showing the location of sampled inspected properties and the location of blighted versus non-blighted properties inspected. See **Attachment B**. This map also distinguished between redevelopment and non-redevelopment areas in Oakland as a way to assess whether blighted REO conditions were more prevalent in lower-income parts of Oakland.

Geographic Area	REO Properties	Blighted REO Properties	Non-Blighted REO Properties
Redevelopment Area	351	204 (58%)	147 (42%)
Non-Redevelopment	271	119 (44%)	152 (46%)

It is critical for the City to have information on the NOD and REO properties, both occupied and vacant, as well as the appropriate contact information for addressing the maintenance, public safety, and other problems associated with these properties. Without the registration program requirements, this information is not readily available to the City.

With current economic conditions and Oakland's continuing high unemployment rates, it is unlikely that the foreclosure crisis will improve dramatically in the next year or so.

The following are the main terms of the proposed new requirements:

- Applicable properties would include ALL residential properties rather than the current limit of properties with 4 units or less and include:
 1. REO vacant or occupied properties (with a fee)
 2. NOD vacant properties (with a fee); NOD occupied properties (without a fee)
- Lenders must inspect NOD occupied properties monthly and engage in the following activities:
 1. For vacant defaulted properties, exercise applicable clauses, such as abandonment, under the mortgage contract;
 2. Register the property with the City of Oakland within thirty (30) days from when the property becomes defaulted and re-register the property within thirty (30) days from when the property becomes vacant;
 3. Secure and maintain the property;
 4. If the lender is not locally based, hire a local certified property management company with expertise in applicable local laws, such as Oakland rent control and Just Cause; and

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5. Post the property maintenance contact information on the property.

- Lenders must ensure that utilities are not terminated if the property is lawfully occupied.
- Monies recovered from penalties would be used to cover any needed project administration costs, with any remaining funds used for foreclosure prevention efforts or affordable housing.

Many other jurisdictions in California and elsewhere have similar requirements. See *Attachment A*, Comparison Matrix. Examples include the following:

- The City of Los Angeles requires lenders to register and maintain both vacant and occupied NOD properties. The fine for failure to meet the registration requirement is \$250/per day up to a maximum cumulative fine of \$100,000. Los Angeles requires lenders not to terminate utilities if the property is lawfully occupied.
- The Cities of Chula Vista, Fresno, and others require lenders to inspect occupied NOD properties and register them with a City registration program once they become vacant. Upon vacancy, the lenders are required to secure and maintain the property, hire local companies to engage in regular inspections, and post property maintenance contact information on the property. Long Beach requires lenders to inspect occupied NOD properties weekly.

The use of certified local property managers for occupied properties: This proposal is based upon the City's experience with some of the property managers obtained by lenders who are not following local or state laws regarding tenants in foreclosed properties. The City Attorney's office sued a number of property managers over their management practices regarding existing tenants. Some property managers tried to force tenants out through threats, turning off utilities, misleading the tenants as to their rights, and other inappropriate conduct. It is the City Attorney's office understanding that many lenders use a clearinghouse in Colorado to obtain property managers for properties foreclosed in California. Although a property manager is required to have a real estate license, it appears that there is very little training in property management required to obtain a real estate license. While lenders may be more cognizant of tenant protections now than they have in the past, having a certified property manager would give the City a better comfort level that the property manager understands tenants rights and best practices for managing rental property. A review of California Certified Residential Managers (as one source of certification) showed that there were over thirty certified managers from Oakland. www.caanet.org. This requirement would apply only to occupied properties. A vacant property need only be managed by a local property manager (who still needs to have a real estate license pursuant to state law).

As an alternative to using a certified property manager, the ordinance also provides that in lieu of meeting the certification requirement, a local property manager could be utilized if it

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demonstrates the equivalent training and experience in managing residential rental property in Oakland, including knowledge of state and Oakland rent and eviction laws, subject to administrative guidelines.

POLICY ALTERNATIVES

Alternative #1	Not require occupied NOD properties to register.
Pros	By not including occupied NOD properties, could prevent any pressure to complete the foreclosure process.
Cons	Does not address the problem of lack of sufficient information on NOD occupied properties given evidence of blight and other problems.
Reason for not recommending	Proposal seeks to solve the blight problems in Oakland neighborhoods and requiring lenders to inspect and register NOD occupied properties and inspect, register, and maintain NOD vacant properties should help to address need for lenders to be more involved in the status of NOD properties. The proposal also does not require a fee for registering occupied NOD properties to avoid the passing on of any costs to the occupants.
Alternative #2	Charge a fee to register the occupied NOD properties.
Pros	Simplifies the administration of the program to have one fee standard and helps to cover costs of inspecting properties.
Cons	Costs could be passed on to homeowners trying to get out of default.
Reason for not recommending	Concerns about impact on homeowners outweigh benefits of a simplified fee system.

PUBLIC OUTREACH/INTEREST

Staff has provided information to the primary community organization that worked on the original ordinance, the Alliance of Californians for Community Empowerment. Information has also been shared with other organizations working on foreclosure prevention and abatement issues, such as OCO, Causa Justa::Just Cause, and the Alameda County Public Health Department. Information has also been shared with the Building Services Improvements Advisory Task Force, as well as Wells Fargo Bank and JP Morgan Chase Bank.

COORDINATION

Coordination has occurred between Building Services, Housing, the City Attorney's office, Oakland Police Department and Neighborhood Services Division.

COST SUMMARY/IMPLICATIONS

The current fee of \$568 is based upon \$454.40 for processing of the registration (at \$99/hour) and \$113.60 for inspection time.¹ We expect that the same costs are involved with the expanded registration program.

The current registration program has collected over \$1.4 million in fees and penalties from July 2010, with over \$990,000.00 from fees and \$440,000.00 from penalties. Of the \$1.4 million, about \$390,000.00 in fees and penalties have been collected so far in FY 11-12 from the registration program.

An annual registration fee of \$568 is charged for each applicable foreclosed property and a \$5,000 citation penalty is issued for properties that were not registered within 30 days of vacancy. The fees recovered from the registration program is being utilized for the costs associated with City services addressing and interacting with the problems associated with vacant and foreclosed residential properties. Staff estimates that the current program collects about \$35,000 a month in registration fees.

The current blight abatement of foreclosed properties program has collected over \$24,000 in fees and \$176,000.00 in penalties since September 2011. An inspection fee of \$1,700 is charged for each applicable blighted and foreclosed property and a penalty of \$1,000/per day for failure to abate within the requisite timeline, up to a maximum penalty of \$21,000/per property.

Staff recommends, based upon an idea from Councilmember Brunner, that funds accrued through penalties, after covering program costs, be utilized for foreclosure prevention activities (or affordable housing purposes).

In addition, staff requests that one full-time-equivalent (FTE) position be created to coordinate the current and expanded registration and abatement programs. Duties will include ensuring the continuation and expansion of a proactive approach to the inspection programs, as well as engaging in communication needs with senior officials at the lending institutions to ensure immediate abatement of the blight conditions and direct payment of outstanding charges. The development of the new proactive program, coordinating inspection staff and the City Attorney's office, and communications with lenders have been handled by a temporary program manager.

Staff also requests that one FTE position be created to provide administrative support functions for the expanded programs, including documentation, preparing notices, mailings, photocopying and other administrative needs. Both new positions are not intended to be permanent positions and will be tied to funding availability from the foreclosure registration and mitigation programs.

¹ Includes records management (9.5%) and technology enhancement (5.25%) fees.

The projected annual budget from just fees is \$785,000. The projected annual budget from penalties is \$500,000. See below for the budget justification.

I. Current budget for registration and blight abatement program: \$597,000

- Inspectors (2.5 FTE plus expenses @ \$140k average): \$350,000
- Administrative support staff (.33 FTE plus expenses): \$37,500
- Foreclosure property ownership research technical support (.25 FTE plus expenses): \$30,000
- City Attorney's office (.25 FTE plus expenses): \$62,500
- Temporary program manager (.5 FTE plus expenses): \$105,000
- Program operation costs, i.e. mailing, print, duplication: \$12,000

II. Projected Budget From Proposed Expanded Programs

Projected annual fees: \$785,000

- Registration fees of \$568/property estimating 300 vacant NOD properties²= \$170,400.
- Registration fees of \$568/property estimating 1,082 occupied and vacant REO properties³=\$614,576.

Proposed new budget: \$785,000

- Inspectors (2.5 FTE plus expenses @ \$140k average): \$350,000
- Administrative support staff (1.33 FTE plus expenses): \$127,500
- Foreclosure property ownership research technical support (.25 FTE plus expenses): \$30,000
- City Attorney's office (.25 FTE plus expenses): \$62,500
- Program manager (1 FTE plus expenses): \$195,000
- Program operation costs, i.e. mailing, print, duplication: \$20,000

Projected annual penalties: \$500,000⁴

² The estimate of 300 vacant NOD properties is based upon 1) a conservative assumption of 3,000 NOD properties filed annually in Oakland (in 2010 there were 3,753 and in 2011 there were 3,337 NOD filings. See www.foreclosureradar.com); and that 2) 10% of the NOD properties are vacant and therefore required to pay a registration fee (based upon sampling data, about 7% to 37% of the blighted NOD properties inspected during Summer-Fall 2011 were vacant).

³ The estimate of 1,082 REO properties (both occupied and vacant) filed annually is based upon an assumption of a 19.4% decrease from 2011 REO filings.

⁴ While the intention of the City's proactive programs would result in lenders engaging in ongoing inspection and maintenance of their properties, and therefore, decreased citing and collection of penalties, it is not certain that all the lenders can accomplish these goals in a timely enough way to avoid penalties.

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Funds from the fees must only be utilized for associated costs of the program. Should additional funds from fees be realized, beyond covering associated costs, these funds would be used to pay for associated costs from other City departments, such as the Oakland Police Department. If the fees are insufficient to cover program operation costs, then penalty funds would be utilized.

FISCAL/POLICY ALIGNMENT

Continuation of the registration program is in alignment with the City's priorities to address the significant problems of blighted foreclosed, especially vacant, properties, as well as to recover costs associated with City inspection services.

PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

The current registration program has resulted in the registration of over 1,600 properties. With current efforts to improve the City's blighted foreclosed properties abatement program and the state of the foreclosure crisis, staff expects the registration numbers to increase. The registration program is instrumental in the effectiveness of the new blighted foreclosed properties abatement program, which has engaged in over 2,900 inspections of foreclosed properties.

Since September 2011, the City's revised blighted foreclosed properties program has resulted in the clean-up of all targeted properties by the lenders and direct payment or in process of payment by the lenders of all associated fees and penalties.

SUSTAINABLE OPPORTUNITIES

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

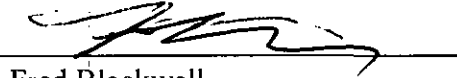
Social Equity: The proposed ordinances will encourage the infusion and recurrence of diverse multi-cultural activities, businesses, and events.

CEQA

In accordance with CEQA Guidelines Section 15301 (existing facilities) this action is categorically exempted.

For questions regarding this report, please contact Margaretta Lin, Special Projects Director, at 510-238-6314.

Respectfully submitted,



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Attachment A: Comparison Matrix

Attachment B: Sampled Properties Blighted Foreclosed and Defaulted Properties Map

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Foreclosure Property Registration and Abatement Program Comparison (Oakland and Other Cities)

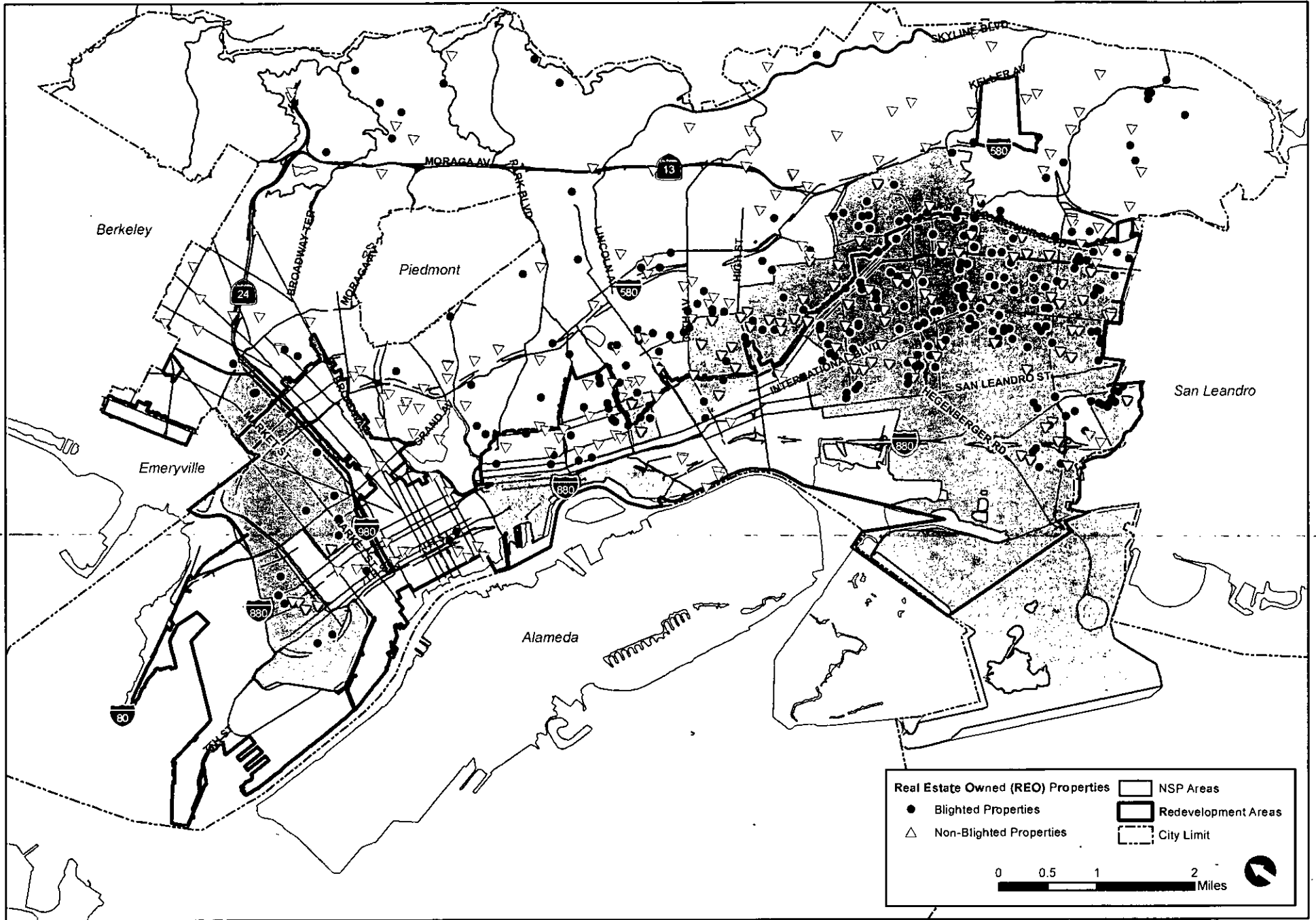
CITY	OAKLAND (CURRENT)	OAKLAND (PROPOSED)	LOS ANGELES	CHULA VISTA	LONG BEACH	SAN JOSE
PROGRAM NAME (CODE OR LEGISLATION REFERENCE)	Foreclosed and Vacant Property Registration Program / Vacant Building Registration Program (OMC 8.54)	Foreclosed and Defaulted Property Registration and Abatement Program (OMC 8.54 / 15.68.100)	Foreclosure Registry Program (Ordinance No. 181185)	Abandoned Residential Property Registration (CVMC 15.60 / 1.41 / 1.41.010))	Foreclosure Registry Program (Ordinance No. 11-0024/ LBMC 18.24)	Abandoned Building Monitoring Program (S/IMC 17.38 Maintenance and Rehabilitation of Neglected Vacant or Abandoned Buildings)
TYPE OF PROPERTIES REQUIRED TO REGISTER	On-line registration required for all residential REO property with less than 5 dwelling units, vacant for more than 30-days	On-line registration required for all residential NOD and REO properties. NOD properties must be registered within 30-days of recording a NOD and must be updated within 30-days of becoming vacant or abandoned	On-line registration required for all vacant or abandoned and occupied residential NOD and REO properties	Mail-in registration required for all vacant or abandoned residential NOD and REO properties. (Lenders are required to inspect occupied NOD properties.)	Mail-in registration required for all vacant or abandoned and occupied residential NOD and REO properties	Mail-in registration required for all vacant residential, industrial or commercial properties
MAINTENANCE PLAN REQUIREMENT	Yes	Yes	No	No	No	No
REGISTRATION PROGRAM FEE	\$568/property/year	\$568/property/year	\$155/property/year	\$70/property	\$155/property/year	\$1,488/property/year
ANNUAL RE-REGISTRATION REQUIREMENT	Yes	Yes	Yes	Update only (no fee)	Yes	Yes
POSTING, SECURITY & MAINTENANCE REQUIREMENTS	<ul style="list-style-type: none"> • Post 24 hour property contact information • Secure and maintain building interior, exterior and grounds • Inspect or cause inspection of property periodically 	<ul style="list-style-type: none"> • Exercise abandonment clause for vacant defaulted properties • Post 24 hour property contact information • Secure and maintain the property • Hire a local certified property management company with expertise in applicable local laws, such as Oakland rent control and Just Cause 	<ul style="list-style-type: none"> • Post 24 hour property contact information • Inspect or cause regular inspections of property • Provide a trespass authorization to law enforcement officials if the property is unlawfully occupied 	<ul style="list-style-type: none"> • Exercise abandonment clause for vacant defaulted properties • Post 24 hour property contact information • Secure and maintain the property to the neighborhood standards • Maintain property free of graffiti 	<ul style="list-style-type: none"> • Post 24 hour property contact information • Secure and maintain property, including landscaping In compliance with City Municipal Codes • Maintain property free of graffiti, trash and debris on a regular basis 	<ul style="list-style-type: none"> • Post 24 hour property contact information • Secure and maintain building exterior and grounds • Maintain all existing utilities and fire protection systems required to not create a hazard to public health and safety

Foreclosure Property Registration and Abatement Program Comparison (Oakland and Other Cities)

CITY	OAKLAND (CURRENT)	OAKLAND (PROPOSED)	LOS ANGELES	CHULA VISTA	LONG BEACH	SAN JOSE
UTILITY SERVICE REQUIREMENTS	Not Addressed	The beneficiary and/or trustee shall ensure that utility services to the property are not terminated if the property is lawfully occupied	The beneficiary and/or trustee shall ensure that utility services to the property are not terminated if the property is lawfully occupied	Not Addressed	Not Addressed	
INSPECTION AGENT REQUIREMENTS	That owner or property manager's office be located within 25 miles of the property be identified on the Statement of Registration and to re-inspect property periodically to assure that the yard is maintained and the building secured	That owner or property manager's office be located within 25 miles of the property be identified on the Statement of Registration and inspect or cause inspection of property monthly to assure that the yard is maintained and the building secured	City requires a local property management company if beneficiary or trustee is located more than 100 miles from property. Property shall be inspected weekly if vacant and monthly if occupied to ensure property is secure and maintained	City requires a property management company (no local requirement) to inspect property on a regular weekly basis if vacant and on a monthly basis if occupied to ensure property is secure and maintained or until default is remedied or deemed abandoned	City requires that inspections, securing and maintaining the property be performed on a weekly basis by a local property manager/agent or local responsible agent if lender, beneficiary or trustee are out of the area	City requires a written log of inspections be provided at the request of Director certifying that property has been secured and maintained by a local property management company or responsible agent if beneficiary is located more than 60 miles from property
CITY MONITORING AND ENFORCEMENT	City staff performs inspections as a follow-up to registration or changes in registration information, spot checks and complaint driven inspections	City staff performs inspections as a follow-up to registration or changes in registration information, spot checks and complaint driven inspections	City performs inspections as a follow-up to registration and if beneficiary or trustee does not submit regular weekly or monthly inspection reports	City staff performs inspections as a follow-up to registration or changes in registration information, spot checks and complaint driven inspections	Program requires that City staff inspect all registered properties; and document existing conditions	City performs inspections at least once a month and responds to complaint driven inspections
FINES AND PENALTIES FOR FAILURE TO COMPLY	Failure to register: <ul style="list-style-type: none"> \$100 for 1st day \$150 for 2nd day \$250 for 3rd day \$500 for 4th and each successive day up to an accrued maximum of \$5,000 Non-Compliance with Inspection Requirement <ul style="list-style-type: none"> 1st Inspection \$850 Re-inspection \$850 <i>(If inspection results in compliance or abatement, inspections fees are not</i>	Failure to register: <ul style="list-style-type: none"> \$100 for 1st day \$150 for 2nd day \$250 for 3rd day \$500 for 4th and each successive day up to an accrued maximum of \$5,000 Non-Compliance with Inspection Requirement <ul style="list-style-type: none"> 1st Inspection \$850 Re-inspection \$850 <i>(If inspection results in compliance or abatement, inspections fees are not</i>	Failure to register or non-compliance with inspection requirement: <ul style="list-style-type: none"> \$250/day for each day subsequent to date of notification Non-Compliance with Blight Violation(s): <ul style="list-style-type: none"> \$1,000/day \$100,000 max/property 	Failure to register or non-compliance with inspection requirement: <ul style="list-style-type: none"> \$50 per day for the first 30 days, \$75 per day thereafter Non-Compliance with Blight Violation(s): <ul style="list-style-type: none"> \$100 for first violation \$200 for second \$500 for third and any subsequent violation occurring within 12 months of 	Failure to register or non-compliance with inspection requirement: <ul style="list-style-type: none"> \$100 for first violation \$200 for second \$500 for third and any subsequent violation occurring within a one-year period Non-Compliance with Blight Violation(s): <ul style="list-style-type: none"> up to \$1,000/day \$100,000 	Failure to register or non-compliance with inspection requirement: <ul style="list-style-type: none"> No Penalty Non-Compliance with Blight Violation(s): \$2,500/day for each day subsequent to date of notification. \$100,000 max/property

Foreclosure Property Registration and Abatement Program Comparison (Oakland and Other Cities)

CITY	OAKLAND (CURRENT)	OAKLAND (PROPOSED)	LOS ANGELES	CHULA VISTA	LONG BEACH	SAN JOSE
	assessed) Non-Compliance with Blight Violation(s): <ul style="list-style-type: none"> • \$1,000/day • \$21,000 max/property 	assessed) Non-Compliance with Blight Violation(s): <ul style="list-style-type: none"> • \$1,000/day • \$21,000 max/property 		any prior violation <ul style="list-style-type: none"> • Health and safety hazards: \$250 per day for the first 30-days, \$375 per day thereafter; • Visual blight: \$150 per day for the first 30 days, \$225 per day thereafter 	max/property	
DEREGISTRATION	Not applicable	Lender required to affirmatively de-register property	Lender required to affirmatively de-register property	Initiated by City staff	Lender required to affirmatively de-register property	Lender required to affirmatively de-register property
ENFORCEMENT APPROACH	Voluntary and proactive registration and blight abatement program with Lenders	Voluntary and proactive registration and blight abatement program with Lenders	Voluntary approach with penalties for failing to register	Voluntary approach	Voluntary approach with penalties for failing to register	Voluntary approach with penalties for failing to register

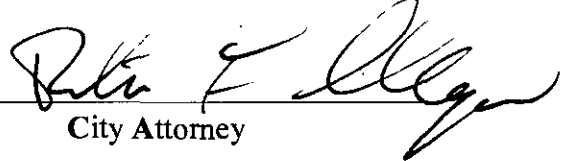


Real Estate Owned Properties
Blighted and Non-Blighted Properties

Introduced by

Councilmember

Approved for Form and Legality



City Attorney

OAKLAND CITY COUNCIL

Ordinance No. _____ C.M.S.

**AN ORDINANCE AMENDING AND RESTATING OAKLAND MUNICIPAL CODE
CHAPTER 8.54 (THE FORECLOSED AND VACANT RESIDENTIAL BUILDING
REGISTRATION PROGRAM) BY EXPANDING IT TO INCLUDE BOTH VACANT AND
OCCUPIED RESIDENTIAL PROPERTIES AND MULTIPLE UNIT BUILDINGS TO THE
FORECLOSED AND DEFAULTED RESIDENTIAL PROPERTY REGISTRATION
PROGRAM, TO SET OUT MORE SPECIFIC MAINTENANCE AND SECURITY
REQUIREMENTS AND TO PROVIDE FOR ABATEMENT OF BLIGHT AND NUISANCES
AT SUCH PROPERTIES**

WHEREAS, properties throughout the City of Oakland which lenders have recorded a Notice of Default (defaulted) or have taken ownership through a Deed of Trust (foreclosed) 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, defaulted and foreclosed properties 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, defaulted and foreclosed properties 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 defaulted and foreclosed

properties, 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 defaulted and foreclosed properties by implementing an expansion of the City's existing program for identifying and monitoring these properties; and

WHEREAS, the costs to the City for implementing and sustaining such an expanded program for defaulted and foreclosed properties should be borne 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 defaulted or foreclosed properties increases with the time that building remains vacant or occupied 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 defaulted and foreclosed properties, for field monitoring of defaulted and foreclosed properties, and for interacting with property owners and the public concerning defaulted and foreclosed properties; and

WHEREAS, the existing 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 foreclosed and vacant properties; and

WHEREAS, historically, said Code Enforcement costs have increased with each successive year that a property remains foreclosed and vacant at a rate not less than three (3) times the costs associated with the initial processing of a complaint for a foreclosed and vacant property 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, defaulted and foreclosed properties impose additional financial burdens on neighbors, prospective purchasers, and the business community in the City of Oakland; and

WHEREAS, on February 2, 2010, the Council of the City of Oakland amended the Municipal Code (ordinance no. 12991 C.M.S.) and adopted a new chapter 8.54 which established a foreclosed and vacant property registration program, and also amended the Master Fee Schedule and established fees to recover costs associated with the implementation and operation of said registration program; and

WHEREAS, the detrimental effects and additional financial burdens that defaulted properties and foreclosed and occupied properties impose on neighbors, prospective purchasers, and the business community in the City of Oakland have equaled or exceeded the impacts of caused by foreclosed and vacant properties; and

WHEREAS, the City Council has consider expanding the scope of said registration program to included foreclosed and occupied and defaulted properties, the result of which will require additional City resources to implement and operate; and

WHEREAS, new fees will be necessary to recover the additional costs for said expansion of the existing foreclosed and vacant property registration program; 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 City Council intends for penalty monies collected from the enforcement of the foreclosed and defaulted properties registration and blight abatement programs be utilized to prevent foreclosures and/or preserve affordable housing opportunities in Oakland; and

WHEREAS, the funds from penalties collected pursuant to this ordinance, beyond what is needed to recover the costs of program operations, shall be deposited into the Affordable Housing Trust Fund (Fund 7450) and appropriated to a project to be established for foreclosure prevention or affordable housing preservation and production unless state or other law requires penalties to be utilized for other purposes. Specific programs and projects shall be subject to approval by the City Council; 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 amending the Vacant Foreclosed Residential Properties Registration Program to add registration requirements for occupied and vacant defaulted properties, occupied and vacant foreclosed properties, as well as maintenance and security requirements for vacant defaulted properties complies with the California Environmental Quality Act.

SECTION 2. Amendment and Restatement of O.M.C Chapter 8.54

Ordinance No. 12991 C.M.S., as amended and referred to as the Foreclosed and Vacant Residential Buildings Registration Program of the City of Oakland, is hereby amended and restated as set forth below:

Chapter 8.54 - FORECLOSED AND DEFAULTED RESIDENTIAL PROPERTY REGISTRATION and ABATEMENT PROGRAM

Article I. - Intent

8.54.010 - Title.

This Chapter 8.54 and the provisions herein shall be known as the "Foreclosed and Defaulted Residential Property Registration and Abatement Program" and may be cited as such, and will be referred to herein as "this Chapter."

8.54.020 – Purpose and Intent.

The purpose of this Chapter is to promote the health, safety, and general welfare of the residents, workers, visitors, property owners, and proprietors of the City of Oakland and the economic stability and viability, and livability of neighborhoods in the City by requiring the registration and monitoring of foreclosed and defaulted residential properties. 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.

It is the intent of the City Council, through the adoption of this Chapter, to establish a mechanism to protect neighborhoods from becoming blighted through the lack of maintenance and security of occupied and vacant foreclosed and vacant defaulted residential properties; to establish a foreclosed and defaulted residential property registration and abatement program and to set forth guidelines for the maintenance of occupied and vacant and/or distressed residential properties. In addition, this Chapter provides for the registration and inspection of occupied defaulted residential properties to aid on foreclosure prevention efforts and because such properties have an increased potential to become vacant or blighted.

8.54.030 - Scope.

- A. The provisions of this Chapter shall apply to the following properties in the City of Oakland:
1. Vacant residential properties that are the subject of a recorded notice of default;
 2. Lawfully occupied residential properties that are distressed (notice of default recorded);
- and
3. Vacant and occupied residential properties that have been foreclosed upon.

8.54.040 - Authority.

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

8.54.050 - Exclusions.

The provisions of this Chapter shall not apply to properties 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, except those over which the City of Oakland has authority to assert jurisdiction; nor shall it apply to the Oakland Housing Authority. It is the intent of this Chapter to apply to and not exclude any property in which entities, including, but not limited, to the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), California Housing Finance Agency (CHFA), or any similar entity, has any financial or legal interest, ownership or otherwise, unless such entity can demonstrate to the City's satisfaction or to a Court that it is exempt from this Chapter or otherwise is not subject to City regulation on the basis of preemption or other legal basis.

Article II. - Definitions

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.

“Abandoned” means any building, structure or real property that is vacant or occupied by a person or persons without a legal right of occupancy.

“Accessible” means a property or structure that unauthorized persons may gain access or entry to through a compromised/breached/unsecured gate, door, fence, wall, window, or other point of entry.

“Agreement” means any agreement or written instrument which provides that title to real property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer or exchange.

“Beneficiary” means a lender or other person or entity holding, owning, participating in, or otherwise having an interest in the proceeds for a loan represented by a note secured by a deed of trust.

“Blighted” has the same meaning as set forth in Chapter 8.24.

“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 Official” has the same meaning as set forth in the Oakland Building Construction Code, and includes his or her designee, and his or her successor in title or successor position.

“Building Services Division” means that division or other part of the City of Oakland administration delegated with enforcing building and housing codes and property blight or its successor or other division later delegated with these duties

“Certified Property Manager” means a licensed property manager who has have received additional training in the field of residential property management and has a certification in property management such as a California Certified Residential Manager (CCRM), Certified Property Manager (CPM®), or the equivalent certification, or can demonstrate the equivalent training and experience in managing residential rental property in Oakland, including knowledge of state and Oakland rent and eviction laws pursuant to standards established by the City administration.

“Days” means consecutive calendar days, unless otherwise stated.

“Deed In Lieu Of Foreclosure” means a recorded document that transfers property from the tmstor to the holder of a deed of trust upon consent of the Beneficiary of the deed of tmst, without completion of a foreclosure proceeding.

“Deed Of Trust” means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. This definition applies to any and all subsequent deeds of tmst, i.e. second tmst deed, third trust deed, etc.

“Default” means the failure to fulfill a contractual obligation, monetary or conditional.

“Distressed” means any property that is subject to a current notice of default and/or notice of tmstee’s

sale, pending tax assessors lien sale and/or any real property conveyed via a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed of trust, and/or any real property conveyed via a deed in lieu of foreclosure/sale, regardless of vacancy or occupancy by a person with no legal right to occupancy.

“Evidence Of Occupancy” means any condition visible from the exterior that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is legally occupied. Such conditions include but are not limited to secured/locked structures; active utility services; the absence of overgrown and/or dead vegetation; the absence of an accumulation of newspapers, circulars, flyers and/or mail; the absence of an accumulation of shutters; the presence of furnishings and/or personal items consistent with residential habitation; statements by neighbors, passersby, delivery agents, or government employees that the property is legally occupied; or actual contact with occupants.

“Evidence Of Vacancy” means any condition visible from the exterior that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk, and/or debris; the absence of window coverings such as curtains, blinds, and/or shutters; the absence of furnishings and/or personal items consistent with residential habitation; and statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

“Foreclosure” means the process by which a property, placed as security for a real estate loan, is sold to satisfy the debt of a defaulting trustor (borrower), including a transfer by Deed in lieu of foreclosure.

“Inspection” means a physical investigation at a property to obtain Evidence Of Occupancy or vacancy, or the physical condition of the property and/or to verify compliance with this Chapter and any other applicable code or law.

“Local Property Management Company” means a property management company and/or Certified Property Manager that is either based or maintains an office within 20 miles of city limits and has a current business tax certificate issued by the City.

“Notice Of Default” means a recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee’s sale.

“Oakland Building Construction Code” means Chapter 15.04, as may be amended from time to time.

“Occupied” means lawful habitation of the property by trustor or tenants.

“Openings” mean 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.

“Out-Of-Area” means in excess of 20 miles from city limits

"Owner" means any real person, partnership, association, corporation, limited liability company, limited partnership, fiduciary, estate, or any other legal entity having a legal or equitable title in the property.

"Owner Of Record" means the person holding recorded title to the residential real property on question at any point in time when official records are produced by the Alameda County Clerk-Recorder's Office.

"Property" means any unimproved or improved real property, or portion thereof, situated in the City including the buildings, structures, or other improvements located on the property regardless of condition.

"Residential" means property which only contains a residential occupancy, as set forth in the Oakland Building Construction Code, except for attached storage and automobile parking facilities.

"Responsible Party" means the owner of the property, or the beneficiary and/or trustee pursuing foreclosure of a property subject to this Chapter secured by a mortgage, deed of trust or similar instrument.

"Securing" means such measures as may be directed by the Building Official or his or her designee so that the property is not accessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, the repair or boarding of door, window and/or other openings.

"Shall/Will" means a definitive directive which includes the ordinary accepted meaning of the word "must."

"Substitution Of Beneficiary Of Deed Of Trust" means an instrument that transfers the beneficial interest under a deed of trust from one beneficiary to another.

"Trustee" is the person, firm, entity, or corporation holding a deed of trust secured by the property.

"Trustor" is a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

"Turf Stain" means the application of an environmentally safe stain or dye that colors dead/dormant vegetation green.

"Vacant" means any building, structure or real property that is unoccupied or occupied by a person without a legal right to occupy.

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

8.54.200 – Properties Subject to Registration

The following properties must be registered with the City as part of the Foreclosed and Defaulted Residential Property Registration and Abatement Program:

A. Vacant and Occupied Residential Properties with a Recorded Notice of Default.

1. Within 30 days of recording a Notice of Default with the Alameda County Clerk-Recorder's Office, a Responsible Party or its designee shall perform an inspection of the property that is the security for the Deed of Trust the Notice of Default is recorded against.
2. If the property is found to be Vacant or shows sufficient Evidence Of Vacancy that it is deemed to be abandoned, by this Chapter or under the deed of trust, the Responsible Party shall, within 30 days of the inspection, register with the City and pay the required registration fee pursuant to O.M.C. 8.54.20. If the property is deemed abandoned, the Beneficiary shall invoke an abandonment or any other appropriate provision express or implied in the Deed of Trust to permit the Beneficiary to assume possession or control of the Property sufficient to permit the Beneficiary or other Responsible Party to comply with the requirements of this Chapter.
3. If the property is Occupied and a Notice of Default has been recorded against the property, the Responsible Party or its designee shall:
 - a. Register the property pursuant to O.M.C. 8.54.200A.2, but shall not be required to pay a registration fee; and
 - b. Inspect the property pursuant to O.M.C. 8.54.310 until:
 - i. The Notice of Default is withdrawn or rescinded; or
 - ii. The property becomes Vacant and/or shows sufficient Evidence Of Vacancy, at which time the Responsible Party or their designee shall, within 30 days of that inspection, register the property as Vacant and pay the required registration fee described in O.M.C. 8.54.230 for vacant and defaulted properties.
 - c. If the property subject to a recorded Notice of Default is Occupied by a tenant or tenants, any Responsible Party or its designee shall provide the tenant(s) with a written statement of his/her/their rights in a form approved by the Building Official. The written statement shall be either mailed to the tenants at the physical address of the property or securely posted on the property. If the written statement is posted on the property, the paper used shall be weather-resistant.

B. Vacant and Occupied Foreclosed Residential Properties

1. All residential property that has been the subject of a Foreclosure where the title was transferred to the Beneficiary of a Deed of Trust involved in the Foreclosure or through a Deed in Lieu of Foreclosure.
2. Such properties must be registered within 30 days of transfer to the Beneficiary.
3. Foreclosed properties lawfully Occupied by tenants under leases entered into by the previous landlord (i.e. Trustor) shall register with the City, pay the registration fee under this chapter, and comply with all applicable Oakland and state landlord-tenant laws.
4. If the property is found to be Vacant or shows sufficient Evidence of Vacancy and has already been registered, the Responsible Party shall, within 30 days of the vacancy, change the status of the property to Vacant on the City's registration, without paying an additional fee.

C. A Responsible Party shall ensure that the utilities of lawfully Occupied properties are not terminated and if terminated shall ensure that the utilities are reinstated, unless the Responsible Party has written, credible evidence that the tenant is responsible under a valid rental agreement to pay for the cost of utilities or any individual utility.

D. It is the obligation of the Responsible Party to inform the City of any pending action, such as bankruptcy, other court or administrative action that would prohibit the Responsible Party from taking any of the actions required in this Chapter.

8.54.210 – Recordation of Transfer of Loan/Deed of Trust/Substitution of Beneficiary of Deed of Trust

Within 10 days of a property transaction involving a change in the identity of an owner or the Owner of Record, a transfer/assignment of a loan or Deed of Trust, or alternatively a Substitution Of Beneficiary Of Deed Of Trust secured by property located within Oakland, each Beneficiary and trustee engaged in said transaction or transfer/assignment/substitution shall record, via the Alameda County Clerk-Recorder's Office, an instrument reflecting the identity, mailing address and telephone number of the trustee and Beneficiary responsible for receiving payments associated with the loan or Deed of Trust in question. This duty/obligation shall be joint and several among and between all trustees and beneficiaries and their respective agents. This section applies only to residential properties that would be subject required to register pursuant to this Chapter if a Notice of Default is recorded.

8.54.220 Registration Procedure

A. Registration may be accomplished by either or both of the following methods:

1. By completing and returning to the Building Official a City-provided registration form with required fee; and/or
2. Registering online at a website established by the City for the purpose of registering properties under this Chapter.

B. The registration shall contain the name, direct contact information including telephone number, direct street/ mailing address (no P.O. boxes) of the Responsible Party/parties. If, pursuant to this Chapter, the hiring of a Local Property Management Company is required, the name, direct street/ mailing address (no P.O. boxes) and telephone number of the Local Property Management Company responsible for inspecting, securing, and maintaining the property shall also be disclosed on the registration form.

C. The registration shall also include a 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 provisions of this Chapter. D. The registration shall be renewed annually until the subject property is no longer subject to registration under this Chapter. Any changes to the information required on the registration shall be reported to the Permit Center in writing within 10 days of the change. The City is not responsible for verifying the accuracy of the information provided.

E. Responsible parties are affirmatively required to deregister properties once these properties are no longer subject to registration pursuant to this Chapter.

F. The registration or deregistration may also require such information as may be deemed important by the Building Official to implement this Chapter.

8.54.230 Fees.

Fees for registration of all properties required to be registered pursuant to this Chapter are set out in the master fee schedule. In the case of hard copy registration under 8.54.220(A)(1), initial registration fee shall accompany the registration form. The City may provide for electronic payment of fees that are registered through the City's website. Otherwise, fees must be received by the City within 10 days of the date of registration. Fees shall be fully paid at the time of submitting the statement of registration to the City and annually thereafter on the anniversary date of submittal, unless a subsequent ordinance of the City Council to amend the master fee schedule otherwise specifies.

8.54.240 - Status

The Responsible Party shall immediately advise the City in writing of a material change in the status of a property subject to this Chapter, including, but not limited to, becoming blighted, unsecured, fire damaged, hazardous, or uninhabitable occupied, or having a change in ownership.

8.54.250 – Special Provisions Where Property is Encumbered with the Security Interests of

Multiple Beneficiaries

A. In the event that a property is encumbered by the security interests of more than one beneficiary at the time when a Notice of Default is recorded, the beneficiary who first causes a Notice of Default for its security interest to be recorded shall be responsible for registering the property with the City as provided in O.M.C. 8.54.220.

B. Upon recordation of a Notice of Default on a property by any Beneficiary, regardless of the security lien interest priority of such Beneficiary in the property in relation to the priority of the security interests of the other Beneficiaries in the same property, the City, in its discretion may elect to enforce the provisions of the Chapter against one or more Beneficiaries who have not separately recorded a Notice of Default against the property.

ARTICLE IV. Inspection, Maintenance, and Security Requirements

8.54.300– Retention of Management Company

A. If any of the following is applicable, the Responsible Party shall, at his or her or its own expense, hire a Local Property Management Company that will be responsible for the inspection, maintenance, management, and security of the property:

1. The owner of the property that acquired through a Foreclosure sale resides or has a principal place of business or headquarters that is located Out-Of-Area;
2. The owner of the property that was acquired through a Deed in Lieu of Foreclosure or sale resides or has a principal place of business or headquarters that is located Out-Of-Area; or
3. Both the Beneficiary and trustee of a property upon which a Notice of Default has been recorded reside have a principal place of business or headquarters that is located Out-Of-Area.

B. The Local Property Management Company shall be licensed to do business in the City. The Local Property Management Company is required to conduct regular inspections of an occupied or vacant property, pursuant to the requirements of 8.54.310, to ensure that the property remains in compliance with all applicable laws and regulations. The Local Property Management Company shall verify that the property has been inspected pursuant to this Chapter via the Building Services' website on or before the 1st day of each calendar month for which the real property remains Vacant.

C. Properties for which the retention of a Local Property Management Company is required under this Chapter shall be posted with the name and 24-hour contact telephone number of the Local Property Management Company in accordance with the standards established by the City. Additionally, the local management company must be authorized to 1) comply with the code enforcement orders issued by the City and 2) provide a trespass authorization upon request of local law enforcement authorities if the property is unlawfully occupied.

D. For inspection, maintenance, management, and security of Occupied properties the Responsible Party shall utilize a Certified Property Manager. Inspection, maintenance, management, and security of

the property of Vacant properties subject to registration pursuant to this Chapter are not required to be carried out by a Certified Property Manager.

8.54.310 - Inspection Requirements

A. Foreclosed Properties

1. A Vacant Foreclosed property or a Foreclosed property that show sufficient Evidence Of Vacancy shall be inspected weekly.
2. An Occupied Foreclosed property ("Real Estate Owned") shall be inspected monthly.
3. Inspection includes, but is not limited to, a physical investigation of the property subject to registration pursuant to this Chapter to ensure compliance with all applicable laws, including Oakland Municipal Code Titie 8 Chapter 8.24.

B. Properties Subject to a Recorded Notice of Default

1. A Vacant or Occupied property in default or Distressed shall be inspected monthly.
2. Inspection includes, but is not limited to, a physical investigation of the property subject to registration pursuant to this Chapter to ensure compliance with all applicable laws, including Oakland Municipal Code Titie 8 Chapter 8.24.

C. On the 1st business day of each month, the party who conducted the inspection (the Local Property Management Company or the local Responsible Party) shall verify the required inspection either on the website set up for registration or on forms provided by the Building Official.

8.54.320 – Maintenance Requirements

A. It is declared a public nuisance for any person, partnership, association, corporation, fiduciary, or other legal entity that owns, leases, occupies, controls, or manages any property subject to the registration requirement of this Chapter., to cause, permit, or maintain any property condition contrary to any provision of this Chapter. Consequently, the following maintenance requirements as to any property subject to the registration requirement of this Chapter.

B. Properties registered pursuant to this Chapter, including a property that has been issued a Notice of Default and deemed Abandoned, shall be maintained according to the following standards:

1. Any property subject to this Chapter must comply with the requirements of Oakland Municipal Code Chapter 8.24 entitled, "Property Blight."
2. The property shall be kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building material, any accumulation of newspaper, circular, flyers, notices (except those required by federal, state or local law), discarded personal items including, but not limited to, furniture,

mattresses, automobile tires, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

3. The property shall be maintained free of graffiti, tagging or similar marking. Any removal or painting over of graffiti shall be with an exterior grade paint that matches the color of the exterior structure, Removal shall occur within 48 hours of placement on property.
4. Landscaping includes, but is not limited to, grass, Turf Stain, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark, or artificial turf/sod designed specifically for residential installation.
5. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch (unless applied in conjunction with reseeded of turf areas), indoor-outdoor carpet or any similar material.
6. Maintenance includes, but is not limited to, regular watering, irrigation, staining, re-staining, cutting, pruning and mowing of required landscape and removal of all trimmings,
7. Pools and spas shall be kept in working order so that water remains clear and free of pollutants and debris, or alternatively shall be drained and kept dry. In either case, properties with pools and/or spas must comply with the minimum security fencing requirement of State or other law.
8. Adherence to this section does not relieve the Responsible Party of any obligations set forth in any portion of the Oakland Municipal Code or in any covenants, conditions, and restrictions and/or homeowners' association rules and regulations which may apply to the property.
9. Utility services to residential property subject to registration shall not be terminated if the property is lawfully Occupied by tenants who are currently under a valid rental agreement with the Trustor. Nothing in this section precludes an Owner from recovering such costs from a tenant who is obligated to pay utility costs pursuant to a valid rental agreement.
10. Nothing in this Chapter relieves any Responsible Party of the need to obtain approvals, permits, and/or licenses as otherwise required by the Oakland Municipal Code or other governmental entities.

8.54.330 – Security Requirements

A. Properties subject to this Chapter, including a property that has been issued a Notice of Default and deemed Abandoned, shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

B. Secure manner includes, but is not limited to, closing and locking of windows, doors (walk-through, sliding, and garage), gates/fences and any other opening that may allow access to the interior of

the property and/or structure(s). In the case of broken windows, "securing" means re-glazing or boarding the windows(s).

C. If the property is owned by a corporation and/or Out-Of-Area Beneficiary/trustee/owner, a Local Property Management Company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met. If the Local Property Management Company determines the property is not in compliance, it is the Responsible Party's responsibility, on its own or through the Local Property Management Company to bring the property into compliance.

D. The property shall be posted with the name and 24-hour contact telephone number of the Local Property Management Company or the Responsible Party if Local. The posting shall be no less than 18 inches by 24 inches, shall be of a font that is legible from a distance of 45 feet, and shall contain the following words, "THIS PROPERTY IS MANAGED BY _____" and "TO REPORT ANY PROBLEMS OR CONCERNS CALL _____."

E. The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street of the front of the property so it is visible to the street. If no such area(s) exist, the posting shall be on a stake of sufficient size to support the posting, in a location that is visible from the street to the front of the property, and to the extent possible, not readily accessible to potential vandalism. Exterior posting must be constructed of and printed with, or contained in, weather-resistant materials.

F. The Building Official shall have the authority to require additional maintenance and/or security measures including, but not limited to, securing any and all doors, windows or openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to better secure and/or reduce the visual decline of the property.

G. The duties/obligations specified in this section shall be joint and several among and between all trustees and beneficiaries and their respective agents.

Article V. - Enforcement

8.54.400 - Compliance.

The Responsible Party of all properties subject to this Chapter shall comply fully and in all instances with the provisions of this Chapter and with all other applicable requirements of ordinances of the City, regulations of this Code, statutes of the State and the United States Code of Regulations, and decisions, rulings, and orders of courts of competent jurisdiction.

8.54.410 - Violations.

A. General. The failure of a Responsible Party 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, whether by federal, state or local law. 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 and shall have at least 30 days to correct prior to the assessment of any fines or penalties.

D. Defaulted Properties. If the property has received a Notice of Default, but has not been transferred to the Beneficiary or other person through Foreclosure, Deed in Lieu of Foreclosure, or other transfer, no fine or penalty may be imposed against the Beneficiary unless the Owner of Record has been first notified of the violation and given at least 30 days to cure and the Beneficiary has been notified that the Owner of Record failed to cure and has been given at least 30 days to cure. The 30 day notice period shall not apply if the Building Services Division determines that a specific condition of the Property threatens public health or safety.

E. Fines or Penalties. The City may assess penalties pursuant to O.M.C. Chapter 1.08, 1.12, and/or 1.16 as appropriate to the violation. A failure to register, or permitting blight or a nuisance to exist on any property subject to this Chapter is considered a major violation and subject to the penalties set out in Chapter 1.08.

8.54.420 - Assessments.

A. Penalties and Fines. , The assessment of penalties as set forth in Chapters 1.08 or 1.12, 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. For properties cited pursuant to California Civil Code Section 2929.3 fines and penalties shall be assessed pursuant to that Code Section and the procedures and requirements of that Section and O.M.C 8.54.450.

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 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:

1. **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 to enforce payment.
2. **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.
3. **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 for a money judgment.

D. Pursuant to California Civil Code Section 2929.45, the City of Oakland shall not:

1. Impose an assessment or lien unless the costs that constitute the assessment or lien have been adopted by the City Council at a public hearing; and
2. The assessment or lien to recover the costs of nuisance abatement measures taken by the City with regard to property that is subject to a Notice of Default, that is purchased at a Foreclosure sale, or that is acquired through Foreclosure under a mortgage or Deed of Trust, shall not exceed the actual and reasonable costs of nuisance abatement.

E. The City may recover from the Responsible Party 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.

8.54.430 - 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 property subject to this Chapter without actual or constructive notice of the assessment under this Chapter shall not be liable for

such assessment.

8.54.440 Additional Remedies

A. Any violation of this Chapter shall be treated as a strict liability offense; a violation shall be deemed to have occurred regardless of a violator's intent.

B. Any person, partnership, association, corporation, fiduciary or other legal entity, that owns, leases, occupies, controls or manages any property subject to this Chapter, and causes, permits, or maintains a violation of this Chapter as to that property, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in Chapter 1.28 of the Oakland Municipal Code.

C. This Chapter is intended to be cumulative to, and not in place of, other rights and remedies available to the City pursuant to the Oakland Municipal Code or available under state or federal law. The City Attorney or a duly authorized enforcement official may pursue any other right or remedy permitted by the Oakland Municipal Code, including, but not limited to, commencement of any civil action, or administration action to abate the condition of a property as a public nuisance.

D. In the event that the City takes administrative action to abate the condition of a property subject to the registration requirement contained in this Chapter, above and beyond the rights and remedies specified in Chapters 1.08, 1.12, 1.16 and 15.08 the following administrative penalties shall apply:

1. In each instance when a party becomes subject to a penalty specified in this section, a Building Official shall issue an order providing written notice of that party's obligation to make payment of said penalty. Each such order shall constitute a special assessment against the property in question having the same legal status as an order determining the cost of abatement of a public nuisance pursuant to the provisions of Chapter 15.08.

8.54.450 Alternative Monetary Penalties For Violations of California Civil Code Section 2929.3

A. This Section is intended to carry out the provisions of California Civil Code Section 2929.3. Nothing in this Section shall be interpreted or implemented in a manner that is inconsistent with state law. If there is a conflict between the provisions of state law and this Section, state law shall control.

B. The City may elect to impose monetary penalties on a legal owner, pursuant to California Civil Code Section 2929.3, if that legal owner fails to maintain Vacant residential property that is either purchased at a Foreclosure sale or acquired through Foreclosure under a mortgage or Deed of Trust.

1. For purposes of this Section, "fails to maintain" means failing to care for the exterior of the property, including, but not limited to, permitting excess foliage growth that diminishes the value of surrounding properties, failing to take action to prevent trespassers, squatters or other unauthorized persons from remaining on the property, or failing to take action to

prevent mosquito larvae from growing in standing water, or other conditions that create a public nuisance.

C. The City may impose a fine of up to One Thousand Dollars (\$1,000.00) per day for each day that the legal owner fails to maintain the property as required by this Section, commencing on the day following the expiration of the period to remedy the violation, as established by the City in Subsection D.

1. In determining the amount of the fine, the City shall take into consideration any timely and good faith efforts by the legal owner to remedy the violation.
2. Fines and penalties collected pursuant to this Section shall be directed toward local nuisance abatement programs.
3. Pursuant to Section 2929.3 of the California Civil Code, the City may not impose fines on a legal owner under both this Section and any other local ordinance. However, Section 2929.3 of the California Civil Code shall not preempt any local ordinance.
4. Notwithstanding Subsection (C)(3) above, the rights and remedies provided in this Section are cumulative and in addition to any other rights and remedies provided by law.

D. If the City imposes a fine pursuant to this Section, the City shall give notice of the alleged violation to the Owner of Record. The notice shall include a description of the conditions that gave rise to the alleged violations, and state the City's intent to assess a civil fine if action to correct that violation is not corrected within a period of not less than 30 days.

1. The notice shall be mailed to the address provided in the Deed of Trust or other instrument as specified in subdivision (a) of Section 27321.5 of the Government Code, or if none to the return address provided on the deed or other instrument.
2. If the violation(s) are not corrected after the City has mail the notice of violation pursuant to 8.54.340(D)(1), the Responsible Party or the Beneficiary and/or trustee as appropriate shall remedy the violations contained in the notice. All measures to remedy the violations contained in the notice shall comply with the Oakland Municipal Code.
3. The City may provide less than 30 days' notice to remedy a condition, if the City determines that a specific condition of the property threatens public health or safety and the notice of violation states that there is a threat to public health or safety and lists the required time to correct the violation.

Article VI. - Appeal

8.54.500 - Appeal.

The Responsible Party 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. Appeals of the assessment of penalties shall be in accordance with the provisions set forth in Chapter 1.08 or 1.12, as appropriate.

8.54.510 - 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.

Article VII. - Miscellaneous

8.54.600 Severability

Should any provision, section, paragraph, sentence or word of this Chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Chapter shall remain in full force and effect.

8.54.610 Regulations

The City Administrator is authorized to promulgate regulations to further the intents and purposes of this Chapter not inconsistent with the Chapter.

8.54.620 Use of Fines and Penalties

Fines and Penalties collected pursuant to this section shall be used first for costs of administration of the provisions of this Chapter, to the extent that such costs cannot be covered by fee revenue. Any amounts remaining shall be deposited to the Affordable Housing Trust Fund provided for in Section 15.68.100 and shall be appropriated for Foreclosure prevention programs and such other purposes as permitted by Section 15.68.100, unless collected under state law or the Oakland Municipal Code, and required to be put towards a different purpose.

SECTION 3. Applicability

A. 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.

B. 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.

C. Revenue Account

Registration Fees. Amounts collected from the existing and new registration fees shall be deposited in the special revenue Development Service Fund (2415), Code Enforcement Organization (84454), Miscellaneous Fines Account (45416), Project (to be determined), Development Permit and Inspection Program (NB31). Any fines or penalties collected pursuant to California Civil Code 2929.3 shall be deposited in the special revenue Development Service Fund (2415), Code Enforcement Organization (84454), Miscellaneous Fines Account (45416).

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2012

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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

NOTICE AND DIGEST

AN ORDINANCE AMENDING AND RESTATING OAKLAND MUNICIPAL CODE CHAPTER 8.54 (THE FORECLOSED AND VACANT RESIDENTIAL BUILDING REGISTRATION PROGRAM) BY EXPANDING IT TO INCLUDE BOTH VACANT AND OCCUPIED RESIDENTIAL PROPERTIES AND MULTIPLE UNIT BUILDINGS TO THE FORECLOSED AND DEFAULTED RESIDENTIAL PROPERTY REGISTRATION PROGRAM, TO SET OUT MORE SPECIFIC MAINTENANCE AND SECURITY REQUIREMENTS AND TO PROVIDE FOR ABATEMENT OF BLIGHT AND NUISANCES AT SUCH PROPERTIES

This ordinance will expand the foreclosed and vacant registration program codified as Chapter 8.54 in the Oakland Municipal Code and require the registration of all defaulted (NOD) and foreclosed (REO) properties and the maintenance of vacant NOD properties by a "Responsible Party" which means the owner of the property, or the beneficiary and/or trustee pursuing foreclosure of a property subject to Chapter 8.54 secured by a mortgage, deed of trust or similar instrument.

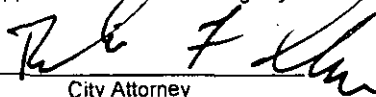
FILED
OFFICE OF THE CITY CLERK
OAKLAND

Introduced by

2012 APR 26 PM 1:08

Councilmember

Approved for Form and Legality



City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

A RESOLUTION AMENDING THE CITY OF OAKLAND'S FISCAL YEAR 2011- 2013 BIENNIAL BUDGET, WHICH WAS ADOPTED PURSUANT TO RESOLUTION NO. 83693 C.M.S. ON JANUARY 31, 2012, ADDING THE POSITIONS OF PROGRAM MANAGER AND AN ADMINISTRATIVE SUPPORT POSITION TO THE BUILDING SERVICES BUDGET FOR THE ADMINISTRATION OF THE FORECLOSED PROPERTIES REGISTRATION AND BLIGHT ABATEMENT PROGRAMS

WHEREAS, properties throughout the City of Oakland which lenders have recorded a Notice of Default (defaulted) or have taken ownership through a Deed of Trust (foreclosed) 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, defaulted and foreclosed properties 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, defaulted and foreclosed properties 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 defaulted and foreclosed properties, 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 defaulted and foreclosed properties by implementing an expansion of the City's existing program for identifying and monitoring these properties; and

WHEREAS, the costs to the City for implementing and sustaining such an expanded program for defaulted and foreclosed properties 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 defaulted or foreclosed properties increases with the time that building remains vacant or occupied 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, on February 2, 2010, the Council of the City of Oakland amended the Municipal Code (Ordinance no. 12991 C.M.S.) and adopted a new chapter 8.54 which established a foreclosed and vacant property registration program, and also amended the Master Fee Schedule and established fees to recover costs associated with the implementation and operation of said registration program; and

WHEREAS, the detrimental effects and additional financial burdens that defaulted properties and foreclosed and occupied properties impose on neighbors, prospective purchasers, and the business community in the City of Oakland have equaled or exceeded the impacts of caused by foreclosed and vacant properties; and

WHEREAS, the City Council has consider expanding the scope of said registration program to included foreclosed and occupied and defaulted properties, the result of which will require additional City resources to implement and operate; and

WHEREAS, the coordination of the City's new proactive approaching its registration program for defaulted and foreclosed properties, as well as blight abatement program for such properties requires extensive time, focused attention, and specialized skills; now, therefore be it

RESOLVED, that a position of Development/Redevelopment Program Manager be added to the Building Services budget to enable the hiring of dedicated staff persons with specialized skills needed to effectively administer, continue and expand the existing proactive registration and blight abatement programs. And that an administrative support position be added, either a Public Service Representative or Administrative Assistant I, to provide administrative support for the programs such as documentation, noticing, mailings, and other critical administrative needs; and be it

FURTHER RESOLVED, that these new positions are to be funded by the charges collected from the City's defaulted and foreclosed properties registration and bhght abatement programs,

from special revenue Development Services Fund (2415), Code Enforcement Organization (84454), Miscellaneous Fines Account (45416), Development Permit and Inspection Program (NB31); and be it

FURTHER RESOLVED, that these new positions will be eliminated upon a determination by the City Administrator regarding the lack of sufficient program need and/or funding availability.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2012

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

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

DATE OF ATTESTATION: _____

Introduced by

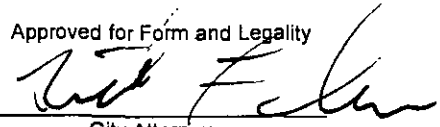
Councilmember

OFFICE OF

ER

2012 APR 26 PM 1:08

Approved for Form and Legality



City Attorney

OAKLAND CITY COUNCIL

Ordinance No. _____ C.M.S.

AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE (ORDINANCE No. 13078 C.M.S.) TO ESTABLISH NEW FEES FOR REGISTERING DEFAULTED AND FORECLOSED RESIDENTIAL PROPERTIES

WHEREAS, residential properties throughout the City of Oakland which lenders have recorded a Notice of Defauh (defaulted) or have taken ownership through a Deed of Trust (foreclosed) 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, defaulted and foreclosed properties 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, defaulted and foreclosed properties 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 defaulted and foreclosed properties, 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 conununity and the citizens of Oakland resulting from the effects of defaulted and foreclosed properties by implementing an expansion of the City's existing program for identifying and monitoring these properties; and

WHEREAS, the costs to the City for implementing and sustaining such an expanded program for defaulted and foreclosed properties 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 defaulted or foreclosed properties increases with the time that building remains vacant or occupied 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 defaulted and foreclosed properties, for field monitoring of defaulted and foreclosed properties, and for interacting with property owners and the public concerning defaulted and foreclosed properties; and

WHEREAS, the existing 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 foreclosed and vacant properties; and

WHEREAS, historically, said Code Enforcement costs have increased with each successive year that a property remains foreclosed and vacant at a rate not less than three (3) times the costs associated with the initial processing of a complaint for a foreclosed and vacant property 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, defaulted and foreclosed properties impose additional financial burdens on neighbors, prospective purchasers, and the business community in the City of Oakland; and

WHEREAS, on February 2, 2010, the Council of the City of Oakland amended the Municipal Code (ordinance no. 12991 C.M.S.) and adopted a new chapter 8.54 which established a foreclosed and vacant property registration program, and also amended the Master Fee Schedule and established fees to recover costs associated with the implementation and operation of said registration program; and

WHEREAS, concurrent with consideration of the instant Ordinance the Council of the City of Oakland is considering amending the Municipal Code chapter 8.54 which established a foreclosed and vacant property registration program to expand the program to include residential occupied foreclosed properties and vacant and occupied properties that have been issued a notice of default; and

WHEREAS, the detrimental effects and additional financial burdens that defaulted properties and foreclosed and occupied properties impose on neighbors, prospective purchasers, and the business community in the City of Oakland have equaled or exceeded the impacts of caused by foreclosed and vacant properties; and

WHEREAS, the City Council has considered expanding the scope of said registration program to included foreclosed and occupied and defaulted properties, the result of which will require additional City resources to implement and operate; and

WHEREAS, new fees will be necessary to recover the additional costs for said expansion of the existing foreclosed and vacant property registration program; and

WHEREAS, pursuant to California Government Code section 50076, setting the fee and applying of the fee to the expanded registration and inspection 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 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 setting the fee and applying of the fee to the expanded of registration and inspection 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.

SECTION 2. Amendments

Ordinance No. 13078 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 defaulted and foreclosed properties contingent upon the passage of an expanded O.M.C. Chapter 8.54 to include occupied foreclosed residential properties and occupied and foreclosed residential properties with a notice of default recorded.

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 DEFAULTED AND FORECLOSED PROPERTY REGISTRATION

1	annual registration processing		
a.	<u>Defaulted and occupied</u>	no fee	
b.	<u>All others</u>	\$396.00	Building
2	<u>annual compliance inspection</u>		
a.	<u>Defaulted and occupied</u>	no fee	
b.	<u>All others</u>	\$99.00	Inspection

page O-4

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.

D. Revenue Account

Amounts collected from the existing and new registration fees shall be deposited in the special revenue Development Service Fund (2415), Code Enforcement Organization (84454), Miscellaneous Fines Account (45416), Project (to be determined), Development Permit and Inspection Program (NB31).

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2012

PASSED BY THE FOLLOWING VOTE:

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

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. 13078 C.M.S.) TO ESTABLISH NEW FEES FOR
REGISTERING DEFAULTED AND FORECLOSED PROPERTIES**

This ordinance will establish additional processing and inspection fees with an annual payment totaling approximately \$568 for an expansion of the exiting program codified as Chapter 8.54 in the Oakland Municipal Code that will require the registration of all defaulted (NOD) and foreclosed (REO) properties.