

Introduced by

Councilmember

OFFICE OF THE CLERK
CITY OF OAKLAND

2012 APR 26 PM 1:08

Approved for Form and Legality



City Attorney

OAKLAND CITY COUNCIL

Ordinance No. 13127 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 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, 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 inorder 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
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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

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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, JUN 19 2012, 2012

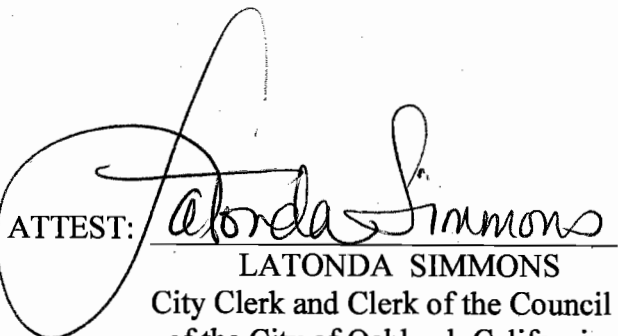
PASSED BY THE FOLLOWING VOTE:

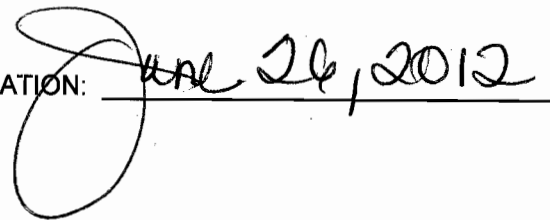
AYES - BRUNNER, BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL,
SCHAAF AND PRESIDENT REID - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

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

DATE OF ATTESTATION: June 26, 2012


Introduction Date **MAY 15 2012**

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.