

**CITY COUNCIL
ATLANTA, GEORGIA**

12-O-0842

AN ORDINANCE BY COUNCILMEMBER JOYCE M. SHEPERD

AN ORDINANCE TO AMEND THE ATLANTA HOUSING CODE OF 1987, APPENDIX E TO THE LAND DEVELOPMENT CODE, BY AMENDING ARTICLE VI ENTITLED "REGISTRATION OF VACANT PROPERTY" SO AS TO PROVIDE REQUIREMENTS FOR THE REGISTRATION OF CERTAIN VACANT PROPERTY; TO PROVIDE FOR THE PAYMENT OF AN ANNUAL REGISTRATION FEE; AND FOR OTHER PURPOSES.

Whereas, Ordinance 10-O-1457, adopted December 5 2011, amended the Atlanta Housing Code to establish a registry for vacant real property within the City of Atlanta; and

Whereas, such registry is maintained electronically and property owners have been filing registration statements for their vacant property since February 2, 2012; and

Whereas, during the 2012 legislative session, the General Assembly passed House Bill 110 setting forth limits on county and municipal vacant real property and foreclosed real property registration ordinances; and

Whereas, House Bill 110, codified as O.C.G.A. § 44-14-14, became law on May, 2012 and preempts all county and municipal registration ordinances in effect as of July 1, 2012 that are in conflict with the requirements of house bill 110; and

Whereas, in order to comply with the new requirements and limitations imposed by House Bill 110 on vacant property registration ordinances, it is necessary to amend the City's existing vacant property registration ordinance.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

Section 1: That the Atlanta Housing Code of 1987, which is codified at Appendix "E" to the Land Development Code is hereby amended by striking the provisions of Article VI, entitled "Registration of Vacant Property" and inserting in lieu thereof the following provisions which shall read as follows:

Article VI: Registration of Vacant Real Property.

Sec 60. Definitions.

The following terms used or referred to in this Code shall have the respective meanings:

(a) *Agent* shall mean an individual with a place of business in this state at which he or she is authorized to accept inquiries, notices, and service of process on behalf of a vacant or foreclosed real property owner.

(b) *Foreclosed real property* shall mean improved or unimproved real property for which a land disturbance permit has been issued by the city and is held pursuant to a judicial or non-judicial foreclosure of a mortgage, deed of trust, security deed, deed to secure debt, or other security instrument securing a debt or obligation owed to a creditor or a deed in lieu of foreclosure in full or partial satisfaction of a debt or obligation owed to a creditor.

(c) *Owner* shall mean any person or persons having any individual, joint or common title or interest in real property defined by the laws of the State of Georgia as a legal or equitable estate or interest.

(d) *Registration* shall mean the filing of a Registration Statement with the Office of Code Enforcement.

(e) *Registration Statement* shall mean the form(s) required to be filed with the Office of Code Enforcement pursuant to this Article.

(f) *Residential Rental Property* shall mean a dwelling lawfully occupied as a residence pursuant to a lease instrument by one or more tenants. A dwelling which is vacant, as defined herein, as opposed to occupied, shall be subject to registration notwithstanding the owner's intent to lease such dwelling on a future date.

(g) *Registry* shall mean the official record, electronic or otherwise, of registration of structures required by this Article.

(h) *Street address* shall mean the street or route address. Such term shall not mean or include a post office box.

(i) *Vacant real property* shall mean real property that is either (1) intended for habitation, has not been lawfully inhabited for at least 60 days, and has no evidence of utility usage within the past 60 days; or (2) is partially constructed or incomplete, without a valid building permit. Such term shall not include a building or structure containing multiple units with common ownership that has at least one unit occupied with evidence of utility usage.

Sec. 61. Registration.

(a) *Duty to Register.* It shall be the affirmative duty of each owner of real property to file a complete registration statement with the Office of Code Enforcement upon such property becoming vacant real property within the meaning of this Article.

(b) Notwithstanding the foregoing, the filing of a registration statement of vacant real property shall not be required by this Article within ninety (90) days of such real property's transfer:

- (1) Pursuant to a deed under power of sale or deed in lieu of foreclosure; or

- (2) To the first subsequent transferee after the vacant real property has been acquired by foreclosure under power of sale pursuant to O.C.G.A. 44-17-160 or acquired pursuant to a deed in lieu of foreclosure.

After ninety (90) days from either transfer it shall be the affirmative duty of each owner of vacant real property to file a complete registration statement with the Office of Code Enforcement.

(c) *Exemption for foreclosed real property.* Notwithstanding Sec. 61 (a) and (b), when any vacant real property is acquired by foreclosure under power of sale pursuant to O.C.G.A. 44-14-160 or acquired pursuant to a deed in lieu of foreclosure and;

- (1) the deed under power of sale or deed in lieu of foreclosure contains the information specified in paragraphs (1) through (5) of Section 62 (a);

- (2) the deed is filed with the clerk of superior court within 60 days of the transfer; and

- (3) proof of the following is provided to the office of Code Compliance:

- (i) A filing date stamp or a receipt showing payment of the applicable filing fees; and

- (ii) The entire deed under power of sale or entire deed in lieu of foreclosure,

the transferee shall not be required to register such foreclosed real property pursuant to Section 61 of this Article or the payment of any administrative fees pursuant to Section 63 of this Article.

(d) *Penalties for Failure to Register or to Update.* Any owner that fails to register or to update the information specified in Sec. 62 shall be in violation of the Atlanta Housing Code and shall be fined in the amount of \$1,000.00 per vacant real property. The Atlanta Municipal Court may reduce the fine to \$100.00 per vacant real property if he or she finds that registration or update, as the case may be, occurred within five business days of service of summons.

Sec. 62. Registration Statement.

(a) *Registration statement.* Until such time as the Georgia Department of Community Affairs promulgates a standard registry form, the Office of Code Enforcement is authorized to prepare registry forms, in paper or electronic format. On such form, each registrant shall be required to file with the Office of Code Enforcement only the following information:

- (1) the real property owner'(s) name, the street address, mailing address, phone number, facsimile number, and email address;

(2) the agent's name, street address, mailing address, phone number, facsimile number, and email address;

(3) the real property's street address and tax parcel number;

(4) the transfer date of the instrument conveying the real property to the owner; and

(5) at such time as it becomes available, recording information, including deed book and page numbers, of the instrument conveying the real property to the owner.

(b) *Updated Registration Statement.* The owner shall notify the Office of Code Enforcement, within 30 days, of any change in the information provided in the registration statement and regardless of whether the information provided was in the deed under power of sale or deed in lieu of foreclosure, by filing an updated registration statement on a form provided by the Office of Code Enforcement for such purposes. There shall be no fee for the filing of an updated registration statement.

(c) *Initial Validity/Renewal.* The registration shall remain valid for twelve months from the date of the filing of the registration statement. In the event that ownership of a registered structure changes during this period, the new owner shall file an amended registration statement within 20 days of accepting the vesting instrument. The owner shall be required to renew the registration for successive twelve-month periods as long as the real property remains vacant for any part thereof.

Sec. 63. Registration/Renewal Fee.

At the time of the filing of the registration statement, the owner shall pay a registration fee in the amount of \$100 for each vacant real property. No registration statement shall be deemed filed unless the fee has been paid. For a parcel of land containing two or more buildings under common ownership, only one registration statement and one fee shall be required.

Sec. 64. Electronic Registration.

The Office of Code Enforcement is authorized to administer, or contract for the administration of, the provisions of this Article pursuant to an electronic and/or web-based registry system for the registration of structures subject to this Article.

Sec. 65. Maintenance of Vacant Real Property.

The owner of any vacant building or dwelling, shall, within 30 days of registration, do the following:

(a) enclose and secure the building or dwelling as provided in Section 29 of this Article; and

(b) post a sign affixed to the building or dwelling indicating the name, address and telephone number of the owner and the owner's authorized agent for the purpose of notice and/or service of

process. The name, address and telephone number of a person responsible for day-to-day supervision and management of the building or dwelling, if such person is different from the owner holding title or authorized agent shall be indicated on the sign as well. The sign shall be of a size and placed in such a location so as to be legible from the nearest public street or sidewalk, whichever is nearer; and

(c) maintain the building or dwelling in a secure and closed condition and maintain the sign until the building or dwelling is again occupied or demolished or until repair or completion of the building or dwelling has been undertaken.

Sec. 66. Removal from Registry.

A vacant real property owner, or the agent of such owner, may apply to remove such vacant real property from the registry at such time as the real property no longer constitutes vacant real property. Application for removal from the registry shall be accompanied by corroborating documentation that the real property no longer constitutes vacant real property. Corroborating documentation need not, and shall not, include the names or other personal information of any tenant(s). The Office of Code Enforcement shall grant or deny such application within 30 days and in the case of denial shall provide notice to the property owner. If the Office of Code Enforcement does not grant or deny the application for removal from the registry within 30 days, the application shall be deemed granted.

Sec. 67. Administrative Procedures/Appeals.

(a) Appeals may be taken by any person aggrieved by any determination of an Office of Code Compliance administrative official, by filing with the official from whom the appeal is taken, and with the Director of the Office of Code Compliance, a notice of appeal specifying the grounds thereof and all documentation in support thereof, within 30 days after the determination appealed from was taken.

(b) An appeal stays all legal proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken certifies to the Director, after notice of appeal shall have been filed with him or her, that by reasons of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Director or a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(c) The Director shall review the appeal and any documentation submitted in support of opposition to the appeal and shall rule on the appeal within 30 days of appeal. An appeal shall be sustained upon an expressed finding by the Director that the administrative official's action was based on an erroneous finding of a material fact, or that he or she acted in an arbitrary manner. In exercising his or her powers, the Director may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may order the registration, or not, or removal, or not, from the registry provided all requirements imposed by the applicable laws other than these are met.

(c) Any person aggrieved by a decision of the Director may appeal from such decision to the City of Atlanta Municipal Court, subject to applicable jurisdictional requirements, by filing with the clerk of said court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within 30 days after decision of the Director is rendered.

Section 2: Notwithstanding O.C.G.A. § 36-74-30, this ordinance shall require the registration of residential rental property if such property is vacant or foreclosed real property.

Section 3: The Department of Watershed Management may provide the Office of Code Enforcement any business records evidencing water and/or sewer disconnect to aid the latter in the enforcement of this Ordinance.

Section 4: This Ordinance is not the exclusive regulation within the City. It shall be supplemental and in addition to the other regulatory statutes and ordinances heretofore or hereinafter enacted by the City, the state or any other legal entity or agency having jurisdiction.

Section 5: In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance shall, to the greatest extent allowed by law, remain valid, constitutional, enforceable and of full force and effect.

Section 6: All Ordinances or parts of Ordinances, in conflict herewith are repealed to the extent of the conflict.

Section 7: This Ordinance shall become effective on July 1, 2012

A true copy,

ADOPTED by the Atlanta City Council

June 18, 2012

APPROVED as per City Charter Section 2-403

June 27, 2012

Deputy Municipal Clerk