COUNTY AGENDA REQUEST

Department:	Planning and Zoning	Presenter(s):	Pete Frisina
Meeting Date:	Thursday, September 26, 2013	Type of Request:	New Business

Wording for the Agenda:

Consideration of staff's recommendation to adopt Ordinance 2013-12 amending the Code of Ordinances for Fayette County, Georgia; to enact provisions pertaining to registration of vacant or foreclosed real property; to provide an effective date, to repeal conflicting ordinances; to provide for severability, to promote the public health, safety and welfare, and for other purposes.

Background/History/Details:

In the last several years, Fayette County has experienced a large number of foreclosures that sometimes result in properties being vacant and not maintained. In many cases, it is difficult to determine who is the responsible property owner.

On March 13, 2013, The Georgia Senate approved House Bill 110 in an attempt to standardize vacant and foreclosed property registries across the State of Georgia; resulting in a new code section O.C.G.A. § 44-14-14.

This proposed ordinance in is compliance with O.C.G.A. § 44-14-14 per the County Attorney. The ordinance will be administered by the Code Enforcement Section as designated by the County Administrator.

Embodied in this proposed Ordinance is a registration, or administrative fee, where: "Upon the submission of the registration required in Section 5-931 the owner of such vacant or foreclosed property, or the agent of such owner, shall pay the County an administrative fee which shall be established by the Board of Commissioners and which shall not exceed $100.00 per registration. Said fee shall reasonably approximate the cost to the County of the establishment, maintenance, operation, and administration of the registry".

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to adopt Ordinance 2013-12 amending the Code of Ordinances for Fayette County, Georgia; to enact provisions pertaining to registration of vacant or foreclosed real property; to provide an effective date, to repeal conflicting ordinances; to provide for severability, to promote the public health, safety and welfare, and for other purposes.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

STATE OF GEORGIA

FAYETTE COUNTY

ORDINANCE

NO. 2013-12

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR FAYETTE COUNTY, GEORGIA; TO ENACT PROVISIONS PERTAINING TO REGISTRATION OF VACANT OR FORECLOSED REAL PROPERTY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY AND IT IS HEREBY ENACTED PURSUANT TO THE AUTHORITY OF THE SAME THAT THE CODE OF ORDINANCES OF FAYETTE COUNTY AS IT PERTAINS TO BUILDINGS AND GENERAL FEES (CHAPTER 5), BE AMENDED AS FOLLOWS:

Section 1. By designating Sections 5-908 through 5-929 of Chapter 5 as "Reserved" and by creating a new Article XI, pertaining to "Registration of Vacant or Foreclosed Real Property", in Chapter 5, to be numbered and read as follows:

ARTICLE VIII.

REGISTRATION OF VACANT OR FORECLOSED REAL PROPERTY

Sec. 5-930. Definitions.

(a) *Agent* shall mean an individual with a place of business in the State of Georgia 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 County 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) *Street address* shall mean the street or route address. Such term shall not mean or include a post office box.

(d) *Vacant real property* shall mean real property that:

(1) Is intended for habitation, has not been lawfully inhabited for at least sixty (60) days, and has no evidence of utility usage within the past sixty (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. 5-931. Registration.

(a) Pursuant to O.C.G.A. § 44-14-14, there is hereby created in Fayette County a registry of vacant or foreclosed real properties located within the County, with the exception of territory located within the boundaries of any municipal corporation unless otherwise allowed by intergovernmental agreement between the County and said municipal corporation.

(b) All vacant or foreclosed real property located within the area described in subsection (a) must be registered as provided in this section and article, except as provided in Section 5-932.

(c) Each registrant shall file with the County Administrator or his/her designee, a registration form setting out the following information:

(1) The real property owner's name, street address, mailing address, phone number, facsimile number, and e-mail address;

(2) If applicable, the agent's name, street address, mailing address, phone number, facsimile number, and e-mail 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.

Sec. 5-932. Transfers.

(a) When any 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, the transferee shall not be required to register such foreclosed real property pursuant to this article or pay any of the administrative fees provided for in Section 5-935 of this article where:

(1) The deed under power of sale or deed in lieu of foreclosure contains the information specified in paragraphs (1) through (5) of subsection (c) of Section 5-931;

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

(3) Proof of the following is provided to the County Administrator, or his/her designee:

(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.

(b) Registration of vacant or foreclosed real property is not required 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. § 44-14-160 or acquired pursuant to a deed in lieu of foreclosure.

Once the aforementioned ninety-day period has expired, registration of such vacant or foreclosed property must be made within thirty (30) days of said expiration.

Sec. 5-933. Updating of information.

The owner of vacant or foreclosed real property registered with the County shall update the information specified in paragraphs (1) through (5) of subsection (c) of Section 5-931 within thirty (30) days after any change in such required information regardless of whether the information provided to the registry was in the deed under power of sale or deed in lieu of foreclosure.

Sec. 5-934. Removal from registry.

The owner of vacant or foreclosed real property registered with the County, or the agent of such owner, may apply to remove such vacant or foreclosed real property from the registry at such time as the real property no longer constitutes vacant or foreclosed real property. Such

application shall be considered by the County Administrator or his/her designee, whose determination shall be issued within thirty (30) days of the receipt of said application. If no such determination is made within thirty (30) days, the application shall be deemed granted.

Sec. 5-935. Administrative fees.

Upon the submission of the registration required in Section 5-931, the owner of such vacant or foreclosed real property, or the agent of such owner, shall pay to the County an administrative fee which shall be established by the Board of Commissioners and which shall not exceed $100.00 per registration. Said fee shall reasonably approximate the cost to the County of the establishment, maintenance, operation, and administration of the registry.

Sec. 5-936. Violations.

Failure to register vacant or foreclosed real property or failure to update the information specified in paragraphs (1) through (5) of subsection (c) of Section 5-931 shall be punishable by a fine of up to $1,000.00.

Sec. 5-937. Appeals.

Any vacant or foreclosed real property owner affected by this article may challenge any determination made by the County or its officials pursuant to this article by appealing said determination to the Magistrate Court of Fayette County. Such appeal shall be filed with the Court no later than thirty (30) days after receipt of said determination.

Section 2. This ordinance shall become effective immediately upon its adoption by the

Board of Commissioners for Fayette County.

Section 3. All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. In any event any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not a part thereof. The Board of Commissioners hereby declares that it would have passed the remaining parts of this Ordinance if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

SO ENACTED this ____ day of _____, 2013.

BOARD OF COMMISSIONERS OF
FAYETTE COUNTY

By:_____
Steve Brown, Chairman

(SEAL)

ATTEST:

_____
Floyd Jones, County Clerk

Approved as to form:

_____
Interim County Attorney