10- O -0627

(Do Not Write Above This Line)

AN ORDINANCE
BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE

AN ORDINANCE TO AMEND ARTICLE III OF THE ATLANTA HOUSING CODE OF 1987, APPENDIX "E" OF THE CITY OF ATLANTA LAND DEVELOPMENT CODE, ENTITLED "ADMINISTRATIVE IN REM", SO THAT ANY ORDER OF THE IN REM REVIEW BOARD SHALL BE AS STANDING ORDER FOR TWO YEARS FROM THE DATE OF THE ORDER; SO AS TO ALLOW THE DIRECTOR OF THE BUREAU OF CODE COMPLIANCE TO ENSURE CONTINUED COMPLIANCE WITH THE ORDER BY CARRYING OUT SAME FROM TIME TO TIME AS NECESSARY; SO AS TO ALLOW THE DIRECTOR TO FILE ADDITIONAL LIENS FOR COSTS INCURRED IN ENSURING COMPLIANCE WITH THE ORDER; AND FOR OTHER PURPOSES.

ADOPTED BY
MAY 17 2010
COUNCIL

- [x] CONSENT REFER
- [ ] REGULAR REPORT REFER
- [ ] ADVERTISE & REFER
- [ ] 1st ADOPT 2nd READ & REFER
- [ ] PERSONAL PAPER REFER

Date Referred 05/03/10
Referred To: CDHR
Date Referred
Referred To:
Date Referred
Referred To:

1947-12-1

First Reading
Committee CD/HR
Date 4/27/10
Chair Joyce M. Sheperd
Referred To CD/HR

Committee	Committee
Committee CD/HR	
Date 5/11/10	Date
Chair Joyce M. Sheperd	Chair
Action: Fav, Adv, Hold (see rev. side) Other	Action: Fav, Adv, Hold (see rev. side) Other
Members	Members
Refer To	Refer To

Committee	Committee
Date	Date
Chair	Chair
Action: Fav, Adv, Hold (see rev. side) Other	Action: Fav, Adv, Hold (see rev. side) Other
Members	Members
Refer To	Refer To

FINAL COUNCIL ACTION
- [ ] 2nd
- [ ] 1st & 2nd Readings
- [ ] 3rd
- [ ] Consent
- [ ] V Vote
- [x] RC Vote

CERTIFIED
CERTIFIED
MAY 17 2010
ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED
MAY 17 2010
Rhonda Dauphin Johnson
MUNICIPAL CLERK

MAYOR'S ACTION
APPROVED
MAY 25 2010
MAYOR

CITY COUNCIL
ATLANTA, GEORGIA

10- O -0627

AN ORDINANCE
BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE

AN ORDINANCE TO AMEND ARTICLE III OF THE ATLANTA HOUSING CODE OF 1987, APPENDIX "E" OF THE CITY OF ATLANTA LAND DEVELOPMENT CODE, ENTITLED "ADMINISTRATIVE IN REM", SO THAT ANY ORDER OF THE IN REM REVIEW BOARD SHALL BE AS STANDING ORDER FOR TWO YEARS FROM THE DATE OF THE ORDER; SO AS TO ALLOW THE DIRECTOR OF THE BUREAU OF CODE COMPLIANCE TO ENSURE CONTINUED COMPLIANCE WITH THE ORDER BY CARRYING OUT SAME FROM TIME TO TIME AS NECESSARY; SO AS TO ALLOW THE DIRECTOR TO FILE ADDITIONAL LIENS FOR COSTS INCURRED IN ENSURING COMPLIANCE WITH THE ORDER; AND FOR OTHER PURPOSES.

WHEREAS, the Atlanta Housing Code of 1987 has as its purpose to provide for the maintenance of the minimum requirements necessary for the protection of life, limb, health, property, safety and welfare of the general public and the owners and occupants of residential property in the City of Atlanta; and

WHEREAS, Article III of the Atlanta Housing Code of 1987 establishes the In Rem Review Board and gives such Board the power to hear cases involving real property alleged to be unfit for occupancy or habitation and to order the property either clean and closed or demolished based on the percent of deterioration; and

WHEREAS, the City's "in rem" program is expressly authorized by O.C.G.A. § 36-61-11 entitled "Repair, closing, and demolition of dwellings unfit for human habitation" and which also authorizes any municipality, by ordinance, to establish procedures in carrying out the administration and enforcement of such program; and

WHEREAS, Sec. 35 of Article III of the Atlanta Housing Code of 1987 authorizes the director of the Bureau of Code Compliance to carry out any order of the In Rem Review Board in the event the owner or other interested party fails to comply with the Board's order; and

WHEREAS, Sec. 37 of Article III of the Atlanta Housing Code of 1987 authorizes the director of the Bureau of Code Compliance to lien the real property for the costs incurred by the City in carrying out the Board's order; and

WHEREAS, in the case of a property ordered cleaned and closed, without the director's ability to ensure compliance beyond the initial action of the director to carry out the Board's order, the property may once again become open and/or otherwise a nuisance; and

WHEREAS, in the case of a property ordered demolished, without the director's ability to ensure compliance beyond the initial action of the director to carry out the Board's order, the property may once again become a nuisance.

NOT THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Section 1: That Article III, Section 33(b)(2) of the Atlanta Housing Code of 1987, Appendix "E" of the City of Atlanta Land Development Code, and that reads as follows:

> If the Board finds that any building can be repaired at less than 50% of the value, exclusive of foundation and lot, it shall issue an order stating:
>
> a. That the building has been found unfit for occupancy or habitation or other use and can be repaired, improved or altered at a cost constituting a specific percent of the value of the building;
>
> b. An enumeration of conditions shall be made which render the dwellings or buildings unfit for habitation or occupancy other uses as well as an enumeration of remedial action necessary to correct each of these conditions;
>
> c. A specified period of time reasonably set in relationship to the necessary remedial action, within which such action shall be completed;
>
> d. A statement that the owner, and/or party in interest may vacate and comply with Section 29 to abate interior requirements;
>
> e. A statement that, should the owner and/or parties of interest fail to make the repairs or vacate and comply with Section 29 within the prescribed time, the Director shall cause such building to be vacated, cleaned and closed. The amount of the cost of such vacating, cleaning and closing by the Director shall be a lien against the real property for the cost incurred.

Is hereby amended to read as follows (with deletions "struck-through" and additions "underlined"):

> If the Board finds that any building can be repaired at less than 50% of the value, exclusive of foundation and lot, it shall issue an order stating:
>
> a. That the building has been found unfit for occupancy or habitation or other use and can be repaired, improved or altered at a cost constituting a specific percent of the value of the building;
>
> b. An enumeration of conditions shall be made which render the dwellings or buildings unfit for habitation or occupancy other uses as well as an enumeration of remedial action necessary to correct each of these conditions;
>
> c. A specified period of time reasonably set in relationship to the necessary remedial action, within which such action shall be completed;
>
> d. A statement that the owner, and/or party in interest may vacate and comply with Section 29 to abate interior requirements;
>
> e. A statement that, should the owner and/or parties of interest fail to make the repairs or vacate and comply with Section 29 within the prescribed time, the Director shall cause such building to be vacated, cleaned and closed and that. ~~T~~ the amount of the cost of such vacating, cleaning and closing by the Director shall be a lien against the real property for the cost incurred~~.~~; and
>
> f. A statement that that the order shall be a standing order for a period of two years from the date of the order and that the Director may carry out such standing

order from time to time as needed so as to ensure the continued compliance with such order with the cost of such constituting a lien against the real property.

Section 2: That Article III, Section 33(b)(3) of the Atlanta Housing Code of 1987, Appendix "E" of the City of Atlanta Land Development Code, and that reads as follows:

> If the Board finds that the property cannot be repaired at cost of less than 50% of the value, exclusive of foundation or lot, it shall issue an order stating:
>
> a. The building has been found unfit for occupancy or habitation and cannot be repaired, improved or altered at a cost less than 50% of the value;
>
> b. A specified period of time reasonably set directing the owner and parties of interest to commence and complete the vacating and removal or demolition of said building, the cleaning of the premises and planting of grass on the lot;
>
> c. A statement that, should the owner and parties of interest fail to vacate, remove or demolish the structure and plant ground cover on the lot within the specified time, the Director shall cause the building to be vacated, removed or demolished and ground cover planted on the lot. The amount of the cost of such vacating, removal or demolition by the Director shall result in a lien against the real property for the cost incurred;
>
> d. The Director shall serve the above orders of the Board on the person in possession, owner and parties of interest.

Is hereby amended to read as follows (with deletions "struck-through" and additions "underlined"):

> If the Board finds that the property cannot be repaired at cost of less than 50% of the value, exclusive of foundation or lot, it shall issue an order stating:
>
> a. The building has been found unfit for occupancy or habitation and cannot be repaired, improved or altered at a cost less than 50% of the value;
>
> b. A specified period of time reasonably set directing the owner and parties of interest to commence and complete the vacating and removal or demolition of said building, the cleaning of the premises and planting of grass on the lot;
>
> c. A statement that, should the owner and parties of interest fail to vacate, remove or demolish the structure and plant ground cover on the lot within the specified time, the Director shall cause the building to be vacated, removed or demolished and ground cover planted on the lot. The amount of the cost of such vacating, removal or demolition by the Director shall result in a lien against the real property for the cost incurred;
>
> d. A statement that that the order shall be a standing order for a period of two years from the date of the order and that the Director may carry out such standing order from time to time as needed so as to ensure the continued compliance with such order with the cost of such constituting a lien against the real property; and
>
> ~~d~~e. The Director shall serve the above orders of the Board on the person in possession, owner and parties of interest.

Section 3: That Article III, Section 35 of the Atlanta Housing Code of 1987, Appendix "E" of the City of Atlanta Land Development Code entitled "Failure to Comply with Orders of the Board", and that reads as follows:

> Should the owner and/or parties in interest fail to comply with any order of the board within the time specified by the board, the director shall implement the order.

Is hereby amended to read as follows (with deletions "struck-through" and additions "underlined"):

> Should the owner and/or parties in interest fail to comply with any order of the board within the time specified by the board, the director shall implement the order. At any time subsequent to initial carry out of the order but during the pendency of the standing order of the board, the director shall implement the order as many times as necessary, in his discretion, to ensure continued compliance with the order. In the event that the director determines the order must be carried out for a second or subsequent time, the director shall give notice in the manner outlined in Sec. 39(4) of this Article at least 14 days prior to carrying out such order.

Section 4: That Article III, Section 37 of the Atlanta Housing Code of 1987, Appendix "E" of the City of Atlanta Land Development Code, and that reads as follows:

> The amount of the cost of such vacating and closing or demolition by the Director shall be a lien for such amount against the real property upon which such cost was incurred. Said lien shall attach to the real property upon the payment of all costs of vacating and closing or demolition by the City and the filing by the Director of an itemized statement of the total sum of said cost in the Office of the Clerk of Council on a lien docket maintained for such purposes.

Is hereby amended to read as follows (with deletions "struck-through" and additions "underlined"):

> The amount of the cost of such vacating and closing or demolition at any time during the standing order by the Director shall be a lien for such amount against the real property upon which such cost was incurred. Said lien shall attach to the real property upon the payment of all costs of vacating and closing or demolition by the City and the filing by the Director of an itemized statement of the total sum of said cost in the ~~Office of the Clerk of Council~~applicable county ~~on a~~ lien docket ~~maintained for such purposes~~.

A true copy,

Rhonda Dauphin Johnson

Municipal Clerk

ADOPTED by the Atlanta City Council **MAY 17, 2010**

APPROVED by Mayor Kasim Reed **MAY 25, 2010**

RCS# 241
5/17/10
2:50 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

EXCEPT 10-O-0743, 10-R-0839

ADOPT

YEAS:	12
NAYS:	0
ABSTENTIONS:	0
NOT VOTING:	3
EXCUSED:	0
ABSENT	1

Y Smith	NV Archibong	Y Moore	Y Bond
Y Hall	Y Wan	Y Martin	NV Watson
Y Young	Y Shook	B Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell