

ORDINANCE 2024-2

**AMENDING CHAPTER 23 OF THE LEXINGTON CITY CODE FOR THE PURPOSE
OF ADDING A NEW ARTICLE VII PERTAINING TO THE REGISTRATION OF
VACANT AND FORECLOSED PROPERTIES**

PASSAGE DATE: MARCH 11, 2024

PUBLISHED DATE: MARCH 11, 2024

EFFECTIVE DATE: March 11,, 2024

ORDINANCE NO. 2024-2

AN ORDINANCE AMENDING CHAPTER 23 OF THE LEXINGTON CITY CODE FOR THE PURPOSE OF ADDING A NEW ARTICLE VII PERTAINING TO THE REGISTRATION OF VACANT AND FORECLOSED PROPERTIES

WHEREAS, the City Council finds there are numerous commercial and residential properties that are vacant or foreclosed within the City of Lexington; and

WHEREAS, the City Council finds that such vacant and foreclosed properties have frequently been the subject of numerous reports and complaints regarding nuisance conditions; and

WHEREAS, pursuant to Section 11-1-1 of the Illinois Municipal Code (65 ILCS 5/11-1-1), the City has the authority to pass and enforce all necessary police ordinances for the health, safety and welfare of its residents; and

WHEREAS, pursuant to Section 11-20-5 of the Illinois Municipal Code (65 ILCS 5/11-20-5), the City has the authority to do all acts and make all regulations necessary or expedient for the promotion of health or the suppression of diseases; and

WHEREAS, the City Council finds that such nuisance conditions pose a risk to the health, safety, and welfare of residents within the City of Lexington; and

WHEREAS, pursuant to Section 11-60-2 of the Illinois Municipal Code (65 ILCS 5/11-60-2), the City has the authority to define, prevent and abate nuisances; and

WHEREAS, the City Council finds that it is in the best interest of the City and its residents that all commercial and residential properties which are vacant or foreclosed be required to register with the City;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEXINGTON, MCLEAN COUNTY, ILLINOIS, THAT:

Section 1. The foregoing recitals are correct and accurate and are incorporated herein.

Section 2. A new Article VII is hereby added to Chapter 23 of the Lexington City Code as follows:

ARTICLE VII. VACANT AND FORECLOSED PROPERTY REGISTRATION

SECTION:

- §23-39. Purpose and intent.**
- §23-40. Definitions.**
- §23-41. Registry.**
- §23-42. Registration of property subject to foreclosure.**
- §23-43. Registration of vacant property.**
- §23-44. Registration fee.**
- §23-45. Changes in registration information.**
- §23-46. Transfer of registrable property.**
- §23-47. Notice of determination of registrable property.**
- §23-48. Maintenance of registrable property.**
- §23-49. Inspection; enforcement.**
- §23-50. Records and reports.**
- §23-51. Violations; penalties.**
- §23-52. Severability.**

§23-39 Purpose and intent.

The purpose of this Article is to enable the City to develop a comprehensive list of properties located in the City that are vacant or foreclosed in order to reduce the amount of properties within the City that are not adequately maintained and contribute to blight and nuisance conditions within the City. Additionally, the City wants to ensure that all such properties within the City comply with all rules and regulations adopted by the City pertaining to nuisances in order to protect the health, safety and welfare of the residents of the City of Lexington.

§23-40 Definitions.

For the purposes of this Article:

Enforcement officer means any building inspector, code enforcement officer, law enforcement officer, fire inspector, or other person authorized by the City to enforce the City Code or the laws and regulations of the State of Illinois.

Evidence of vacancy means any condition that on its own, or combined with other conditions, would lead a reasonable person to believe that the property is vacant or unoccupied by persons legally in possession thereof. Such conditions include, but are not limited to, overgrown or dead vegetation; past due utility notices or bills; disconnected utilities; accumulation of trash junk or debris; abandoned

vehicles or parts thereof; the absence of furnishings or personal items consistent with habitation or occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers or mail; statements by neighbors, passers-by, delivery agents or government agents that the property is vacant or unoccupied; or the presence of boards over doors, windows or other openings.

Foreclosure or foreclosure action means the legal process by which a mortgagee terminates a property owner's interest in the property pledged as security for a debt. This definition includes, but is not limited to, public notice of default, a deed-in-lieu of foreclosure, sale to the mortgagee, certificate of title, and all other processes, activities and actions, by whatever name, associated with the described process. The process is not concluded until the property obtained by the mortgagee, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.

Mortgagee means a mortgage creditor, including, but not limited to, trustees; mortgage service companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under a mortgage agreement.

Owner means an individual(s), legal entity, partnership, limited liability company, corporation, or governmental or private agency in whom legal title to the property is vested or purchased under a recorded land contract.

Property manager means an individual (including the owner, if applicable), or property maintenance company or other similar entity responsible for the maintenance of registrable properties.

Property means any building, structure, leasehold improvement, or anything affixed to the land that is specifically designed as a separate dwelling unit located within the corporate limits of the City; however, this definition shall not include individual apartment units in a multi-family residential building or structure.

Registrable property means:

- (a) Any property that is vacant or subject to any cancellation of utilities to the property for a period of thirty (30) consecutive days or more; or

- (b) Any property located within the City, whether vacant or occupied, that is encumbered by a mortgage that is subject to a foreclosure action by the mortgagee, is subject to a judgment of foreclosure by the mortgagee, is subject to an application for a tax deed or a pending tax assessor's lien sale, or has been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any property transferred under a deed in lieu of foreclosure.

Registry shall mean a database of real property records maintained by the City regarding the mortgagees and owners of real property governed by this Article, which may include a searchable web-based, electronic database maintained by the City or a contract administrator on behalf of the City.

Semi-Annual Registration shall mean six (6) months from the date of the first action that requires registration, as determined by the City or its designee, and every subsequent six (6) months. The date of the initial registration may be different than the date of the first action that required registration.

Utilities shall mean any utility that is essential for a building or structure to be habitable, including, but not limited to, electrical, gas, water, and sewer.

Vacant means any property in the City that is improved by a building or structure that is not occupied by persons legally entitled to possession thereof and that exhibits evidence of vacancy as that term is defined herein. Vacant property does not mean property that is temporarily unoccupied while the persons legally entitled to possession thereof are away on vacation, personal matters or business, or is not intended by such persons to be left vacant for a period of more than thirty (30) days.

§23-41 Registry.

The City, or its designee, shall establish and create a registry identifying each registrable property within the City and containing all of the information required by this Article.

§23-42 Registration of property subject to foreclosure.

(a) A mortgagee that initiated a foreclosure action against a property within the corporate limits of the City of Lexington prior to the

effective date of this Article, or its agent, shall register each property as provided in this Article on or before December 31, 2024.

(b) After the effective date of this Article, a mortgagee or its agent shall, within fifteen (15) days of the date of its initiation of a foreclosure action against a property within the corporate limits of the City of Lexington, register the property as provided in this Article. Registration shall include the following:

- (1) Mortgagee's name, address, phone number, and e-mail address. If the mortgagee is a legal entity, partnership, limited liability company, corporation, the name, address, phone number, and e-mail address of each officer, director, individual, or entity having more than a 5% interest in such entity;
- (2) When applicable, the name, address, phone number, and e-mail address of the mortgagee's agent, property manager, other person responsible for the maintenance of the registrable property and whom is designated to receive any and all notices with respect to the property;
- (3) Address and property tax index number of the registrable property;
- (4) Type of property (commercial, single-family, duplex, multi-unit, apartment complex, etc.);
- (5) Whether the property is vacant or occupied;
- (6) Plan and timeline to abate existing nuisances or code violations (if applicable); and
- (7) Other information as the City may require from time to time.

(c)

(b) Any property that has previously registered in accordance with this Section, and which later becomes vacant, shall not be required to re-register pursuant to Section 23-43; provided, however, that such registration information shall be updated in accordance with this Article to reflect the change in occupancy status.

(d) A designation as a registrable property under this Section shall remain until such time as the property is sold to a bona fide

purchaser in an arm's length transaction or the foreclosure action has been dismissed.

§23-43 Registration of vacant property.

(a) The owner of a property that was vacant within the corporate limits of the City of Lexington prior to the effective date of this Article, or his agent, shall register each property as provided in this Article on or before December 31, 2024.

(b) After the effective date of this Article, an owner or his agent shall, within fifteen (15) days after a property or separate unit used as a dwelling becomes vacant, register the property or dwelling as provided in this Article. Registration shall include the following:

- (1) Owner's name, address, phone number, and e-mail address. If the owner is a legal entity, partnership, limited liability company, corporation, the name, address, phone number, and e-mail address of each officer, director, individual, or entity having more than a 5% interest in such entity;
- (2) When applicable, the name, address, phone number, and e-mail address of the owner's agent, property manager, other person responsible for the maintenance of the registrable property and whom is designated to receive any and all notices with respect to the property;
- (3) Address and property tax index number of the registrable property;
- (4) Type of property (commercial, single-family, duplex, multi-unit, apartment complex, mobile home, etc.);
- (5) Whether the property is vacant or occupied;
- (6) Plan and timeline to abate existing nuisances or code violations (if applicable); and
- (7) Other information as the City may require from time to time.

(c) Any property or dwelling unit that has previously registered in accordance with this Section, and which later becomes subject to foreclosure, shall not be required to re-register pursuant to Section 23-42;

provided, however, that such registration information shall be updated in accordance with this Article to reflect the change in status of the property.

(d) A designation as a registrable property under this Section shall remain until such time as the property or dwelling is occupied for a period of thirty (30) consecutive days or sold to a bona fide purchaser in an arm's length transaction with the intent to permanently occupy the property.

(e) The registration for properties and dwelling units registered under this Article shall be renewed every six (6) months from the expiration of the original registration renewal date and shall pay the fee as set forth in this Article until such time the property or dwelling unit is no longer a vacant or foreclosed property or dwelling unit.

§23-44 Registration fee.

(a) At the time of initial registration each mortgagee or owner, whichever is applicable, shall pay a non-refundable Semi-Annual Registration fee of \$150.00 for each registrable property. Subsequent Semi-Annual Registration fees in the amount of \$150.00 are due within ten (10) days of the expiration of the previous registration.

(b) If a registrable property is not registered, or the registration fee is not paid within thirty (30) days of when the initial registration or renewal is required pursuant to this Article, a late fee equivalent to ten percent (10%) of the Semi-Annual Registration fee shall be charged for every thirty-day (30) period or portion thereof in which the property is not registered, and shall be due and payable with the Semi-Annual Registration.

§23-45 Changes in registration information.

Any and all changes in the registration information as required by this Article shall be provided in writing to the City within thirty (30) days of the change in information. No additional fee shall be assessed for submitting a change in registration information.

§23-46 Transfer of registrable property.

(a) If a registrable property or property that has been registered pursuant to this Article is sold or transferred, including, but not limited to, a transfer to a mortgagee under a foreclosure sale, deed in lieu of foreclosure, or any other legal means, the new owner shall be subject to all the terms of this Article. Within fifteen (15) days of the sale or transfer,

the new owner shall register the property or update the existing registration. The previous owner shall not be released from the responsibility of paying all unpaid fees, fines, and penalties that accrued during that owner's interest in the registrable property.

(b) If a registrable property or property that is encumbered by a mortgage has been registered by the mortgagee pursuant to this Article, and such mortgage is sold, assigned, or otherwise transferred, the new mortgagee shall be subject to all the terms of this Article. Within fifteen (15) days of the sale, assignment, or transfer, the new mortgagee shall register the property or update the existing registration. The previous mortgagee shall not be released from the responsibility of paying all unpaid fees, fines, and penalties that accrued during that mortgagee's interest in the registrable property.

§23-47 Notice of determination of registrable property.

After the effective date of this Article, the City or its designee shall continually evaluate all properties within City and make a determination for each as to whether the property is a registrable property. For each property determined to be a registrable property, the City or its designee shall send a written notice of its determination by certified mail to the mortgagee or owner, whichever is applicable, to the address listed in the mortgage, or in the case of the owner to the address where the last property tax bill was sent, according to the official records of McLean County, Illinois. If the mortgagee or owner cannot be found after diligent inquiry, service may be made by posting a notice in or on the registrable property or by publication in a newspaper of general circulation in McLean County for a period of three (3) consecutive days. The notice shall contain the following:

(a) A statement to register the property in accordance with this Article within fifteen (15) calendar days of the date of the notice;

(b) A statement of the obligations as a mortgagee or owner of registrable property;

(c) The registry link or a copy of the registration form to be completed by the owner; and

(d) The penalties for failure to register the property.

§23-48 Maintenance of registrable property.

(a) Each registrable property or property that has been registered pursuant to this Article shall be maintained in accordance with all applicable provisions of the City Code and free of any nuisance, including, but not limited to, nuisance greenery, garbage, rubbish, refuse, graffiti, stagnant water, foul odors, and dilapidated or unsafe buildings or structures.

(c) Each registrable property or property that has been registered pursuant to this Article shall be maintained in a secure manner so as to be inaccessible by unauthorized persons, including, but not limited to, boarding up, closing off, locking windows and entrances, or enclosing the exterior of the property with an appropriate fence or wall.

§23-49 Inspection; enforcement.

(a) Enforcement officers are authorized and empowered to inspect or cause the inspection of each registrable property within the City at any reasonable hour to determine compliance with this Article and any other applicable provision of the City Code, in accordance with applicable law.

(b) Compliance with this Article does not relieve the mortgagee or owner of a registrable property from any other obligations set forth in the City Code, which may apply to the property. Failure of the mortgagee or owner to properly maintain a registrable property in accordance with all applicable provisions of the City Code may result in a violation of the City Code and issuance of a citation in accordance therewith. Registration under this Article shall not preclude the City from taking any other action against the property pursuant to other applicable provisions of the City Code or the Illinois Municipal Code or other applicable laws, including, but not limited to, the right of the City to secure, demolish, or take remedial action with respect to the property or buildings or structures located thereon when it is in the best interest of the public safety and welfare. The City may also pursue other legal or equitable remedies including, but not limited to, injunctive relief, application to a court of competent jurisdiction for a receiver, demolition or condemnation, contracting for the repair or purchase of the premises, or foreclosure of any lien the City may have on the property.

§23-50 Records and reports.

(a) The City shall be responsible for maintaining all vacant and foreclosed property registration information and provide an annual report to the Mayor of the number of vacant and foreclosed properties in the City,

and the number of properties added to or deleted from the previous registration report.

(b) The City shall keep records of all complaints, inspections, reports, and actions taken with respect to each registrable property.

§23-51 Violations; penalties.

(a) Every mortgagee or owner, whichever is applicable, who falls to register or renew the registration of a registrable property within the applicable time period prescribed in this Article shall, upon conviction thereof, be subject to a fine of not less than one hundred fifty dollars (\$150.00), nor more than seven hundred fifty dollars (\$750.00) per unregistered property. A separate offense shall be deemed committed for each day upon which said violation shall continue or exist.

(b) Every mortgagee, owner, or agent thereof, whichever is applicable, who submits false information on the applicable registration form shall, upon conviction thereof, be subject to a fine of not less than one hundred fifty dollars (\$150.00), nor more than seven hundred fifty dollars (\$750.00).

(c) Except as otherwise provided herein, any person who violates any provision of this Article shall, upon conviction thereof, be subject to a fine of not less than one hundred fifty dollars (\$150.00), nor more than seven hundred fifty dollars (\$750.00) for each offense. A separate offense shall be deemed committed for each day upon which said violation(s) shall continue or exist.

(d) The fines provided in this Section shall not be construed to abridge or in any manner interfere with the right and power of the City to enforce any other action provided in this Article or other applicable provision of the City Code, or to seek injunctive relief or other appropriate legal remedy provided by law for a violation of this Article or other applicable provision of the City Code.

§23-52 Severability.

Should any provision, section, paragraph, sentence or word of this Article be rendered 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 Article shall remain in full force and effect.

Section 3. This Ordinance is hereby ordered to be published in pamphlet form by the Lexington City Clerk and said Clerk is ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code.

Section 4. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 5. This Ordinance shall be in full force and effect from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

PASSED BY THE COUNCIL OF THE CITY OF LEXINGTON, MCLEAN COUNTY, ILLINOIS, IN REGULAR AND PUBLIC SESSION THIS 11 DAY OF March, 2024.

APPROVED:



Mayor

ATTEST:

Saturni Bean
City Clerk

AYES: Aldermen Franklin, Stover, Mattingly, Alderwoman Wilson and Richard

NAYS: None

ABSENT: Alderman Little

ABSTAINED: None

CERTIFICATION OF ORDINANCE

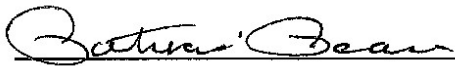
STATE OF ILLINOIS)

COUNTY OF MCLEAN)

I, Patricia Pease, City Clerk of the City of Lexington, McLean County, Illinois, do hereby certify that the foregoing Ordinance constitutes a true and correct copy of said ordinance, passed, approved and published on the 11th day of March, 2024.

I do further certify that said Ordinance has been placed in the permanent records of said City and now appears and remains in the Book of Minutes.

In witness whereof, I have hereunto set my hand and seal of the City of Lexington, McLean County, Illinois, this 11th day of March, 2024.



Patricia Pease, City Clerk

City of Lexington

McLean County, Illinois