

ORDINANCE NO. 22-60

**AN ORDINANCE TO AMEND CHAPTER 7 TO ADD
ARTICLE VIII CONCERNING REGISTRATION OF
CERTAIN VACANT AND FORECLOSING PROPERTIES**

WHEREAS, the City of Macomb ("the City") is a municipality duly organized under the laws of the State of Illinois; and

WHEREAS, the presence of vacant property may constitute a threat to the public health, general welfare, and safety of the residents of the City of Macomb; and

WHEREAS, improperly maintained and secured vacant and/or foreclosed properties can become a hazard to the health and safety of persons who may come on or near the property and can adversely affect the aesthetic and economic attributes of communities, thereby depreciating property values and contributing to the deterioration of surrounding neighborhoods; and

WHEREAS, property for which the mortgage foreclosure has commenced is at risk of abandonment resulting in vacant property, depreciating property values that would contribute to the deterioration of surrounding neighborhoods; and

WHEREAS, the presence of vacant property may necessitate expensive and disproportionate expenditures of public funds for preservation of the property, prevention of crime, and maintenance of adequate police, fire, and accident protection; and

WHEREAS, City officials are hampered in their efforts to enforce municipal codes without information regarding the current status and ownership of vacant property; and

WHEREAS, it is in the best interest of the City to ensure sufficient information is made available to City officials to assure effective maintenance and preservation of vacant property; and

WHEREAS, City Council finds that there is a need to establish a vacant and/or foreclosure real property registry as a mechanism to protect property values in neighborhoods for all property owners by requiring owners, creditors and other interested parties to provide the city with official information for contacting a party responsible for bringing vacant and/or foreclosed real property into compliance with applicable provisions of the municipal code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MACOMB, McDONOUGH COUNTY, ILLINOIS AS FOLLOWS:

Section 1. Incorporation of Preamble. The foregoing recitals are true and correct and are incorporated herein as the findings of the Mayor and City Council.

Section 2. Amendments. Chapter 7 of the Municipal Code shall be amended to add a new Article VIII titled Vacant Building Registration as set forth in Exhibit A, attached to and incorporated into this Ordinance.

Section 3. Severability Clause. If any section, part or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

Section 4. Effective Date. This Ordinance shall be effective upon its passage, approval and publication, as provided by law.

Presented this 21st day of November, 2022.

First Reading: 21st day of November, 2022.

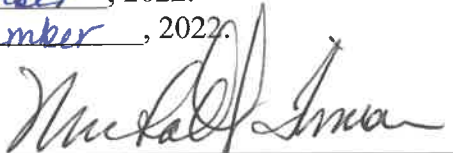
Second Reading: 5th day of December, 2022.

Passed this 5th day of December, 2022.

Approved this 6th day of December, 2022.

Recorded in City records this 6th day of December, 2022.

Published in pamphlet form this 6th day of December, 2022.


Michael J. Inman, Mayor

ATTEST: (SEAL)


Melanie Falk, City Clerk

Passed by roll call vote with the name of each City Council member recorded on the appropriate line below:

AYES: Moon, Wayland, Vigizzi, Wynn, Katz, Brown-Edwards, Moon

NAYS: None

ABSENT: Koch

ABSTAIN: None

CHAPTGER 7 – BUILDINGS AND BUILDING REGULATIONS

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ARTICLE VIII. – VACANT BUILDING REGISTRATION

Sec. 7-216. Purpose.

It is the purpose and intent of this Article is to protect the public health, safety and welfare by establishing a registration process for vacant lots, buildings and premises and requiring responsible parties to remedy any public nuisance, prevent deterioration, unsightly blight and consequent adverse impact to neighborhoods and property values.

In the event that any provision of this Chapter conflicts with Illinois Municipal Code, 65 ILCS 5/11-31-1 et. seq., with respect to demolition, repair, enclosure or remediation of dangerous and unsafe buildings or uncompleted and abandoned buildings, or any other law of the State of Illinois, it is the intent of this Chapter that said state law takes precedence over this Chapter to the extent of any such conflict.

Sec. 7-217. Applicability.

This Article shall apply to all vacant lots, buildings and premises located within the City of Macomb now existing or hereafter becoming vacant.

Sec. 7-218. Definitions.

As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

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

Building means any structure enclosed by walls and a roof intended for supporting or sheltering any occupancy.

Commercial or Industrial Building means a commercial or industrial building is defined as any structure or part thereof, that is used, or designed to be used, for any private manufacturing, industrial, or commercial business purposes whether or not legally zoned for such use.

Creditor means a federal or state-chartered bank, savings bank, savings and loan association, credit union, mortgagee and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers.

Lot means a portion of platted land measured, set apart, and subdivided as a distinct parcel and created and delineated upon a plat of subdivision or re-subdivision and so

recorded by the recorder of deeds of McDonough County, Illinois, which does not contain a building.

Owner means any person, co-partnership, association, corporations, fiduciary or other legal entity having a legal or equitable title or any interest in any real property.

Property means lot and/or building.

Vacant means a lot or building which is lacking presence of human beings who have a legal right to be on the premises, or at which substantially all business operations or residential occupancy has ceased, or which is substantially devoid of content. In determining whether a lot or building is vacant, it is relevant and proper to consider, among other factors: (1) the percentage of the overall square footage of the building or floor to the occupied space (if any) (2) the condition and value of any items on the lot or in the building and the presence of rental or for sale signs on the property; (3) the presence or absence of active utility service; (4) the property has been subject to a foreclosure action; (5) the presence of code violations; and (6) the real estate taxes on the property are delinquent.

Sec. 7-219. Registration.

(a) Registration Required

(1) Initial Registration. The owner or creditor of any lot, building or premises that has become vacant shall file a registration statement for each such lot, building or premises with the office of community development on forms provided by such office within thirty (30) days after the occurrence of any one or more of the following:

- i. Knowledge of an owner and/or creditor that the property is vacant;
- ii. Upon filing a complaint of foreclosure or execution of a deed in lieu of foreclosure on a property located within the City, and for which a registration has not yet been completed.

(2) Renewal Registration. This registration shall be renewed annually until such time that:

- i. For properties registered under Section 3(a)(1)(i), the property is legally re-occupied or the property transferred to an unaffiliated third party.
- ii. For properties registered under Section 3(a)(1)(ii), the foreclosure action is dismissed or the property transferred to an unaffiliated third party. If the foreclosure action is dismissed however the property remains vacant, the annual renewal is still required.

- iii. The creditor releases their lien, thereby removing their interest. Owner shall remain obligated to register the property if applicable under this Article.
- (b) Registration Statement. Registration shall include the address of the property, the name and contact information of an agent located within the state who is authorized to accept service on behalf of the creditor, if applicable, the name and contact information for a property preservation company or property manager if applicable, along with any additional information deemed necessary by the City.
- (c) Requirement to Update Registration. The owner and/or creditor is required to update the registration form with all pertinent information if:
 - (1) The property becomes vacant at any time after a creditor submits a registration as prescribed in Section 3(a)(1)(ii) or;
 - (2) a creditor files a complaint of foreclosure or executes a deed in lieu of foreclosure at any time after a creditor submits a registration as prescribed in Section 3(a)(1)(i), or
 - (3) the creditor acquires title to the property at sheriff/foreclosure sale; or
 - (4) Any previously provided information i.e.name or contact information of agent or property preservation vendor changes.
- (d) Fees for Registration. The registration fee shall be \$250.00 per year. The fees reasonably approximate the cost to the city of the establishment, maintenance, operation, and administration of the registry
- (e) Penalty. Any owner or creditor that fails to register vacant property as required herein shall be subject to a civil fine of twenty-five dollars (\$25.00) per day with a minimum fine of \$100.00. Each day that a violation continues shall constitute a separate and distinct violation.

Sec. 7-220. Administration.

The community development coordinator may establish policies for the administration of this Article. The City may utilize a third-party to administer the program and all relevant information is to be submitted to them upon their request.

Sec. 7-221. Maintenance.

- (a) Owner and/or creditor is required to conduct regular inspections, at the minimum once a month, to ensure property is compliant with all city property maintenance codes.
- (b) For all registered properties, if the City determines the property is in violation of any ordinance regulating a nuisance, the City may notify the owner or creditor of

the violation by providing notice of the violation by electronic mail, and/or certified mail, return receipt requested to the person(s) identified on the submitted registration form. The City will follow all procedures as per Municipal Code of Macomb.

- (c) The appropriate municipal official may require expedited maintenance actions in certain emergency situations, such as vandalism, unsecured entranceways, criminal activity etc. Failure to correct such emergency conditions within forty-eight (48) hours may result in the City remediating the matter with costs being assessed to the Owner.

Sec. 7-222. Liability Insurance

Every registering owner or creditor is required to acquire or maintain liability insurance for each property. Owner or creditor must provide written notice to the municipality within 30 days of any lapse, cancellation or change in coverage.

Every registering owner or creditor is required to include evidence of insurance coverage such as a Certificate of Liability Insurance to the Registration Statement.

Sec. 7-223. De-registration

- (a) The property may be de-registered if:
 - (1) The registered property transfers to an unaffiliated third party;
 - (2) the foreclosure action is dismissed, and the property is occupied; or
 - (3) if the property is legally re-occupied and not subject to a foreclosure action;
or
 - (4) the registering creditor releases the lien, at which time the owner shall register the property.
- (b) The registering creditor shall provide to the City information concerning the name and address for the owner of the property upon de-registration.
- (c) A request to de-register shall be on City-provided forms and any such request is reviewable by the community development coordinator, or their designee.

Sec. 7-224. Exemptions

- (a) The following circumstances may warrant an exemption from registration and/or payment of fee.
 - (1) If the property is habitable wherein all building systems are in sound working order which is evidenced by the issuance of a Certificate of Occupancy, and the building and grounds are maintained in good order, and the building is

being actively marketed for sale or rental and actively maintained. Evidence of property being marketed for sale or rent may include but not be limited to, retaining a licensed real estate agent or broker to list the property for sale or rent, taking out advertisements in various media forms such as, newspapers and online services, and need to be provided to the designated municipal official. Community Development Coordinator, or their designee may request additional information in support of the request for exemption.

- (2) An owner submits plans to the community development coordinator, or their designee, demonstrating that the property will be completely rehabilitated and restored to productive use and occupancy within twelve (12) months following the initial property registration community development coordinator, or their designee, may request additional information to support the request for exemption.
 - (3) The owner certifies to the community development coordinator, or their designee, that the vacancy is a result of damage from a natural disaster which occurred within the past six (6) months and the owner is actively seeking insurance proceeds or Federal/State assistance to rehabilitate. Owner is required to update community development coordinator, or their designee, monthly until property is rehabilitated.
 - (4) The owner certifies the vacancy is a result of a fire which occurred within the past thirty (30) days and the owner is actively seeking insurance proceeds to rehabilitate. Owner is required to update community development coordinator, or their designee, monthly until property is rehabilitated.
 - (5) The owner certifies to the community development coordinator, or their designee, that the vacancy is not an abandonment and is utilized as a vacation home, or conversely the property is vacant while the owner resides at a vacation home and the subject property is actively maintained.
 - (6) The owner is on active duty with any branch of the U.S. Armed Services. Community development coordinator, or their designee, may request production of military orders to support the request for exemption.
- (b) In determining whether a request for exemption should be granted, community development coordinator, or their designee, shall consider the following:
- (1) the applicant's prior record as it pertains to violations of the City's housing, building and/or property maintenance codes;
 - (2) the amount of vacant property the applicant currently has within the City and the length of time that the building for which the exception is sought has been vacant.
 - (3) The proximity of the vacant property to a school, which requires additional safety considerations.

- (c) Exemptions are valid for one (1) calendar year from their approval and issuance. Any extension of an exemption shall be requested in writing and subject to the discretion of community development coordinator, or their designee. No exemption shall exceed three (3) calendar years.