

STATE OF GEORGIA  
CITY OF LEXINGTON

**NUISANCE ABATEMENT COLLECTION PROCEDURES**

An ordinance, amending the Code of the City of Lexington of 2012, Chapter 33, Section 202: Rules and Regulations for Abatement of Unsafe or Unhealthful Premises by removing certain provisions thereof and replacing the same with amended sections thereof as described below.

WHEREAS, the Code of the City of Lexington was adopted by the Mayor and Council of Lexington on the 8<sup>th</sup> day of March, 2012 (the “Code”); and

WHEREAS, Chapter 33, Section 202 of the Code provides and describes the procedures by which the remediation or demolition of buildings and structures unfit for human habitation or for commercial, industrial or business occupancy may be ordered by the Magistrate Court of Oglethorpe County; and

WHEREAS, Chapter 33, Section 202 of the Code also provides and describes the procedure by which the City may undertake the remediation or demolition ordered by the Magistrate Court when the owner thereof is unwilling or unable to do so; and

WHEREAS, pursuant to the existing ordinance, in the event that the costs of remediation are paid by the City directly, said costs and related expenses incurred shall constitute a lien against the subject property and are to be collected and disbursed by the Oglethorpe County Tax Commissioner in conjunction with its levy and collection of annual ad-valorem property taxes within the County; and

WHEREAS, after coordinating with the Tax Commissioner and Sheriff’s Department for Oglethorpe County, the Mayor and Council have determined that the collection procedures could be more effectively and efficiently administered by the City and Sheriff’s Department, without the participation or involvement of the Tax Commissioner; and

WHEREAS, the Mayor and Council find that the following amendments, specifically amendments to Section 33-202, Part 1(C)(7), promote the public health, safety, and general welfare of Lexington, Georgia by allowing for the efficient and equitable administration and collection of the existing ordinance regarding the abatement of nuisance properties within the City; and

dwelling, building, or structure shall be by direct appeal to the Superior Court under O.C.G.A. § 5-3-29.

- (f) The public officers designated herein may issue citations for violations of state minimum standard codes, optional building, fire, life safety and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and may seek to enforce such citation in court of competent jurisdiction prior to issuing a complaint in rem as provided in this Ordinance.
- (g) Nothing in this Ordinance shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

**Section 33-202: Rules and Regulations for Abatement of Unsafe or Unhealthful Premises**

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1. Nuisance Abatement Procedures.

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**C. Duties of Owners; Appointment of Public Officer; Procedure for Determining Premises to be Unsafe or Unhealthful.**

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- (7) The amount of the cost of demolition, repairs or any other court-ordered remediation or corrective action to the subject property, as well as all court costs, appraisal fees and all other costs necessarily associated with the abatement action, including restoration to grade the real property after demolition, shall be a lien against the real property upon which such cost was incurred.
- (a) The lien provided for in paragraph (7) of subsection (C) of this Ordinance section shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure or demolition in the office of the Clerk of the Oglethorpe County Magistrate's Court and shall relate back to the date of the filing of the lis pendens notice required under subsection (g) of O.C.G.A. § 41-2-12. The Clerk of the Magistrate's Court shall record and index such certified copy of the order in the deed records of Oglethorpe County and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior and shall continue in force until paid.
- (b) Upon the recordation of the Lien described above, the City Clerk, or any other party selected by the Mayor and City Council, shall attempt to collect the full cost of the Lien directly from the owner using the same methods and practices set forth in this Code of Ordinances for the collection of unpaid water charges or delinquent taxes. If such collection efforts are unsuccessful in recovering all or some of the total lien amount within six (6) months from the date of the Court's order, the City Clerk shall present the Order, along with an affidavit describing the collection efforts in compliance with this ordinance, to the Clerk of the Magistrate's Court and request that a Writ of Fieri Facias (FiFa) be entered, directing the Sheriff of Oglethorpe County to levy and sell the subject property.
- (c) The Sheriff of Oglethorpe County shall remit the amount collected to the governing authority for the City of Lexington, thirty (30) days after imposition of the lien, and the unpaid lien amount shall bear interest and penalties in the same amount as applicable to interest and penalties on unpaid real property and ad valorem taxes.
- (d) The Sheriff of Oglethorpe County shall collect and retain an amount equal to the cost of administering a lien authorized by O.C.G.A. § 41-2-7 et seq. unless such costs are waived by resolution of Oglethorpe County. Any such amount collected and retained for administration shall be deposited in the general fund of the county to pay the cost of administering the lien.
- (e) Where the abatement action does not commence in the Superior Court, review of a court order requiring the repair, alteration, improvement, or demolition of a

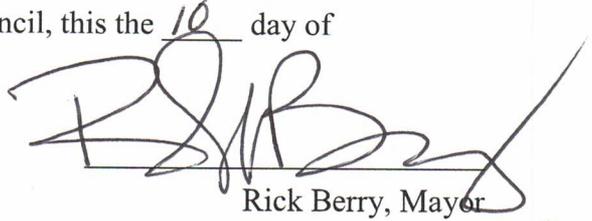
WHEREAS, the governing authority of the City determines that the City's ability to remediate nuisance conditions and have any costs incurred as a result collected from the owner thereof would be a desirable contribution to the community.

NOW, THEREFORE, IT IS ORDAINED by the Mayor and Council that the Code of the City of Lexington is hereby amended by removing Section 33-202, Part 1(C)(7) in its entirety and replacing the same with a new Section 33-202, Part 1(C)(7) using the language attached hereto and made a part hereof by reference.

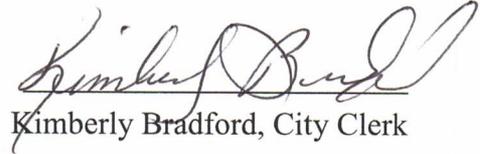
All code sections, ordinances, resolutions, or parts thereof in conflict with this Amendment are hereby repealed. These Amendments shall become effective as of the date written below.

These Amendments are deemed to be severable, and if any section, subsection, paragraph, clause or provision of thereof shall be adjudged invalid or held unconstitutional, such decision shall not affect the remaining portions of that or any other Amendment provided herein.

Adopted at a regular meeting of the Mayor and Council, this the 10 day of September, 2020.



Rick Berry, Mayor



Kimberly Bradford, City Clerk