

ORDINANCE NO. 16 – 2022

AN ORDINANCE AMENDING CHAPTER 74, PROPERTY MAINTENANCE, ARTICLE III, ABANDONED AND VACANT PROPERTY, SECTION 74-23, REGISTRATION OF ABANDONED PROPERTY, OF THE CODE BOOK OF THE BOROUGH OF CLAYTON

WHEREAS, like many other densely populated municipalities within New Jersey, the Borough of Clayton contains a significant number of vacant and abandoned buildings that can create significant problems for a municipality when such properties are not properly maintained and secured by their owners; and

WHEREAS, it is well-established that vacant and abandoned buildings can cause significant challenges including the diminution of neighboring property values, the potential rise in criminal activity, public health and safety hazards, heightened risk of fires, and the reduction of municipal revenues; and

WHEREAS, due to the increased risk of blight presented by foreclosure properties, the State of New Jersey has provided municipalities with statutory tools to identify such properties, to monitor their status/condition, and mitigate the risk that these properties become vacant and abandoned and ultimately lead to blight within the community; and

WHEREAS, pursuant to N.J.S.A. § 40:48-2.12s3, the State of New Jersey has provided municipalities with the authority to adopt ordinances to establish a property registration program to identify and monitor residential and commercial properties within the municipality that is subject to a pending foreclosure action; and

WHEREAS, the foregoing statute additionally authorizes municipal ordinances to regulate the maintenance, security and upkeep of the exterior condition of vacant and abandoned residential and commercial foreclosure properties and to impose additional property registration fees to be paid by the creditors of such properties on an annual or semi-annual basis; and

WHEREAS, the Mayor and the Council for the Borough of Clayton seek to amend Chapter 74 of the Borough of Clayton Code to establish additional requirements and annual registration fees for vacant and abandoned residential and commercial properties for which a summons and complaint to foreclose upon a mortgage has been filed.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Clayton, County of Gloucester and State of New Jersey that Chapter 74, Property Maintenance, Article II, Abandoned and Vacant Property, Section 74-23, Registration of Abandoned Property, of the Code Book of the Borough of Clayton is hereby amended to add new sub-sections to read as follows:

Section 1. §74-23 (K) Registration of Abandoned Property for which a Summons and Complaint in an Action to Foreclosure on a Mortgage Has Been Filed. This ordinance is adopted pursuant to subsection a. of N.J.S.A. 40:48-2.12s3 and requires that:

- (1) a creditor filing a summons and complaint in an action to foreclosure shall, in addition to the notice provided to the Borough of Clayton pursuant to section 17 of N.J.S.A. 46:10B-51 or section 2 of N.J.S.A. 40:48-2.12s2 register the residential or commercial property with the municipality's property registration program as a property in foreclosure and, as part of the registration: (a) provide the municipality with the information regarding the creditor required by paragraph (1) of subsection a. of section 17 of or paragraph (1) of subsection a. of section 2 of N.J.S.A. 40:48-2.12S2 (b) identify the date the summons and complaint in an action to foreclosure on a mortgage was filed against the subject property, the court in which it was filed, and the docket number of the filing; and (c) identify whether the property is vacant and abandoned in accordance with the definition in the ordinance required by paragraph (8) of this subsection;
- (2) if there is any change in the name, address or telephone number for a representative, agent, or individual authorized to accept service on behalf of a creditor required to register pursuant to the property registration program following the filing of the summons and complaint, the creditor shall update the property registration program within 10 days of the change in that information;
- (3) the creditor filing a summons and complaint in an action to foreclosure shall, if the registered property becomes vacant and abandoned in accordance with the definition in the ordinance required by paragraph (8) of this subsection after the property is initially registered with the municipality, update the property registration with the municipality to reflect the change in the property's status;
- (4) the creditor filing a summons and complaint in an action to foreclosure shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if the property is vacant and abandoned at any time while the property is registered with the property registration program;
- (5) a creditor located out-of-State shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor;
- (6) a credit comply with the requirements of Section 74-24 relating to the care, maintenance, security, and upkeep of the exterior of the property, and post a sign affixed to the inside of the property and visible to the public indicating the name, address, and telephone number of the creditor ore an out-of-State creditor's in-Stat representative or agent for the purchase of receiving service of process, or acquire and otherwise maintain liability insurance by procuring a vacancy policy, covering any damage to any person or any property caused by any physical condition of the property while registered with the property registration program;
- (7) fees may be imposed on the creditor in connection with the property registration program as authorized pursuant to subsection d. of this section; and
- (8) a property shall be considered vacant and abandoned if it is not legally occupied by a mortgagor or tenant, which is in such condition that it cannot be legally reoccupied, because of the presence or finding of at least two of the following:
 - (a) overgrown or neglected vegetation;
 - (b) the accumulation of newspapers, circulars, flyers, or mail on the property;
 - (c) disconnected gas, electric or water utility services to the property;

- (d) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- (e) the accumulation of junk, litter, trash or debris on the property;
- (f) the absence of window treatments such as blinds, curtains or shutters;
- (g) the absence of furnishings and personal items;
- (h) statements of neighbors, delivery persons, or government employees indicating that the property is vacant and abandoned;
- (i) windows or entrances to the property that are boarded up or closed off, or multiple window panes that are damaged, broken, and unrepaired;
- (j) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (k) a risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- (l) an uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- (m) the mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- (n) a written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- (o) any other reasonable indicia of abandonment.

Section 2. §74-23 (L) This ordinance authorizes a public officer, designated or appointed pursuant to N.J.S.A. 40:48-2.3 et seq., or any other local official responsible for administration of any property maintenance or public nuisance code to issue a notice to the creditor filing the summons and complaint in an action to foreclosure, if the public officer or other authorized municipal official determines that the creditor has violated the ordinance. In the case a violation for failure to provide care, maintenance, security and upkeep of the exterior of vacant and abandoned property, such notice shall require the person or entity to correct the violation within 30 days of receipt of the notice, or within 10 days of receipt of the notice if the violation presents an imminent threat to the public health and safety. The notice issued shall include a description of the conditions which give rise to the violation. If the creditor fails to remedy the violation within that time period, the Borough may impose penalties allowed for the violation of municipal ordinances. If the Borough expends public funds in order to abate a nuisance or correct a violation on a commercial property in situation in which the creditor was given notice pursuant to the provisions of subsection b. of this section but failed to abate the nuisance or correct the violation as directed, the municipality shall have the same recourse against the creditor as it would have against the title owner of the property, including, but not limited to, the recourse provided under section 23 of P.L. 2003, c. 210 (C.55:19-100).

Section 3. §74-23 (M) This ordinance authorizes the Borough of Clayton to contract with and set the compensation of a private entity, pursuant to the “Local Public Contracts Law”, N.J.S.A. 40A:11-1 et seq., to assist the municipality in the implementation and administration of the property registration program established pursuant to an ordinance adopted pursuant to this section.

Section 4. §74-23 (N) This ordinance authorizes the Borough of Clayton to impose an annual fee on a creditor required to register a property pursuant to this section. The fee shall not exceed: (1) \$500 per property annually for any property that is required to be registered because a summons and complaint in an action to foreclosure was filed by the creditor; and (2) an additional \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition in Section 74-20 when the summons and complaint in an action to foreclosure is filed, or becomes vacant and abandoned pursuant to the definition in Section 74-20) at any time thereafter while the property is in foreclosure. If the Foreclosing or Foreclosed Property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, a late fee equivalent to ten percent (10%) of the Annual Registration fee shall be charged for every thirty-day period (30), or portion thereof, the property is not registered and shall be due and payable with the registration.

Section 5. §74-23 (O) As used in this section:

“Creditor” means mortgagees or an agent or assignee of a mortgagee, such as the servicer, who has filed a complaint in the Superior Court seeking to foreclose upon a residential or commercial mortgage. If the entity seeking to foreclosure upon the residential or commercial mortgage changes as a result of an assignment, transfer, or otherwise after the filing of the foreclosure complaint in the Superior Court, the new entity shall be deemed the creditor for purposes of this section. For purposes of this section, a creditor shall not include the State, a political subdivision of the State, a State, county, or local government entity or their agent or assignee, such as the servicer.

- (1) An out-of-State creditor subject to this ordinance found by the municipal court, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-State representative or agent pursuant to the ordinance shall be subject to a fine of \$2,500 for each day of the violation. Any fines imposed on a creditor for the failure to appoint an in-State representative or agent shall commence on the day after the 10-day period set forth in paragraph (1) of subsection a. of section 17 of N.J.S.A. 46:10B-51 or paragraph (1) of subsection a. of section 2 of N.J.S.A. 40:48-2.12s2 for providing notice to the municipal clerk that a summons and complaint in an action to foreclosure on a mortgage has been served.
- (2) A creditor subject to this ordinance found by the municipal court or by any other court of competent jurisdiction, to be in violation, excluding only a violation addressed by paragraph (1) of this subsection, of the ordinance shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence 31 days following receipt of the notice of violation, except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence 11 days following receipt of the notice.

Section 6. §74-23 (P) No less than 20 percent of any money collected pursuant to this section or an ordinance adopted pursuant to this section shall be utilized for municipal code enforcement purposes.

Section 7. Repealer: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

Section 8. Severability: Each section of this Ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective, shall not be deemed to affect the validity or constitutionality of any other sections or parts hereof.


BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon final passage and publication as required by law

BOROUGH OF CLAYTON

ATTEST:



Christine Newcomb, Borough Clerk



Thomas Bianco, Mayor

**BOROUGH OF CLAYTON
GLOUCESTER COUNTY, NEW JERSEY**

ORDINANCE NO. 16 – 2022

**AN ORDINANCE AMENDING CHAPTER 74, PROPERTY MAINTENANCE,
ARTICLE III, ABANDONED AND VACANT PROPERTY, SECTION 74-23,
REGISTRATION OF ABANDONED PROPERTY, OF THE CODE BOOK OF THE
BOROUGH OF CLAYTON**

This Ordinance was introduced at a meeting held on the 11th day of August, 2022. At the public hearing on the Ordinance at the September 8, 2022 Council meeting, the governing body tabled the adoption and moved to amend the Ordinance. Ordinance No. 16-2022, as amended, is scheduled for a public hearing and final adoption at a meeting of the Mayor and Council of the Borough of Clayton beginning at 6:30 p.m. on the 22nd day of September, 2022, at the Municipal Building, 125 N. Delsea Drive, Clayton, New Jersey. The purpose of this Ordinance is to amend Chapter 74, Property Maintenance, Article III Abandoned and Vacant Property, Section 74-23 Registration of Abandoned Property of the Code Book of the Borough of Clayton.

A copy of this Ordinance can be obtained without any cost, by any member of the general public in the Borough Clerk's office within the Borough of Clayton in the Municipal Building, 125 North Delsea Drive, Clayton, New Jersey.

Christine Newcomb, Municipal Clerk
Borough of Clayton

NOTICE OF ADOPTION
BOROUGH OF CLAYTON, NEW JERSEY

ORDINANCE NO. 16 – 2022

**AN ORDINANCE AMENDING CHAPTER 74, PROPERTY MAINTENANCE,
ARTICLE III, ABANDONED AND VACANT PROPERTY, SECTION 74-23,
REGISTRATION OF ABANDONED PROPERTY, OF THE CODE BOOK OF THE
BOROUGH OF CLAYTON**

The foregoing Ordinance was finally adopted by the Mayor and Council of the Borough of Clayton on September 22, 2022.

Christine Newcomb
Borough Clerk