

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2021-145

AN ORDINANCE TO AMEND THE CODE OF CLAYTON COUNTY, GEORGIA AS AMENDED SPECIFICALLY, CODE OF CLAYTON COUNTY, GEORGIA, CHAPTER 62 "OFFENSES AND MISCELLANEOUS PROVISIONS" TO ADD A NEW ARTICLE V ENTITLED "VACANT OR FORECLOSED REAL PROPERTY REGISTRATION;" TO REPEAL CONFLICTING LAWS, ORDINANCES AND RESOLUTIONS; TO PROVIDE SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Clayton County Board of Commissioners ("Board") finds that there is a need to establish a vacant and foreclosure registry as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of properties that are foreclosed or where ownership has been transferred after foreclosure; and

WHEREAS, improperly maintained and unsecure vacant and 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; and

WHEREAS, difficulties also often arise in locating the person responsible for the condition of vacant or foreclosed real property; and

WHEREAS, the Board finds that there is a substantial need directly related to the public health, safety and welfare to comprehensively address these concerns through the adoption of a registration of vacant and foreclosed properties; and

WHEREAS, the registry will require creditors to provide Clayton County with official information for contacting a party responsible for bringing vacant or foreclosed real

property into compliance with applicable provisions of state and federal law, and the Code; and

WHEREAS, if there is a conflict between the provisions and requirements in this article and state law, as it exists now or may be amended hereafter, then state law shall govern.

NOW THEREFORE, BE IT ORDAINED BY THE CLAYTON COUNTY BOARD OF COMMISSIONERS AND IT IS HEREBY ORDAINED

Section 1. The Code of Clayton County, Georgia, as amended, is hereby further amended by adding a new Article V entitled "Vacant or Foreclosed Real Property Registration" to Chapter 62 "Offenses and Miscellaneous" to read as follows:

ARTICLE V. - VACANT OR FORECLOSED REAL PROPERTY REGISTRATION

Sec. 62-500. Definitions.

"Agent" shall mean an individual with a place of business in the State of Georgia at which he or she is authorized to accept inquiries, notices, and service of process on behalf of a vacant or foreclosed real property owner.

"Code official" shall mean the Clayton County Warden or any employee designated by the Warden to carry out the provisions of this Article.

"Foreclosed real property" shall mean improved or unimproved real property for which a land disturbance permit has been issued by the County and is held pursuant to a judicial or non-judicial foreclosure of a mortgage, deed of trust, security deed, deed to secure debt, or other security instrument securing a debt or obligation owed to a creditor or a deed in lieu of foreclosure in full or partial satisfaction of a debt or obligation owed to a creditor.

"Street address" shall mean the street or route address. Such term shall not mean or include a post office box.

“Vacant real property” shall mean real property that: (1) is intended for habitation, has not been lawfully inhabited for at least sixty (60) days, and has no evidence of utility usage within the past sixty (60) days or (2) is partially constructed or incomplete, without a valid building permit. Such term shall not include a building or structure containing multiple units with common ownership that has at least one unit occupied with evidence of utility usage.

Sec. 62-501. Registration.

(a) Pursuant to O.C.G.A. § 44-14-14, there is hereby created in Clayton County a registry of vacant or foreclosed real properties located within the County, with the exception of territory located within the boundaries of any municipal corporation unless otherwise allowed by intergovernmental agreement between the County and said municipal corporation.

(b) All vacant or foreclosed real property located within the area described in subsection (a) must be registered no later than ninety (90) days after the property becomes vacant real property or foreclosed real property as provided in this section and article, except as provided in Section 62-502.

(c) Each registrant shall file with the Code official, a registration form setting out the following information:

- (1) The real property owner's name, street address, mailing address, phone number, facsimile number, and e-mail address;*
- (2) If applicable, the agent's name, street address, mailing address, phone number, facsimile number, and e-mail address;*
- (3) The real property's street address and tax parcel number;*
- (4) The transfer date of the instrument conveying the real property to the owner;*
and

(5) *At such time as it becomes available, recording information, including deed book and page numbers, of the instrument conveying the real property to the owner.*

(d) *Each registrant shall renew their registration every 12 months with the Code official, updating any required information and paying the set administrative fee which shall be established by the Board of Commissioners and which shall not exceed \$100.00 per renewal of registration.*

Sec. 62-502. Transfers.

(a) *When any real property is acquired by foreclosure under power of sale pursuant to O.C.G.A. § 44-14-160 or acquired pursuant to a deed in lieu of foreclosure, the transferee shall not be required to register such foreclosed real property pursuant to this article or pay any of the administrative fees provided for in Section 62-505 of this article where:*

(1) *The deed under power of sale or deed in lieu of foreclosure contains the information specified in paragraphs (1) through (5) of subsection (c) of Section 62-501;*

(2) *The deed is filed with the clerk of superior court within sixty (60) days of the transfer; and*

(3) *Proof of the following is provided to the Code official:*

(i) *A filing date stamp or a receipt showing payment of the applicable filing fees; and*

(ii) *The entire deed under power of sale or entire deed in lieu of foreclosure.*

(b) *Registration of vacant or foreclosed real property is not required within ninety (90) days of such real property's transfer:*

(1) *Pursuant to a deed under power of sale or deed in lieu of foreclosure; or*

- (2) *To the first subsequent transferee after the vacant real property has been acquired by foreclosure under power of sale pursuant to O.C.G.A. § 44-14-160 or acquired pursuant to a deed in lieu of foreclosure.*

Once the ninety-day period has expired, registration of such vacant or foreclosed property must be made within thirty (30) days of said expiration.

Sec. 62-503. Updating of information. *The owner of vacant or foreclosed real property registered with the County shall update the information specified in paragraphs (1) through (5) of subsection (c) of Section 62-501 within thirty (30) days after any change in such required information regardless of whether the information provided to the registry was in the deed under power of sale or deed in lieu of foreclosure.*

Sec. 62-504. Removal from registry. *The owner of vacant or foreclosed real property registered with the County, or the agent of such owner, may apply to remove such vacant or foreclosed real property from the registry at such time as the real property no longer constitutes vacant or foreclosed real property. Such application shall be considered by the County Administrator or his/her designee, whose determination shall be issued within thirty (30) days of the receipt of said application. If no such determination is made within thirty (30) days, the application shall be deemed granted.*

Sec. 62-505. Administrative fees. *Upon the submission of the registration required in Section 62-501, the owner of such vacant or foreclosed real property, or the agent of such owner, shall pay to the County an administrative fee which shall be established by the Board of Commissioners and which shall not exceed \$100.00 per registration. Said fee shall reasonably approximate the cost to the County of the establishment, maintenance, operation, and administration of the registry.*

Sec. 62-507. Violations. *Failure to register vacant or foreclosed real property or failure to update the information specified in paragraphs (1) through (5) of subsection (c) of Section*

62-501 shall be punishable by a fine of up to \$1,000.00.

Sec. 62-508. Appeals. Any vacant or foreclosed real property owner affected by this article may challenge any determination made by the County or its officials pursuant to this article by appealing said determination to the Magistrate Court of Clayton County. Such appeal shall be filed with the Court no later than thirty (30) days after receipt of said determination.

Secs. 62-509—62-599. - Reserved.

Section 2. All laws, ordinances and resolutions, or parts thereof, which conflict with the provisions of this Ordinance are hereby repealed.

Section 3. If this Ordinance in whole or in part is determined to be unconstitutional by any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder shall remain in full force and effect.

Section 4. This Ordinance shall become effective immediately upon its approval by the Board of Commissioners.

SO ORDAINED, this the 6th day of July, 2021.

CLAYTON COUNTY BOARD OF COMMISSIONERS


JEFFREY E. TURNER, CHAIRMAN


GAIL HAMBRICK, VICE CHAIR


FELICIA FRANKLIN, COMMISSIONER


DEMONT DAVIS COMMISSIONER

(vacant)
DISTRICT 1 COMMISSIONER

ATTEST:


BRENDA B. JAMES, CLERK