

**AN ACT TO AMEND TOWN OF CLAYTON ARTICLE 7.1-2 ADOPTING A REAL
PROPERTY TAX**

Ordinance #: 2024-01

Sponsor: Paisley

THE TOWN OF CLAYTON HEREBY ORDAINS that Article 7.1-2 of the Clayton Municipal Code be amended as follows with deletions shown by strikethrough and additions through underline:

Sec. 7.1-2. ~~Adopting a real property tax~~ Property tax.

7.1-2.1 *Definitions.* For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Person includes corporations, companies, associations, trustees, business trusts, firms, partnerships, societies, ~~and~~ joint stock companies, as well as individuals.

Tax ~~year~~ season means the ~~fiscal year period~~ beginning July 1 of each calendar year and ending ~~June~~ September ~~30 of the following calendar year~~.

7.1-2.2 *Levy of tax.* Every person owning real property, including land and improvements within the Town limits of the Town of Clayton, on ~~January 1~~ the first day of the tax season, shall be liable for paying a tax upon such property except upon such property that may be exempt from taxation under Delaware law and under the laws and the Charter of the Town.

7.1-2.3 *Assessment of tax.*

- ~~a. Such tax on real property shall be based on the assessed value thereof as lawfully determined by the Town of Clayton Assessor's Office or in conformity with Chapter 11 of Title 22 of the Delaware Code and with Section 7.1 of the Town Charter.~~
- ~~b. Real property shall be assessed as of January 1 of the current tax year and taxes shall be levied thereon in the manner and at the time provided in this Chapter.~~
- ~~c. In accordance with Article VII of the Town Charter, a copy of the assessment roll shall be prepared and submitted to the Council at least 60 days before the beginning of the tax year. Upon approval of the Council, the roll as prepared or as modified by the Council will be posted for the public in a place in the Town designated by the Council at least 45 days before the~~

~~beginning of the tax year.~~ The Town of Clayton may employ the following two methods in property tax assessments:

a. *Kent County Assessment Rolls.* Adoption of the Kent County Levy Court Assessment Roll for properties located within the municipal boundaries of the Town of Clayton.

b. *Independent Assessment.* In accordance with the Town Charter and applicable state law, the Town of Clayton may conduct an independent assessment of the properties located within its municipal boundaries. In such circumstances, the Town Council shall:

1. Provide a minimum of thirty (30) days of notice prior to the commencement of the independent assessment.

2. Provide a copy of the finalized assessment roll for public inspection at least forty-five (45) days before being approved.

3. Adopt the finalized roll at least sixty (60) days prior to the Tax season in which the assessment will be utilized.

7.1-2.4 *Rate of Tax.* Except as exempted by Ordinance or as otherwise provided for, all real property shall be subject to a tax upon 100 percent of its fair market value determined in the manner provided by this title, at a rate established by resolution of the Town Council during the annual budget process. Provided; however, the town shall not increase the property tax rate more than once in a fiscal year.

7.1-2.5 *Due date.* The real property tax shall be mailed to the property owner or sent to the owner's authorized escrow account provider at the beginning of the tax season and due and payable by September 30 ~~after the end of the tax year.~~

7.1-2.6 *Penalty for unpaid taxes.* If all or any part of the tax assessed against a property has not been paid on or before September 30, the owner of such property shall be liable for a penalty of 1 percent of the unpaid balance of such tax for each month thereafter until the tax is paid in full.

7.1-2.7 *Lien.* ~~A lien in favor of the Mayor and Town in the amount of any unpaid tax and penalty shall attach and become effective with respect to each property on the date such tax and penalty shall become due and payable, and shall remain in effect until such tax and penalty has been paid.~~ In accordance with the Charter and other sections of applicable law, the mayor or their designee may pursue a lien against a property for delinquent property taxes and fees if:

1. The balance of the property's delinquent taxes and fees exceeds \$2,500.00 (two thousand and five hundred dollars); and

2. The Town has notified the property owner via the United States Postal Service Certified Mail that it intends to pursue a lien against said property, and the owner has made no serious attempt to remedy the delinquency after thirty calendar days.

7.1-2.8 *Appeals.* ~~In accordance with Article VII of the Town Charter, If the Town elects to utilize an independent assessment as provided in Section 7.1-2.3 (b), the Council shall hold a Court of Appeals each year at least 30 days before the beginning of the tax-year season. Any taxpayer or owner who may deems himself or herself~~ themselves aggrieved by an assessment made under this Chapter may appeal from that assessment ~~provided notice of such appeal is given to the Town 10 days before the next Town Court of Appeals session. However, if the Town shall employ the assessment roll of Kent County, the Council shall not hear any appeal of the valuation of any property within its municipal limits by the county.~~

7.1-2.9 *Severability.* If any section, subsection, paragraph, or other provision of this article or its application to any person or circumstances shall be held invalid or unconstitutional, such holding shall not affect the validity of any other section, subsection, paragraph, or other provision or its application to other persons or circumstances. The Town Council hereby expresses the intent that it would have enacted the other provisions of this article as if the invalid or unconstitutional provision was not contained therein.

7.1-2.10 *Exemptions.*

- a. Any property belonging to the State, ~~or~~ the United States, or any county of the State of Delaware, or owned by the Town and held for public use, or belonging to any church or religious society, charitable organization, or nonprofit organization principally devoted to housing of elderly persons and not held for investment and which is constructed pursuant to the provisions of §231 of the National Housing Act as presently in effect and set forth in 12 U.S.C. § 1715v, and not held by way of investment, or belonging to any college or school and used for educational or school purposes shall not be liable for taxation and assessment under this Section.
- b. A property owner may apply for a claim of exemption from property taxes for the current calendar year by completing an application no sooner than January 1 and no later than April 30 of each year. The application must include documentation from the Internal Revenue Service, the State of Delaware, and/or Kent County indicating the name and Employer Identification Number (EIN) of the organization, the contact information of the organization administrator, and a copy of the deed or other document demonstrating property ownership by the organization.
- c. After the initial year for which the real property has qualified for an exemption, a claim for an exemption shall be filed annually on or before April 30,

together with a document from the organization certifying that it continues to maintain its ~~tax-exempt~~ tax-exempt status.

- d. This subsection shall apply to property owned in fee simple or leased or rented for a period of one year or more to a qualified tax-exempt organization under this subsection, the lease or rental agreement being in force at the time the exemption is claimed.

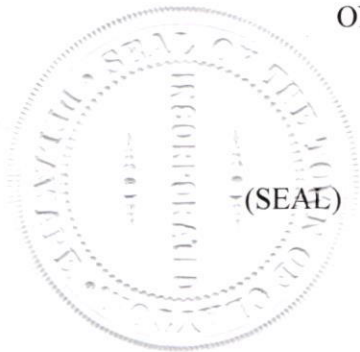
7.1-2.11 *Emergency postponement.* The Town Council is hereby vested with the authority to adopt an emergency resolution postponing the tax season in response to unforeseen challenges. By way of example and not limitation, "challenges" shall include Kent County's approval of a reassessment that significantly alters the assessed valuation of the dwellings within the municipal limits of the Town of Clayton, thereby affording the Council the ability to adjust the tax rate or institute alternative measures it deems necessary. In such case, the resolution shall state the reasoning for the emergency postponement, the new beginning of the tax season, and the new due date for property tax - which shall not be less than ninety (90) calendar days from the beginning of the amended tax season.

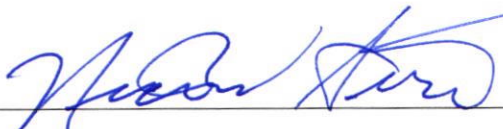
SYNOPSIS:

This act updates the property tax section of the Clayton Municipal Code. It redefines the ordinance from operating on a property tax year beginning on July 1st and ending on June 30th to a property tax season starting on July 1st and ending on September 30th, the dates when property tax bills are sent and are due. Additionally, this further elaborates that the Town can either employ the Kent County assessment roll or conduct its own assessment. Furthermore, it clarifies that the Town may either mail a property tax statement or send it to the owner's designated escrow provider. Nevertheless, it stipulates that the Town may pursue a lien for unpaid taxes and fees when the outstanding balance exceeds \$2,500 and the Town's attempt to notify the owner has no resolution. Finally, the act establishes the Town's right to postpone the property tax season in the event of unforeseen challenges, which, in such cases, the Council will issue a resolution describing the issue and noting the new tax season.

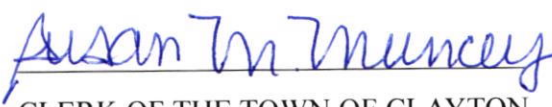
ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF CLAYTON

ON THE 22nd DAY OF February, 2024.




MAYOR OF THE TOWN OF CLAYTON

ATTESTED TO BY:


CLERK OF THE TOWN OF CLAYTON

Introduced: 1/8/2024

Approved By Committee: N/A

Adopted By Council: 2/12/24