

CITY OF HAGERSTOWN, MARYLAND

AN AMENDED ORDINANCE TO AMEND THE CODE OF THE CITY OF HAGERSTOWN, CHAPTER 232 THEREOF, *VACANT COMMERCIAL STRUCTURES*, TO REPEAL AND RE-ENACT CHAPTER 232, AS *VACANT NON-RESIDENTIAL STRUCTURES*, TO ADD OR AMEND CERTAIN DEFINITIONS, TO ESTABLISH A DEFINITION FOR VACANT NON-RESIDENTIAL STRUCTURES, TO ESTABLISH A NEW FEE STRUCTURE, AND TO MAKE OTHER AMENDMENTS CONSISTENT THEREWITH

RECITALS

WHEREAS, the Mayor and Council previously adopted Chapter 232 of the City Code to promote and assure public safety, health and welfare, to prevent deterioration of vacant commercial structures in the C3 Zoning Districts of the City of Hagerstown, to ensure the safety of first responders and emergency personnel, to support property values, and to encourage responsible management and use of vacant commercial structures through licensing and inspections in Hagerstown; and

WHEREAS, the Mayor and Council have found that the existence of vacant structures within the corporate limits lends itself to the deterioration of said structures, reduction in property values, and poses an increased opportunity and risk of crime, fire, health and safety hazards; and

WHEREAS, the Mayor and Council desire to more effectively combat and eliminate these conditions; and

WHEREAS, in order to continue to ensure the safety of first responders and emergency personnel, the Mayor and City Council find it to be in the best interests of the citizens of the City of Hagerstown to amend Chapter 232; and

WHEREAS, the Mayor and Council desire to amend the aforesaid Chapter 232 to establish a definition for vacant non-residential structures; and

WHEREAS, the Mayor and Council desire to amend the aforesaid Chapter 232 to amend the license fee structure for vacant non-residential structures; and

WHEREAS, the Mayor and Council find it to be in the best interests of the citizens of the City of Hagerstown to do so;

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

Section 1. The Code of the City of Hagerstown be and is hereby amended by deleting and repealing Chapter 232, *Vacant Commercial Structures*.

Section 2. The Code of the City of Hagerstown be and is hereby amended by adding thereto a new chapter, to replace Chapter 232 hereinabove repealed, to be Chapter 232, *Vacant Non-Residential Structures* to read as follows:

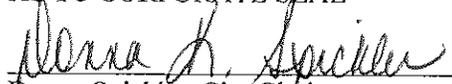
SEE ATTACHED TEXT OF CHAPTER 232

Section 3. Effective Date. This Ordinance shall become effective immediately upon the effective date of this Enacting Ordinance.

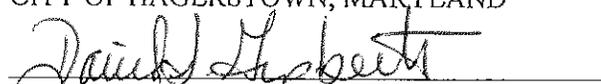
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BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Enacting Ordinance shall become effective at the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST  
AS TO CORPORATE SEAL

  
\_\_\_\_\_  
Donna Spickler, City Clerk

MAYOR AND COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND

  
\_\_\_\_\_  
David S. Gysberts, Mayor

Date of Introduction: September 9, 2014  
Date of Passage: September 30, 2014  
Effective Date: October 31, 2014

**Chapter 232**  
**VACANT NON-RESIDENTIAL STRUCTURES**

**§232-1. Purpose.**

The purpose of this chapter is to promote and assure public safety, health and welfare, to prevent deterioration of Vacant Non-Residential Structures in the City of Hagerstown, to support property values, and to encourage responsible management and use of Vacant Non-Residential Structures through licensing and inspections.

**§232-2. Definitions.**

- A. **BLIGHTED CONDITION** - A condition is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.
- B. **CITY** - City of Hagerstown, Maryland.
- C. **DEPARTMENT** - The Community and Economic Development Department of the City.
- D. **MIXED-USE STRUCTURE** - A building that contains at least one permitted non-residential use and at least one permitted residential use.
- E. **NON-RESIDENTIAL STRUCTURE** - Any structure or premises in whole or in part that contains spaces for commercial or industrial uses such as manufacturing operations, offices, warehouses, shopping centers, retail and wholesale facilities, and other similar uses. This definition shall include mixed-use structures. . . .
- F. **OWNER** - Any person, partnership, association, company, corporation or other entity having a legal or equitable interest in, or control of real property. Owner shall also mean any person who, alone, jointly or severally, shall have the charge, care or control of any premises as executor, administrator, trustee or guardian of the estate of the owner. Owner shall also mean any person having any interest in a partnership, association, company, corporation or other entity which owns or has any ownership interest or control of the premises. Any person, firm, partnership, association, company, corporation or other entity whose name appears on the deed or property tax bill for the premises shall be deemed to be the owner of the premises.
- G. **PREMISES** - Any single parcel or lot of real property in the City, including the land and all improvements or structures, upon which a Vacant Non-Residential Structure or Vacant Blighted Non-Residential Structure is located.
- H. **VACANT BLIGHTED NON-RESIDENTIAL STRUCTURE** - Any non-residential structure that is vacant with a pending action to foreclose a mortgage or deed of trust; or is vacant with blighted conditions; or has been placarded by the City as uninhabitable. For properties with multiple structures, such as shopping centers with pad sites, if any individual structure meets this definition, that structure shall be subject to the terms of this chapter.
- I. **VACANT NON-RESIDENTIAL STRUCTURE** - Any non-residential structure that is vacant for a continuous six (6) month period. For properties with multiple structures, such as shopping centers with pad sites, if any individual structure is vacant for a

continuous six (6) month period, that structure shall be subject to the terms of this chapter. For calculation of the continuous six (6) month period required to satisfy the definition of Vacant Non-Residential Structure, the following periods of time shall not be included: (i) the one (1) year period immediately following the issuance of a use and occupancy permit for new construction; and (ii) any period of time during which active work is being legally performed pursuant to a valid permit issued by the City.

**§232-3. Vacant Non-Residential Structure License Required.**

It shall be unlawful for the owner(s) of any Vacant Non-Residential Structure or Vacant Blighted Non-Residential Structure to fail to apply for and obtain a Vacant Non-Residential Structure License and abide by the inspection requirements contained in this Chapter.

**§232-4. Application; License Fee.**

In addition to the inspection requirements of Section 232-5 of this Chapter, an applicant for a Vacant Non-Residential Structure License shall provide the following information and documents for each Vacant Non-Residential Structure or Vacant Blighted Non-Residential Structure on the appropriate application form provided by the Department:

- A. The address of the vacant structure;
- B. The number and location of the spaces contained in the structure;
- C. The name, street, address, and telephone number of all owners of the vacant structure;
- D. If the owner of the Vacant Non-Residential Structure or Vacant Blighted Non-Residential Structure is not an individual, the applicant shall provide the name, street address, resident agent, resident agent address and telephone number;
- E. The name, street address and telephone number of a designated contact person for the owner(s);
- F. A certificate of property insurance in the amount equivalent to or greater than the assessed tax value; and
- G. A non-refundable annual license fee pursuant to the following schedule for each Vacant Non-Residential structure:

**Vacant Blighted Non-Residential Structure**

- (1) Five hundred dollars (\$500.00) at initial application;
- (2) One thousand dollars (\$1,000.00) at first annual application renewal and each subsequent annual application renewal.

**Vacant Non-Residential Structure**

- (1) Two hundred fifty dollars (\$250.00) at initial application;
- (2) Five hundred dollars (\$500.00) at first annual application renewal;
- (3) One thousand dollars (\$1,000.00) at second and each subsequent annual application renewal.

- H. Payment for said license shall be due in full from the owner within thirty (30) days from the application mailing. Failure to remit payment in full may result in collection pursuant to Article III, Tax Liens, § 223-11 of the City Code, or by other civil proceeding.

#### **§232-5. Inspection.**

In connection with the application requirements contained in Section 232-4 of this Chapter, the exterior of the vacant structure shall be inspected at the time of the initial application and on an annual basis thereafter. Required re-inspections for noted conditions shall be as directed by the Department.

Interior inspections shall be conducted in accordance with the following schedule:

Vacant Blighted Non-Residential Structures – At initial application and on annual basis thereafter.

Vacant Non-Residential Structures – At first renewal and annually thereafter.

All inspections conducted hereunder shall be conducted by the Department and shall be performed to ensure compliance with all applicable property maintenance, fire and other City codes for vacant, unoccupied structures and Section 232-6 of this Chapter.

#### **§232-6. Vacant Non-Residential Structure Inspection Standards**

In addition to the inspection requirements of Section 232-5 of this Chapter, an owner of a Vacant Non-Residential Structure or Vacant Blighted Non-Residential Structure shall maintain the structure to the following standards, which are based on Crime Prevention Through Environmental Design.

- A. Exterior lighting at all entry doors.
  - 1. Shall be illuminated from dusk to dawn.
  - 2. Shall be directed downward and away from adjoining premises.
  - 3. Shall maintain 1 footcandle of light measured at 1 foot above the ground to a minimum distance of twenty (20) feet from the center of each entry door.
    - i. Exterior lighting is not required at any entry door where street lighting meets the minimum illumination level required by this section.
- B. All entry doors shall have engaged deadbolt locks.
  - 1. Doors not capable of deadbolt locks shall be secured in an approved manner
- C. All exterior sliding doors shall have lift and slide protection.
- D. All windows shall have lift and slide protection.
- E. All shrubbery, hedges, trees, or similar vegetation shall be maintained so that a clear view of the entry doors from the public sidewalk or street is not impeded.

#### **§232-7. Issuance of license; renewal.**

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Upon receipt of a completed application form and full payment of the appropriate fee, the Department shall, within 30 days, issue a license for the subject Vacant Non-Residential Structure or Vacant Blighted Non-Residential Structure, unless such license is or was denied, suspended or revoked pursuant to § 232-8 hereof. Said license shall expire on its anniversary date, and shall be renewable annually, with application for said renewal being made at least 60 days prior to the expiration date of the then-current license. License renewal shall be made on the form provided by the Department.

**§232-8. Denial; Revocation or Suspension.**

A Vacant Non-Residential Structure license may be denied, revoked or suspended at any time by the Department if, after receipt of a notice of violation, the owner fails to eliminate violations of the applicable code sections (including Section 232-6) identified during any inspection within the time ordered in the notice. Denial, revocation or suspension of a Vacant Non-Residential Structure license shall be in addition to, and not in substitution of the penalties provided for in Section 232-10 of this Chapter. Said denial, revocation or suspension may be appealed within 20 days pursuant to Chapter 10 of the Code to the Board of Technical Appeals.

**§232-9. Severability.**

The provisions of this Chapter are severable. If any provision of this Chapter or its application to any person or circumstance is held to be invalid, such invalidity shall not effect the other provisions or applications of this Chapter which can be given effect without the invalid provision or application.

**§232-10. Violations and Penalties.**

In addition to the sanctions outlined in §232-8 hereof, any owner violating the provisions of this Chapter shall be guilty of a municipal infraction and subject to a fine of up to one thousand dollars (\$1,000.00). Each day a structure is not in compliance with this Chapter shall be deemed a separate and distinct violation.