

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HAGERSTOWN,
CHAPTER 232 THEREOF, *VACANT NON-RESIDENTIAL STRUCTURES*, BY ADDING CERTAIN
DEFINITIONS, AND TO MAKE OTHER AMENDMENTS CONSISTENT THEREWITH**

RECITALS

WHEREAS, the Mayor and Council have enacted Chapter 232 Vacant Non-Residential Structures of the City Code to promote and assure public safety, health and welfare, to prevent deterioration of vacant Non-Residential structures in 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 Non-Residential structures through licensing and inspections in Hagerstown; and

WHEREAS, the Mayor and Council desire to amend the aforesaid Chapter 232 to amend the license fees for vacant Non-Residential structures and vacant Blighted Non-Residential Structures in order to provide further incentive for owners to get their properties out of the licensing program for Non-Residential structures;

WHEREAS, the Mayor and Council desire to amend the aforesaid Chapter 232 to add definitions for *Shell Condition Space* and *Vacant Non-Residential First Floor Space*; to clarify classification of certain mixed use structures located in the CCMU zoning district; and to state how owners may appeal classification or reclassification of a determination of *blighted* status;

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:

See attached revisions in red lettering to Chapter 232. Except where noted, no change has been made to said Chapter.

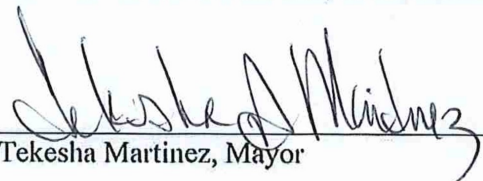
Section 4. Effective Date. This Ordinance shall become effective immediately upon the effective date of this Enacting Ordinance.

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 K. Spickler, City Clerk

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND


Tekesha Martinez, Mayor

Date of Introduction: May 23, 2023
Date of Passage: June 20, 2023
Effective Date: July 21, 2023

PREPARED BY:
SALVATORE & MORTON, LLC, CITY ATTORNEY

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.

As used in this chapter, the following terms shall have the meanings indicated:

ACTIVE WORK

Regularly ongoing modifications to bring a structure up to code and which involve two or more systems, including but not limited to constructing, enlarging, altering, moving, demolishing, erecting, installing, removing, converting or replacing any electrical, plumbing, or mechanical system. "Active Work" also includes modifications to the structure itself.

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.

CITY

City of Hagerstown, Maryland.

DEPARTMENT

The ~~Community and Economic Development~~ Planning and Code Administration Department of the City.

MIXED-USE STRUCTURE

A building that contains at least one permitted non-residential use and at least one permitted residential use.

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.

OWNER

A. Any person, partnership, association, company, corporation or other entity having a legal or equitable interest in, or control of real property.

- B. 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.
- C. 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.
- D. 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.

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.

SHELL CONDITION SPACE

A mixed-use structure with a vacant non-residential use located on the first floor space compliant with the shell condition space standards policy adopted by the Mayor and City Council as amended time to time.

VACANT NON-RESIDENTIAL FIRST FLOOR SPACE

Any non-residential use located on the first floor of a structure that is vacant for a continuous six (6) month period located in the City Center Mixed-Use (CCMU) zoning district. As used in this chapter, "vacant non-residential first floor space" shall not include a Shell Condition Space.

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.

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. A mixed-use structure located in the City Center Mixed Use (CCMU) zoning district and having one or more vacant non-residential uses on the first floor shall be considered a Vacant Non-Residential Structure. 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:

- A. The one (1) year period immediately following the issuance of a Certificate of Occupancy permit for new construction;

- B. Any period of time during which active work is being legally performed pursuant to a valid permit issued by the City;
- C. The six (6) month period immediately following the issuance of a Certificate of Occupancy permit for existing construction; or
- D. The first year of vacancy of a non-blighted structure while being marketed via a currently licensed real estate agent through Maryland's Department of Labor, Licensing & Regulation.
- E. **Mixed-use structure with shell condition space located on the first floor.**

§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 § 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 **or vacant first floor space**;
- 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 **or vacant first floor space**;
- 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 **or first floor space**:

(1) Vacant Blighted Non-Residential Structure

- (a) Five hundred dollars (\$500.00) at initial application;

(b) One thousand dollars (\$1,000.00) at first annual application renewal and each subsequent annual application renewal.

(2) Vacant Non-Residential Structure or Vacant Non-Residential First Floor Space

(c) Two hundred fifty dollars (\$250.00) at initial application;

(d) Five hundred dollars (\$500.00) at first annual application renewal;

(e) 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.

I. When a Vacant Blighted **Non-Residential Structure** is purchased by a *bona fide* purchaser for value who promptly registers the structure in the Vacant Structures program in accordance with the requirements of this Chapter, the license fee may be refunded if the owner is issued building permits for comprehensive renovation of the structure within six (6) months of purchase.

J. **Blight classification or reclassification will be determined annually. The owner may file a written request for blight reclassification with the Department on or before the thirtieth calendar day after the date of initial application or renewal application. The request for reclassification must include an onsite meeting with the Department granting access to the exterior and interior of the structure for a reclassification evaluation.**

K. **Blight classification or reclassification shall be stayed during the pendency of a request for reclassification under this section.**

L. **Blight classification or reclassification shall remain in effect for the license time period.**

§232-5. Inspection.

A. In connection with the application requirements contained in § 232-4 of this Chapter, the exterior of the vacant structure **or first floor space exterior** 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.

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

(1) Vacant Blighted Non-Residential Structures: At initial application and on annual basis thereafter.

(2) Vacant Non-Residential Structures: At first renewal and annually thereafter.

- C. 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 § 232-6 of this Chapter.
- D. In the event that any noted violations are not corrected at the time of the re-inspection requested by the owner or his agent or the premises is not safely accessible, the Code Official may impose a re-inspection fee as established by the City of Hagerstown's fee schedule for each additional visit for the same violation.

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

In addition to the inspection requirements of § 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.
 - (1) Exterior lighting at all entry doors:
 - (a) Be illuminated from dusk to dawn.
 - (b) Be directed downward and away from adjoining premises.
 - (c) Maintain one (1) footcandle of light measured at one (1) foot above the ground to a minimum distance of twenty (20) feet from the center of each entry door.
 - (2) Exterior lighting is not required at any entry door where street lighting meets the minimum illumination level required by this section.
- B. Doors.
 - (1) All entry doors shall have engaged deadbolt locks.
 - (2) Doors not capable of deadbolt locks shall be secured in an approved manner
 - (3) All exterior sliding doors shall have lift and slide protection.
- C. All windows shall have lift and slide protection.
- D. 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.

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 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 § 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 § 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 Code** 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.