

ORDINANCE NO. OR2019-10-110

AN ORDINANCE SUPPLEMENTING THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO BY ADDING THERETO A NEW CHAPTER WITHIN THE FIRE PREVENTION CODE, CHAPTER 1507, REGISTRATION OF VACANT COMMERCIAL AND INDUSTRIAL BUILDINGS.

WHEREAS, vacant and abandoned structures are unsightly, attract criminal activity and are a threat to public safety; and

WHEREAS, the National Fire Protection Association (NFPA) statistics indicate that more than ten civilians die and 6,000 firefighters are injured each year operating in nearly 31,000 fires in vacant and abandoned buildings; and

WHEREAS, the purpose of this new Chapter is to establish a program to identify, register and inspect vacant commercial and industrial property within the City of Hamilton that may present a fire hazard, that may provide temporary occupancy for transients, that may detract from private or public efforts to rehabilitate or maintain surrounding buildings, and that may present a hazard to the health, safety and welfare of the public; and

WHEREAS, vacant and abandoned structures are a threat to economic development within the City of Hamilton; and

WHEREAS, through an effective registration, inspection, identification and monitoring program, buildings can be kept secure from trespassers and provide safe entry of police and firefighters in the event of an emergency; and

WHEREAS, registration of vacant and abandoned properties will reduce and prevent neighborhood blight, avoid the creation of public nuisance and promote neighborhood stability and occupancy by preserving the condition and appearance of properties; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Hamilton, Ohio and its citizens, and to provide for the efficient daily operation of the Departments of the City of Hamilton, Ohio;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the Codified Ordinances of the City of Hamilton, Ohio, are hereby supplemented by adding thereto a new Chapter 1507 to read as set forth in the document attached hereto as Exhibit No.1 and incorporated herein by reference.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: October 9, 2019

Effective Date: November 8, 2019

ATTEST: Nicholas Garuckas
City Clerk

[Signature]
Mayor

CERTIFICATE

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Ordinance No. OR2019-10-110 was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: October 10, 2019

Nicholas Garuckas
Nicholas Garuckas, City Clerk
CITY OF HAMILTON, OHIO

EXHIBIT NO. 1

**CHAPTER 1507: REGISTRATION OF VACANT COMMERCIAL
AND INDUSTRIAL BUILDINGS**

1507.01 PURPOSE.

This Chapter is adopted to establish a program for identifying and registering vacant commercial and industrial buildings within the City that may present a fire hazard, that may provide temporary occupancy by transients, that may detract from private and/or public efforts to rehabilitate or maintain surrounding buildings, and that may present a hazard to the health, safety and welfare of the public.

Through a registration, inspection, and monitoring process, vacant commercial and industrial buildings will be kept weather tight and secure from trespassers, will provide safe entry to police officers and firefighters in times of emergency, will not impede private and/or public efforts to rehabilitate or maintain surrounding buildings and will not otherwise present a public hazard, so that the health, safety and welfare of the public is served by these regulations.

1507.02 DEFINITIONS.

For the purposes of this Chapter, the following definitions shall apply to the following terms unless otherwise expressly stated:

AUTHORIZED AGENT. A person that resides within Butler County, Ohio or a contiguous county who shall be authorized in writing by the Owner or person in control of a vacant commercial or industrial building to be responsible for the security and maintenance of the building and property, who shall have access to the building and property and who shall be available at all times during business and non-business hours in the case that an emergency occurs requiring immediate response and/or to make immediate repairs.

CHIEF BUILDING OFFICIAL. The Chief Building Official for the City of Hamilton or his or her designee.

CODE OFFICIAL. The official who is charged with the administration and enforcement of the City of Hamilton Property Maintenance Code, or his/her duly authorized representative.

COMMERCIAL OR INDUSTRIAL BUILDING. The land and improvements to land which are owned or occupied for general commercial and income producing purposes and where production of income is a factor to be considered in arriving at true value. This definition includes, but is not limited to, the following uses, whether or not the property is legally zoned for such uses: apartment houses; hotels; motels; theaters; office buildings; retail and wholesale stores; bank buildings; commercial garages; commercial parking lots; shopping centers; private or public manufacturing businesses; warehouses; buildings used for other commercial and industrial purposes; buildings that contain both a commercial building and residential building use within the same facility, also known as a mixed-use building, and any other structure of any kind or nature on the lot.

EVIDENCE OF VACANCY. Any condition that on its own or combined with other existing conditions would lead a reasonable person to believe the building is vacant. Such conditions include, but are not limited to: no or significantly below standard utility usage; overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; accumulation of trash, junk or debris; broken or boarded up windows; abandoned or inoperable vehicles; the absence of furnishings or other personal items consistent with habitation or occupation; statement(s) by neighboring property owners, delivery persons, U.S. Postal service employees or government employee(s) that the building is vacant.

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FIRE CHIEF. The Fire Chief of the City of Hamilton or his or her designee.

FIRE CODE. Part 15 of the City of Hamilton's Codified Ordinances.

FIRE DEPARTMENT. The City of Hamilton Division of Fire.

KEY BOX. A secure device with a lock operable only by a fire department master key, and containing building entry keys and other keys that may be required for access in an emergency.

OWNER. Any person, partnership, corporation or other unincorporated association or entity who, alone or jointly and severally with others, holds legal or equitable title to a property. This definition includes executors, administrators, trustees or guardians of the estate of the Owner. Any individual owner, regardless of whether he or she shares operational responsibility with any other person, any general partner of a partnership and any officer of a corporation or unincorporated association, shall have the direct and personal responsibility and liability for compliance with the provisions of this Chapter.

PERSON. An individual, partnership, association, syndicate, company, firm, trust, corporation, Government Corporation, department, bureau, agency or other entity recognized by law.

PERSON IN CONTROL. The Owner of the property; a mortgagee or vendee in possession; a receiver; an executor; a trustee; and any person, public or private entity, lessee or holder of a lesser estate in the property, and/or its duly authorized agent(s), with the authority to bring the property into compliance with the provisions of this Chapter. This definition includes, but is not limited to, any mortgagee that has filed an action in foreclosure on the property based on breach of, or default under, a mortgage agreement, until title to the property is transferred to a third party.

VACANT PROPERTY. Any commercial or industrial building that is not occupied by its Owner or other Person in Control; or at which substantially all lawful manufacturing, industrial, mixed-use residential or commercial business operations and/or occupancy has ceased; or which is substantially devoid of content. This definition includes all principal manufacturing, industrial, mixed-use residential or commercial buildings on the property; any other structure of any kind or nature on the property; and the entire parcel of land surrounding such buildings and structures, including, but not limited to, fences, walkways, walls and appurtenances.

A structure is deemed a Vacant Property if it is:

1. Unoccupied and unsecured;
2. Unoccupied and secured by other than normal means, as determined by the Fire Chief, Code Official or Chief Building Official;
3. An unoccupied commercial or industrial unit within a building, that if occupied would obtain its own certificate of occupancy permit; or
4. Unoccupied and determined to be unsafe as determined by the Fire Chief, Code Official or Chief Building Official;
5. Unoccupied and does not presently receive utilities;
6. Unoccupied and has outstanding property maintenance violations;
7. Illegally occupied due to loitering and vagrancy, and there is no legal occupation of the property;
8. Unoccupied for a period of time exceeding ninety (90) days and has an existing code violation issued by the Department of External Services;
9. Unoccupied, the Owner is known to be deceased and there is no current Owner or Person in Control of the property;

10. Unoccupied and abandoned by the Owner;
11. Occupied and not used for a lawful commercial, industrial or residential/commercial mixed use for more than 180 days.

1507.03 OBLIGATIONS OF OWNERS AND PERSONS IN CONTROL.

An Owner or Person in Control of a Vacant Property shall perform all of the following:

1. Register the Vacant Property with the Fire Department in accordance with the requirements of this Chapter.
2. Designate an Authorized Agent if the Owner or Person in Control of the Vacant Property does not reside within Butler County, or a contiguous county.
3. Submit a Vacant Property Plan which shall be approved by the Fire Chief in accordance with section 1507.09 of this Chapter.
4. At all times maintain the property in accordance with the Vacant Property Maintenance Standards set forth in section 1507.10 of this Chapter.
5. Acquire or otherwise maintain general liability insurance covering the Vacant Property in an amount not less than One Million Dollars (\$1,000,000.00). The insurance policy shall provide for written notice to the Fire Chief within thirty (30) days of any lapse, cancellation or change in coverage.

1507.04 REGISTRATION.

Every Vacant Property located within the City shall be registered by the Owner or Person in Control thereof with the Fire Department within sixty (60) days after the effective date of this Chapter. Following this initial registration, every Vacant Property shall be registered on a yearly basis on or before December 31st.

In the event the Fire Department notifies an Owner or Person in Control of property that such property must be registered pursuant to this Chapter based on evidence of vacancy, the Owner or Person in Control shall register the Vacant Property within thirty (30) days of receipt of the Fire Department's notice. Within thirty (30) days of receipt of the Fire Department's notice to register the Vacant Property, the Owner or Person in Control may provide evidence to the Fire Chief that the Vacant Property is entitled to exemption from registration pursuant to section 1507.07 herein. If no evidence is provided, the property shall be conclusively deemed to be Vacant Property and failure to register the Vacant Property in accordance with this Chapter shall subject the Owner and/or Person in Control to the penalties and remedies set forth in section 1507.19 herein.

Registration shall be made on forms provided by the Fire Chief and verified by the Owner or Person in Control of the Vacant Property and shall contain all of the following:

1. The name, address and telephone number of the Owner or Person in Control;
2. The name, address and telephone number of the Authorized Agent, if required;
3. The names, addresses and telephone numbers of all known lienholders on, and all other parties with any legal interest in, the Vacant Property;
4. If the Vacant Property is for sale, the name, address and telephone number of the company and the realtor or agent responsible for marketing the property;
5. The address of the Vacant Property and the permanent parcel tax identification number of the property;
6. The date on which the property became vacant or will become vacant;

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7. The reason for the vacancy and the estimated length of time the property is expected to remain vacant;
8. A certificate of general liability insurance in the amount required by section 1507.03;
9. A Vacant Property Plan in accordance with section 1507.09.

No person shall furnish false information to the Fire Department in the Registration Form. Registration shall be valid for the registering Owner and/or Person in Charge of the Vacant Property until December 31st of the year of registration. No Owner or Person in Control of a Vacant Property shall fail to notify the Fire Department and file an amended Registration Form within seven (7) days of any change in the registration information required by this section.

Any transfer of title to the Vacant Property shall require the new Owner and/or Person in Charge to file a new Registration Form together with a new registration fee. No person, including but not limited to, an Owner, Person in Control, purchaser, escrow agent, real estate agent or relator, shall participate in the transfer of title to, or disburse proceeds from a transfer of title to, a Vacant Property without having in escrow with the escrow agent handling the property transaction a copy of the Registration Form completed by the purchaser of the property, the appropriate registration fee pursuant to section 1507.05 herein and the deposit required by section 1507.12 of this Chapter, if applicable. The annual registration fee shall not be prorated. If the transfer of title occurs within ninety (90) days from the end of the calendar year, the annual registration fee shall be applied to the following calendar year. The escrowed Registration Form and the annual registration fee shall be forwarded to the Fire Chief with seven (7) days of the transfer of title.

1507.05 REGISTRATION FEES.

The fees imposed by this Chapter may be reasonably related to: (i) the City's administrative costs related to registering and processing the Vacant Property Registration Form; (ii) the costs incurred by the City in monitoring the Vacant Property; (iii) the City's costs to secure the Vacant Property; and (iv) the demolition, hazard abatement and repair costs the City incurs with respect to the Vacant Property. The progressive fee structure, set forth in subsection A below, for properties that continue to be vacant year-to-year is reasonably related to the progressive increase in the aforementioned costs the City incurs for properties which are continuously vacant over consecutive years.

- A. The Owner of a Vacant Property shall pay an annual fee of Four Hundred Dollars (\$400.00) for the first year the property remains vacant. For every consecutive year that the property remains vacant, the annual registration fee shall be assessed at double the previous year's registration fee amount up to a maximum annual registration fee equaling the five (5) year registration fee of Six Thousand Four Hundred Dollars (\$6,400.00), which shall be the registration fee for the fifth and all subsequent years of vacancy. The registration fee is based on the duration of time the property has been vacant, regardless of a change in ownership.
- B. The first annual fee shall be paid at the time the Vacant Property is registered. If the fee is not paid, the owner shall be subject to application penalties, as outlined in section 1507.19 of this Chapter.
- C. The fee shall be paid in full prior to the issuance of any building permits unless the Vacant Property is granted an exemption pursuant to section 1507.07 of this Chapter.
- D. The fee shall be prorated by day and a refund may be issued if the Vacant Property is no longer deemed vacant under the provisions of this Chapter within 180 days of its registry.
- E. All delinquent fees shall be paid by the Owner prior to any transfer of ownership over the Vacant Property.
- F. All delinquent fees shall be paid in full prior to transfer or connection of any and all City utilities.

- G. Late fees shall be paid in addition to the annual registration fee and will be equal to one-fourth of the applicable annual fee.
- H. Fees incurred prior to the enactment of this Chapter will be assessed pursuant to the ordinance then in effect at the time the fees were incurred.

If an Owner or Person in Control of a Vacant Property fails, neglects or refuses to pay a registration fee within the time ordered pursuant to this section, the designated administrator of the registry shall notify the Finance Director. The Finance Director shall certify the registration fee to the County Auditor who shall place the costs as a charge upon the tax list and duplicate to be paid as a special assessment on the Vacant Property. In addition to the registration fee, an interest rate equal to the current rate of interest charged by the City on special assessments shall be imposed by the City for the life of the registration fee and collected as provided in this section.

1507.06 REFUNDING OF FEES.

The City shall refund the Vacant Property registration fee paid if the subject property is brought into compliance with the applicable standards set forth in all State and City Housing Codes, Building Codes and Property Maintenance Codes, and is reoccupied within one (1) year of payment of the annual registration fee. The refund shall be in the amount of the registration fee paid during the calendar year in which the Vacant Property was brought into compliance with the aforementioned codes and reoccupied. Registration fees paid in previous years shall not be refunded.

1507.07 PROPERTIES EXEMPT FROM REGISTRATION

- A. Property under active construction or renovation and having a valid building permit(s) shall be exempt from registration until the expiration of the longest running, currently active building permit.
- B. Property which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of ninety (90) days after the date of the fire or extreme weather event, contingent on the Owner submitting a request for the exemption in writing to the Fire Chief. This request shall include the names and addresses of the Owner(s), and a statement of intent to repair and reoccupy the property in an expedient manner, or of intent to demolish the building or other structure on the property.
- C. Property that is for sale and listed with a licensed State of Ohio realtor shall be exempt for a period of twelve (12) months from the start of the vacancy, provided that the Owner or Owner's representative submits proof to the Fire Chief of such listing and "for sale" status.
- D. Property that has been granted an exemption pursuant to a written request by the Owner for an exemption from the provisions of this Chapter and good cause shown therefore. The Fire Chief shall timely consider the request. In determining whether good cause exists to grant a request for exemption, the Fire Chief shall consider the following:
 - a. The Owner's prior record of violations of State and City Housing Codes, Building Codes and Property Maintenance Codes;
 - b. The amount of Vacant Property the Owner currently owns within the City; and
 - c. The length of time that the Vacant Property for which the exemption is sought has been vacant.

1507.08 INSPECTION.

At the time of registration, the Owner or Person in Control must arrange for an inspection of the Vacant Property by the Fire Chief, Code Official and Chief Building Official in the presence of the Owner, Person in Control or Authorized Agent of the Owner for the purpose of determining: (i) the structural integrity of any buildings and structures on the property; (ii) whether the property is safe for entry by firefighters and police officers in times of emergency; and (iii) whether the Vacant Property complies with the requirements of this Chapter.

If the Owner or Person in Control fails to arrange, or refuses to consent to, an inspection, the Fire Chief may obtain a search warrant from a court of competent jurisdiction to authorize inspection of the Vacant Property.

1507.09 VACANT PROPERTY PLAN.

The Owner or Person in Control of the Vacant Property shall submit to the Fire Chief for his or her approval. The Vacant Property Plan shall set forth the Owner or Person in Control's intention to carry out one, or a combination, of the following courses of action with respect to the property: (i) demolish any buildings or other structures on the property; (ii) secure any buildings or other structures on the property; and/or (iii) rehabilitate any buildings or other structures on the property. The following minimum requirements for each course of action must be included in the Vacant Property Plan:

1. Demolition. If any buildings or other structures on the property are to be demolished, the Vacant Property Plan shall include a proposed timeframe for demolition, which shall include a commencement date within thirty (30) days of approval of the proposed demolition timeframe. The demolition completion date shall be no more than one (1) year from the date demolition commences.
2. Secured Structure. If any buildings or other structures on the property are to remain unoccupied, the Vacant Property Plan shall contain all of the following, as applicable:
 - a. A plan for fire alarms and fire protection, as required by all applicable State and City regulations.
 - b. A plan of action to remedy any declared public nuisance or code violation existing on the Vacant Property.
 - c. A lighting plan for the exterior of any buildings and structures on the Vacant Property, walkways adjacent thereto, parking or loading areas; and nighttime illumination of areas and walkways of buildings, structures and any other areas of the Vacant Property which may be vulnerable to vandalism and vagrancy, as determined by the Chief of Police.
 - d. A regular maintenance plan for any and all exterior lighting and illumination fixtures.
 - e. A plan for the maintenance of all structural openings, such as windows, doors, areaways and other openings to avoid the necessity of securing any buildings and structures on the Vacant Property by boarding up such structural openings. To avoid the appearance of vacancy, structural openings that are located on the first floor and facing the street shall not be papered, soaped, blacked out or boarded up.
 - f. A general maintenance plan to ensure the Vacant Property remains in compliance with the Vacant Property Maintenance Standards set forth in section 1507.10 of this Chapter.

3. Rehabilitation. If the Vacant Property is to be returned to lawful occupancy or use, the Vacant Property Plan shall include a rehabilitation timeframe for the property. The rehabilitation timeframe shall not exceed twelve (12) months. The Fire Chief or their designee may grant an extension of time upon receipt of a written statement from the Owner detailing the reasons for the extension and good cause shown therefore. The Vacant Property shall comply with all applicable laws and regulations, including the Vacant Property Maintenance Standards provided for in section 1507.10 of this Chapter, at all times during rehabilitation.

1507.010 VACANT PROPERTY MAINTENANCE STANDARDS.

All Vacant Property within the City shall be maintained in accordance with the following Vacant Property Maintenance Standards:

1. Structural openings which cannot be secured through an existing locking mechanism shall be boarded, secured and protected from intrusion by birds, vermin and trespassers in accordance with the United States Fire Administration's National Arson Prevention Initiative Board Up Procedures, except to the extent prohibited by section 1507.09(2)(e) herein. A copy of the United States Fire Administration's National Arson Prevention Initiative Board Up Procedures shall be kept on file with the Fire Department and made available to any member of the public upon request.
2. Any and all buildings and structures on Vacant Property shall be protected from deterioration and maintained in accordance with the General and Specific property maintenance requirements outlined in sections 1779.05 and 1779.06 of the Non-Residential Property Maintenance Code set forth in Chapter 1779 of the City of Hamilton Codified Ordinances.
3. A vacant commercial or industrial building and the property on which it is located shall be kept clean, safe, sanitary and free from public nuisance in accordance with Chapter 1767 of the Codified Ordinances of the City of Hamilton.
4. A key box shall be installed on each commercial or industrial building on Vacant Property in case immediate access to the interior of the building by the Fire Department is necessary for life-saving or firefighting purposes. Each key box shall be of a type that is approved by the Fire Chief. The key box shall be installed in accordance with the applicable manufacturer's recommendations and in a location approved by the Fire Chief. The cost of purchase and installation of each key box shall be paid by the Owner or Person in Control. Each key box shall have a lock for which the Fire Department has the key or combination, as applicable, and contain keys to gain access to all areas of the building, including the roof and any basement area. The Owner or Person in Control of the building shall immediately notify the Fire Department in writing if the key box is removed, replaced, changed, rekeyed or otherwise modified, and provide the Fire Department with a new key or combination, if necessary.

1507.11 NOTICE OF VIOLATION.

Whenever the Fire Chief determines that there is a violation of the provisions of this Chapter, he or she shall give written notice of such violation to the Owner, Authorized Agent or Person in Control of the offending Vacant Property. The notice shall contain the following:

1. A description of the Vacant Property sufficient for identification;
2. A statement of the violation(s) with reference to the sections of this Chapter violated;
3. A statement of necessary remedial action to bring the Vacant Property into compliance with the provisions of this Chapter within a reasonable timeframe;

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4. A statement of the right of the Owner, Authorized Agent and/or Person in Charge to file an appeal of the notice and order with the City of Hamilton Nuisance Appeals Board in the manner and within the time limitations provided for in section 1705.26 of the City of Hamilton's Codified Ordinances; and
5. A statement that any abatement activities with respect to the Vacant Property performed by or at the direction of the City shall be certified to the County Auditor to be placed as a charge on the tax list and duplicate, and shall be made a lien upon the Vacant Property.

A notice of violation shall be deemed to be properly served if one (1) or more of the following methods are used:

1. Service by personal delivery to the Owner, Authorized Agent or Person in Charge of the Vacant Property; or
2. Service by certified mail, return receipt requested, to the Owner, Authorized Agent or Person in Charge of the Vacant Property at his or her last known address(es) as stated in the records of the County Auditor.
 - a. If the certified mail is returned unclaimed, then service shall be sent by ordinary mail to the last known address(es) of the Owner, Authorized Agent or Person in Charge and the mailing shall be evidenced by a certificate of mailing. Service shall be deemed complete on the date of mailing.
 - b. If the certified mail is returned undeliverable, a copy of the notice shall be posted in a conspicuous place in or on the Vacant Property.

1507.12 ESCROW DEPOSIT REQUIRED PRIOR TO SALE

If any outstanding violations of this Chapter existing on a Vacant Property are not corrected prior to the scheduled date for transfer of title to such property, an escrow account shall be established by either party or both parties to the property transaction. The escrow amount shall contain an amount equal to 100 percent of the estimated cost to bring the Vacant Property into compliance with this Chapter, but in no case less than One Thousand Dollars (\$1,000.00), to pay for the cost to correct all remaining violations.

The amount to be held in escrow shall be calculated by procuring written estimates from at least two (2) qualified companies capable of performing the work, which are currently registered to do business in the City of Hamilton. The amount deposited into escrow shall be 100 percent of the higher of either: (i) the two estimates; or (ii) One Thousand Dollars (\$1,000.00).

No party to a transfer of Vacant Property shall authorize or accept such transfer without ensuring compliance with this section. Either party or both parties to the transaction shall provide the City with proof of compliance with this section, upon request by the City therefore. If the party or parties establishing the escrow account can demonstrate to the Fire Chief that, after a good faith effort, he or she is unable to obtain written estimates, the Fire Chief shall establish the amount to be placed into escrow.

The escrow account provided for in this section 1507.12 shall be held by an independent escrow agent. The account may only be closed after the Owner, Authorized Agent and/or Person in Charge receives written authorization from the Fire Chief to close the account.

1507.13 CERTIFICATES OF OCCUPANCY

Any violations of this Chapter shall be corrected prior to the issuance of any certificate of occupancy for Vacant Property. Violations that cannot be corrected due to seasonal conditions shall not preclude the issuance of a certificate of occupancy, provided that issuance of such certificate shall be contingent upon written acknowledgment by the Owner, Authorized Agent and/or Person in Charge of all outstanding violations on the Vacant Property and agreement to correct such violations within six (6) months of the date the certificate of occupancy is issued.

The certificate of occupancy shall also be contingent upon the Owner, Authorized Agent and/or Person in Charge establishing an escrow account pursuant to section 1507.12. Written notice of compliance with section 1507.12 must be received by the Fire Chief prior to the issuance of a certificate of occupancy.

1507.14 DISPERSAL OF FUNDS BY ESCROW AGENTS

No person acting in the capacity of an escrow agent in any real estate transaction involving the sale or transfer of a Vacant Property shall disperse any funds held in escrow in compliance with sections 1507.12 unless there has been compliance with section 1507.13.

Funds shall be disbursed only upon written authorization from the Fire Chief. The Fire Chief or his or her designee may authorize the release of funds as payment in full to a contractor as each violation of this Chapter is corrected if the amount due does not exceed the written estimates obtained pursuant to section 1507.12. In the event the amount due exceeds the contractor's original written estimates, the Fire Chief or his or her designee may only authorize the release of funds to the contractor if the Fire Chief or his or her designee makes a written finding that sufficient funds will remain in the escrow account to correct all other remaining violations on the property.

1507.15 DEMOLITION ESCROW

The Owner of a commercial or industrial building on Vacant Property which is slated to be demolished pursuant to the Vacant Property Plan shall place in escrow with the City a deposit of Twenty Five Thousand Dollars (\$25,000.00) for a building under 5,000 square feet in size, or Seventy Five Thousand Dollars (\$75,000.00) for a building 5,000 square feet or more, unless a fire escrow is being administered by the City of Hamilton's Fire Division, in which case the Owner shall comply with all requirements and orders of that Division.

If the amount to be placed in escrow under this section cannot be paid in full, the City shall place a lien on the property for the amount specified. The City shall use escrowed funds to complete the plans submitted by the Owner in the event the Owner does not comply with the Vacant Property Plan. Escrowed funds may, by prior arrangement, be withdrawn during construction as follows: twenty percent (20%) upon commencement of work; twenty percent (20%) upon completion of half of all work; and the remaining sixty percent (60%) upon completion of all work, including debris disposal, backfill and seeding. Unused escrow funds will be released upon completion of the work or transfer of ownership, provided that all fees have been paid in full. New owners must sign the Vacant Property Plan and accept responsibility in writing for completing the demolition.

1507.16 EFFECTING COMPLIANCE.

In the event the Owner, Authorized Agent or Person in Control fails to comply with a Notice of Violation issued in accordance with section 1507.11, within the period of time stipulated therein, the Fire Chief shall give notice to the Code Official or Chief Building Official or his or her designee that the Vacant Property is open and unsecure. The Code Official or Chief Building Official may proceed with any requirements of section 1507.10 to secure the property. If the City completes such abatement work, upon completion of the work, the City department performing the work shall determine all costs associated therewith, including registration fees, with costs of labor charged at a rate of One Hundred and Fifty Dollars (\$150.00) per hour; provided, however, there shall be a minimum fee of not less than One Hundred Dollars (\$100.00). In the event the City is required to employ outside services for the abatement work, the fee shall be the actual costs of the contract plus fifteen percent (15%) for administrative costs incurred by the City.

The total abatement costs, inclusive of the registration fee, shall be forwarded by the Fire Chief to the Finance Director of the City, who shall certify the costs, together with the parcel number or another proper description of the lands on which the abatement activities occurred, the date the costs were incurred for each abatement activity and the name of the Owner of record at the time the costs were incurred to the County Auditor who shall place the costs as a charge upon the tax list and duplicate. The costs are a lien upon the Vacant Property from and after the date the costs were incurred. The costs shall be collected as other taxes and returned to the City.

1507.17 APPEALS.

Any person aggrieved by an order of the Fire Chief or the decision of the Division of Fire denying approval to a Vacant Property Plan may file an appeal with the Nuisance Appeals Board in the manner and within the time limitations provided for in Chapter 1709.26 of the City of Hamilton Codified Ordinances.

1507.18 INTERPRETATION OF CHAPTER.

This Chapter is solely applicable to vacant commercial and industrial properties. Should any other provisions of the City of the Hamilton Codified Ordinances conflict or overlap with the provisions of this Chapter, the provisions of this Chapter shall control with respect to the abatement of nuisances on and registration of vacant commercial and industrial properties, as well as nuisance abatement activities related to securing, remedying, repairing and removing such properties and/or hazardous conditions thereon. This Chapter shall not, in any manner, abrogate any of the other provisions of the Codified Ordinances of the City of Hamilton pertaining to the abatement of public nuisances or unsafe buildings on any other type of property. Sections 1779.05 and 1779.06 of the Non-Residential Property Maintenance Code set forth in Chapter 1779 of the City of Hamilton Codified Ordinances are expressly deemed not to conflict with the provisions of this Chapter 1507 and shall continue to be applicable to vacant commercial and industrial properties; provided, however, that a Vacant Property shall not be required to comply with any Non-Residential Property Maintenance Code ordinances from which the property is declared to be exempt in a Vacant Property Plan approved pursuant to Section 1507.09 herein.

1507.99 PENALTY; EQUITABLE REMEDY.

- A. Whoever violates or fails to comply with any of the provisions of this Chapter is guilty of a minor misdemeanor and shall be fined not more than One Hundred Dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation or noncompliance continues.

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- B. The application of the penalty provided in subsection A herein shall not preclude the City from enforcing its rights to remove, repair and/or remedy the prohibited conditions, or enforce any other rights it may have, or seek any other remedies it may be entitled to, in law or in equity.