

ORDINANCE NO. 30, 2024

AN ORDINANCE ADOPTING TITLE THREE, CHAPTER 1340, REGISTRATION OF VACANT RESIDENTIAL, COMMERCIAL AND INDUSTRIAL BUILDINGS, OF THE CODIFIED ORDINANCES OF THE VILLAGE OF ST. BERNARD, OHIO

WHEREAS, the Village of St. Bernard, Hamilton County, Ohio, has a number of vacant properties, some of which have been vacant for a number of years, and which represent a fire hazard, may provide temporary occupancy by transients, may detract from private and/or public efforts to rehabilitate or maintain surrounding buildings, and may present a hazard to the health, safety and welfare of the public; and

WHEREAS, St. Bernard plans to adopt a program for identifying and registering such vacant properties to diminish the hazards presented by such properties, including providing safe entry to police and fire services in times of emergency, and encourage the sale or development of those vacant properties, now therefore:

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ST. BERNARD, STATE OF OHIO:

Section 1. That the Village of St. Bernard hereby adopts Title Three, Local Provisions, Chapter 1340, Registration of Vacant Residential, Commercial and Industrial Buildings, as set forth in the attached Exhibit "A".

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Passed this 19th day of December, 2024.

ATTEST: 
Clerk of Council


President of Council

ORIGINAL

Approved this 19th day of December, 2024.


Mayor

I, CAROLINE STEGMAN, CLERK OF COUNCIL, VILLAGE OF ST. BERNARD, STATE OF OHIO, DO HEREBY testify that the publication of Ordinance No. 30, 2024, was made by posting true copies of the same in the most public places designated by Council: the Village website; and the Village social media account, for a period of fifteen (15) days or more commencing January 9th, 2024.

ATTEST:  DATE Dec. 19th 2024
Clerk of Council

Approved as to form  Date 19 Dec 2024
Director of Law

EXHIBIT A

TITLE THREE - Local Provisions

CHAPTER 1340: Registration of Vacant Residential, Commercial, and Industrial Buildings

1340.01 PURPOSE.

This Chapter is adopted to establish a program for identifying and registering vacant residential, commercial, and industrial buildings within the Village of St. Bernard 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 residential, 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.

1340.02 DEFINITIONS.

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

(1) "Authorized Agent." A person that resides within Hamilton County, Ohio or a contiguous county who shall be authorized in writing by the Owner or person in control of a vacant residential, 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.

(2) "Building Official" is the executive who is charged with the administration and enforcement of St. Bernard's Building Code, or their duly authorized representative, in accordance with Chapter 1301 of the St. Bernard Codified Ordinances,

(3) "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.

(4) "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.

(5) "Fire Chief." The Fire Chief of the St. Bernard Fire Department or their designee.

(6) "Fire Prevention Code." Part 15 of the St. Bernard Codified Ordinances.

(7) "Fire Department." St. Bernard's Division of Fire.

(8) "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.

(9) "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.

(10) "Person." An individual, partnership, association, syndicate, company, firm, trust, corporation, Government Corporation, department, bureau, agency or other entity recognized by law.

(11) "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.

(12) "Residential Building." The land and improvements of any kind or nature to land which are owned or occupied for residential purposes, including dwellings and institutional structures as defined in section 1335.22 of the St. Bernard Codified Ordinances, regardless of whether income is a factor to be considered in arriving at true value.

(13) "Vacant Property." Any residential, 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.

(b) 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 or 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 or 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 St. Bernard Building Department;
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 residential, commercial, industrial or residential/commercial mixed use for more than 180 days.

1340.03 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 Tax Department in accordance with the requirements of this Chapter.
2. Register the Vacant Property with the Fire Department in accordance with the requirements of this Chapter.
3. Designate an Authorized Agent if the Owner or Person in Control of the Vacant Property does not reside within Hamilton County, or a contiguous county.
4. Submit a Vacant Property Plan which shall be approved by the Fire Chief in accordance with section 1340.09 of this Chapter.
5. At all times maintain the property in accordance with the Vacant Property Maintenance Standards set forth in section 1340.10 of this Chapter.

6. 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.

7. Cooperate with the Building Official, the Fire Chief, and any person authorized by St. Bernard to enforce the sections herein, in the discharge of duties as provided in this Chapter.

8. Hold the Building Official, the Fire Chief, and any person authorized by St. Bernard to enforce the sections herein, immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge of duties as provided in this Chapter.

1340.04 REGISTRATION.

Every Vacant Property located within St. Bernard shall be registered by the Owner or Person in Control thereof with the Tax and Fire Departments 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 1340.07 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 1340.19 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;

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 1340.03;
9. A Vacant Property Plan in accordance with section 1340.09.

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 1340.05 herein and the deposit required by section 1340.12 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.

1340.05 REGISTRATION FEES.

The fees imposed by this Chapter may be reasonably related to: (i) St. Bernard's administrative costs related to registering and processing the Vacant Property Registration Form; (ii) the costs incurred by St. Bernard in monitoring the Vacant Property; (iii) St. Bernard's costs to secure the Vacant Property; and (iv) the demolition, hazard abatement and repair costs St. Bernard 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 St. Bernard 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 1340.99 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 1340.07 of this Chapter.

D. The fee shall be prorated by day and a refund may be issued as set forth in 1340.06 of this chapter if the Vacant Property is no longer deemed vacant under the provisions of this Chapter.

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 Village 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 St. Bernard's Auditor. St. Bernard's Auditor 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 St. Bernard on special assessments shall be imposed by St. Bernard for the life of the registration fee and collected as provided in this section.

1340.06 REFUNDING OF FEES.

St. Bernard 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 St Bernard 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 prorated by day for the 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.

1340.07 PROPERTIES EXEMPT FROM REGISTRATION

A. Property under active construction or renovation and having a valid building permit(s) shall be exempt from registration for a period of one (1) year from the date that the first building permit is issued unless a good cause exemption is granted by the Fire Chief.

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 St. Bernard Housing Codes, Building Codes and Property Maintenance Codes;
- b. The amount of Vacant Property the Owner currently owns within St. Bernard; and
- c. The length of time that the Vacant Property for which the exemption is sought has been vacant.

1340.08 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 and 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, St. Bernard may obtain a search warrant from a court of competent jurisdiction to authorize inspection of the Vacant Property.

1340.09 VACANT PROPERTY PLAN.

The Owner or Person in Control of the Vacant Property shall submit to the Fire Chief for their approval a Vacant Property Plan. 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 St. Bernard 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 1340.10 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 1340.10 of this Chapter, at all times during rehabilitation.

1340.010 VACANT PROPERTY MAINTENANCE STANDARDS.

All Vacant Property within the Village 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 1340.09(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 environmental requirements outlined in sections 1335.31 to 1335.34, inclusive, of the St. Bernard Codified Ordinances.

3. A vacant residential, 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 sections 1335.31 to 1335.34, inclusive, of the St. Bernard Codified Ordinances.

4. A key box shall be installed on each residential, 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.

1340.11 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;
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 Village of St. Bernard Nuisance Appeals Board in the manner and within the time limitations provided for in section 1705.26 of the St. Bernard's Codified Ordinances; and
5. A statement that any abatement activities with respect to the Vacant Property performed by or at the direction of St. Bernard 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.

1340.12 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 State of Ohio. 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 St. Bernard with proof of compliance with this section, upon request by St. Bernard. 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 1340.12 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.

1340.13 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 1340.12. Written notice of compliance with section 1340.12 must be received by the Fire Chief prior to the issuance of a certificate of occupancy.

1340.14 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 1340.12 unless there has been compliance with section 1340.13.

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 1340.12. 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.

1340.15 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 St. Bernard a deposit of TwentyFive 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 Village of St. Bernard'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, St. Bernard shall place a lien on the property for the amount specified. St. Bernard 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.

1340.16 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 1340.11, within the period of time stipulated therein, the Fire Chief shall give notice to the Building Official or their designee that the Vacant Property is open and unsecure. The Building Official may proceed with any requirements of section 1340.10 to secure the property. If St. Bernard completes such abatement work, upon completion of the work, the 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 St. Bernard 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 St. Benard.

The total abatement costs, inclusive of the registration fee, shall be forwarded by the Fire Chief to the St. Bernard Auditor, 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 St. Bernard.

1340.17 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 St. Bernard Codified Ordinances.

1340.18 INTERPRETATION OF CHAPTER.

This Chapter is solely applicable to vacant residential, commercial, and industrial properties. Should any other provisions of the St. Bernard 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 residential, 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 St. Bernard pertaining to the abatement of public nuisances or unsafe buildings. Sections 1335.31 to 1335.4, inclusive, of the St. Bernard Codified Ordinances are expressly deemed not to conflict with the provisions of this Chapter 1340 and shall continue to be applicable to vacant residential, commercial, and industrial properties; provided, however, that a Vacant Property shall not be required to comply with any ordinances from which the property is declared to be exempt in a Vacant Property Plan approved pursuant to Section 1340.09 herein.

1340.19 VALIDITY.

(a) If any section, subsection, paragraph, sentence, clause or phrase of this Chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Chapter which shall continue in full force and effect, and the provisions of this Chapter are hereby declared to be severable.

(b) This Chapter shall not affect violations of any other ordinance, code, or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of the ordinances, codes, or regulations in effect at the time the violation was committed.

1340.99 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) for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance continues. In the event a fine(s) is assessed, the Owner, Authorized Agent, or Person in Control also remain liable for any amounts owed to the Village, or repairs or demolition ordered to be undertaken.

B. The application of the penalty provided in subsection A herein shall not preclude St. Bernard 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.