

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING SUBPART A, ENTITLED "GENERAL ORDINANCES," BY AMENDING CHAPTER 58, ENTITLED "HOUSING," ARTICLE I, ENTITLED "IN GENERAL", DIVISION 1, ENTITLED "GENERALLY" BY AMENDING SECTION 58-31, ENTITLED "DEFINITIONS, AND BY AMENDING CHAPTER 58, ENTITLED "HOUSING," ARTICLE III, ENTITLED "PROPERTY MAINTENANCE STANDARDS," BY CREATING DIVISION 4, ENTITLED "ABANDONED AND VACANT PROPERTIES REGISTRY," AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS,

WHEREAS,

WHEREAS

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NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

**SECTION 1.** Article III, entitled "Property Maintenance Standards," of Chapter 58, entitled "Housing," of the Code of the City of Miami Beach, Florida is hereby amended creating Division 4, entitled "Abandoned and Vacant Properties Registry," as follows:

**CHAPTER 58  
HOUSING**

**ARTICLE I. In General**

**DIVISION 1. Generally**

**Sec. 58-31. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned* means any real property that is vacant and/or is under a public notice of default, notice of mortgagee's sale, pending tax assessor's lien sale and/or properties that have been the subject of a foreclosure sale where title is retained by the mortgagee including, any properties transferred under a deed-in-lieu of foreclosure sale, a short sale or any other legal means to the mortgagee.

*Accessible* means a property, structure or building that is unsecured and/or breached in such a way as to allow access by trespassers, criminals, or other unauthorized persons.

Enforcement officer means any law enforcement officer, building inspector, building official, fire inspector or code enforcement officer employed by the City of Miami Beach.

Evidence of vacancy means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to: overgrown and/or dead vegetation; electricity, water or other utilities turned off; stagnant swimming pool; statements by neighbors, passer-by, delivery agents or government agents; accumulation of abandoned personal property' and/or readily accessible residence, structures and buildings on the property.

Nuisance means any condition, including, but not limited to, an abandoned, unsafe, accessible residence, building, structure, or real property with code violations that constitute a menace to life, property, public health, or the public welfare, or create a fire hazard; or any conditions that constitute and attractive nuisance or otherwise endanger the public's safety while in the vicinity thereof.

Mortgagee the creditor, including, but not limited to, service companies, lenders in a mortgage agreement, and any agent, servant, employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests, or obligations under the mortgage agreement. For the purpose of this chapter, real estate brokers and agents, solely marketing and/or selling real property on behalf of a mortgagee, shall not be considered an agent, servant, or employee of the mortgagee.

Owner means any person, persons, or entity having legal or equitable title, or any real or contingent interests in any real property; being shown to be the property owner in the records of the Miami-Dade County Property Appraiser's Office; or being a mortgagee in possession of real property.

Property Management Company means a local property manager, property maintenance company, or similar person or entity responsible for the maintenance and security of abandoned real property.

Vacant means any real property, including any building or structure thereon that is not lawfully occupied or inhabited by human beings as evidenced by the conditions set forth in the definition of evidence of vacancy above.

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### **ARTICLE III. Property Maintenance Standards**

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#### **DIVISION 4. Abandoned and Vacant Properties Registry**

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#### **Sec. 58-302. Public nuisance.**

All abandoned and vacant real property, which is unmaintained or unsecured, is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, safety and welfare of the residents of the City of Miami Beach

**Sec. 58-303. Applicability.**

This division applies to abandoned or real property, whether occupied or vacant, within a local historic district within the City of Miami Beach.

**Sec. 58-304. Administration and enforcement.**

- (a) Within 15 days after a property has become abandoned or vacant, property owner of record and/or mortgagee shall register such property with the [REDACTED] or designee.
- (b) Failure of the property owner of record and/or mortgagee to properly register or to modify the registration from time to time to reflect a change in circumstances as required by this article is a violation of this article and shall be subject to enforcement by any of the enforcement means available to the City.
- (c) Pursuant to any judicial finding and determination, including any administrative proceeding that the property is in violation of this division, the City may take the necessary action to ensure compliance and may place a lien on the property for the cost of the work performed, including an administrative fee, to benefit the property and to bring it into compliance.
- (d) Failure of the property owner of record and/or mortgagee to properly inspect and secure a property subject to this article, and post and maintain the signage required in this article, is a violation of this division and shall be subject to enforcement by any means available to the City. Pursuant to a finding and determination, the City may take the necessary action to ensure compliance with this article and recover costs and expenses in support thereof.

**Sec. 58-305. Registration requirements.**

- (a) A nonrefundable annual registration fee in the amount of two hundred dollars (\$200) per property shall be paid.
- (b) A nonrefundable annual fee of thirty cents (\$0.30) per square foot shall be paid for any building or structure that exceed three (3) stories.
- (c) The annual registration fee shall correspond to the fiscal year of the City and the renewal of the registration, along with the payment of the annual fee, shall be completed prior to October 1<sup>st</sup> of any year.
- (d) The renewal of the registration with its accompanying fee, shall be the responsibility of the property owner of record and/or mortgagee and a failure to do so in a timely manner shall subject the property owner of record and/or mortgagee to code enforcement action pursuant to the City of Miami Beach Code of Ordinances.
- (e) Properties subject to this division shall be maintained in accordance with the provisions contained within this article.

- (f) Properties subject to the provisions of this article shall be posted with the name, address and 24-hour contact phone number of the local property management company. The posted sign shall be no less than eighteen (18) inches by twenty-four (24) inches and shall be of a font that is legible from a distance of forty-five (45) feet. The posting shall also contain the language "THIS PROPERTY IS MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS" with the applicable contact information. All information thereupon shall be clear, legible, and updated as required.

**Sec. 58-306. Responsibility for compliance.**

- (a) It is the responsibility of the owner to maintain the property in accordance with the provisions in this article. A mortgagee of any mortgage agreement which exists on abandoned real property that is in violation of this division shall be a responsible party for compliance with this article upon the filing of a lis pendens and/or action, the purpose of which is to foreclose upon the mortgage or similar instrument that secures debt upon the residential real property. The mortgagee's responsibility for compliance with the provisions of this division shall only be effective during periods of time that the property is vacant and in foreclosure. The responsibility of the mortgagee shall remain until such time as the subject property is sold or transferred to a new owner, or the foreclosure action described herein is dismissed.

**Sec. 58-307. Additional authority.**

- (a) If an appropriate enforcement officer has reason to believe that a property subject to the provisions of this division is posing a serious threat to the public health, safety and welfare, the enforcement officer may bring the violation before the code enforcement special master, or a court of competent jurisdiction as soon as possible to address the conditions of the property.
- (b) If there is a finding that the condition of the property is posing a serious threat to the public health, safety and welfare, then the code enforcement special master or a court of competent jurisdiction may direct the City to abate the violation and charge the mortgagee with the cost of abatement.
- (c) If the mortgagee does not reimburse the City for the cost of abatement within thirty (30) days of the City sending the mortgagee the invoice, then the City may lien the property with the cost of abatement, along with any and all administrative fees allowed by law to recover the administrative personnel services.

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 3. SEVERABILITY.**

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

**SECTION 4. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

**ATTEST:**

\_\_\_\_\_  
Dan Gelber  
Mayor

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Rafael E. Granado  
City Clerk

Underline denotes additions  
~~Strikethrough~~ denotes deletions

First Reading: April 22, 2020  
Second Reading: May 13, 2020

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