

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," BY AMENDING ARTICLE III, ENTITLED "PROPERTY MAINTENANCE STANDARDS," DIVISION 1, "GENERALLY," SECTION 58-180, "DEFINITIONS," AND BY CREATING DIVISION 4, ENTITLED "ABANDONED AND VACANT PROPERTIES REGISTRY," TO CREATE THE CITY'S VACANT AND ABANDONED PROPERTIES REGISTRY AND ESTABLISH APPLICABLE REQUIREMENTS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach ("City") has the authority to enact laws which promote public health, safety and general welfare of its citizens; and

WHEREAS, the City has determined that the presence of abandoned and vacant properties poses a health and safety risk to the citizens of Miami Beach; and

WHEREAS, the City finds that the detrimental effects of abandoned properties include neighborhood decline, attractive public nuisance, mosquito and animal control problems, and increased crime; and

WHEREAS, the City additionally finds that abandoned properties contribute to the degradation of the character and quality of the City's local historic districts and pose a threat to the retention of historically and architecturally significant buildings.

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

SECTION 1. Chapter 58, entitled "Housing," of the Code of the City of Miami Beach, Florida, is hereby amended as follows:

**CHAPTER 58
HOUSING**

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ARTICLE III. PROPERTY MAINTENANCE STANDARDS

DIVISION 1. Generally

Sec. 58-180. Definitions.

In construing the provisions of this article, where the context will permit and no definition is provided in this section, the definitions provided in chapter 4 of the South Florida Building Code shall apply. 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. Whenever the terms "apartment hotel," "building," "commercial building," "condominium," "cooperative apartment building," "dwelling," "dwelling unit," "hotel," "hotel unit," "premises," "rooming house," and "rooming unit" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

Abandoned means the state of any real property that is vacant and/or under a public notice of default, notice of mortgagee's sale, pending tax assessor's lien sale, and/or that has been the subject of a foreclosure sale where title is retained by the mortgagee including any property 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.

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Enforcing officer or enforcement officer is synonymous with the term "code inspector." 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; a stagnant swimming pool; statements by neighbors, passers-by, delivery agents, or government agents; accumulation of abandoned personal property; and/or a readily accessible residence, structure and/or building on the property.

* * *

Mortgagee means the creditor, including, but not limited to, a service company, lender 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 a mortgage agreement. For the purpose of this division, 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.

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Nuisance means any condition, including, but not limited to, an abandoned, unsafe, or 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 an attractive nuisance or otherwise endanger the public's safety while in the vicinity thereof.

* * *

Owner or property owner means any person who individually or jointly or severally with others holds the legal or beneficial title to any building, facilities, equipment or premises subject to the provisions of this article, including a person shown to be the property owner in the records of the Miami-Dade County Property Appraiser's Office. The term shall include the owner's duly

authorized agent, a purchaser, devisee, fiduciary, property holder or any other person having a vested or contingent interest or, in the case of a leased premises, the legal holder of the lease or his legal representative. It is intended that this term shall be construed as applicable to the person responsible for the construction, maintenance and operation of the building, facilities or premises involved.

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

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~~Vacant means being without lawful tenant or lawful occupant or without a certificate of occupancy.~~

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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Secs. 58-303—58-335319. Reserved.

DIVISION 4. ABANDONED AND VACANT PROPERTIES REGISTRY

Sec. 58-320. Public nuisance.

Abandoned and/or 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. 58-321. Applicability.

The provisions of this division shall apply to any abandoned and/or vacant real property that is located within a local historic district in the City of Miami Beach.

Sec. 58-322. Administration and enforcement.

- (a) Within 15 days after a property has become abandoned or vacant, as defined in this article, the property owner and/or mortgagee shall register such property with the City's Finance Department, to be included on the City's Abandoned and Vacant Properties Registry, pursuant to the requirements of this division.
- (b) The failure of a property owner and/or mortgagee to (i) properly register a property pursuant to this division, (ii) amend the property's registration from time to time to reflect a change in circumstances, or (iii) comply with any other requirement of this division, is a violation of this article and shall be subject to the enforcement and penalty provisions in division 2 of this article.

Sec. 58-323. Registration requirements.

The following requirements shall apply to the property owner and/or mortgagee of any abandoned and/or vacant real property subject to the requirements of this division:

- (a) A nonrefundable annual registration fee in the amount of two hundred dollars (\$200) per property shall be paid.
- (b) In addition to the annual registration fee, a nonrefundable annual fee of thirty cents (\$0.30) per square foot of a building or structure shall be paid for any building or structure that exceeds three (3) stories in height.
- (c) The term of each property's annual registration shall correspond with the City's fiscal year (i.e. between October 1st and September 30th of each year). Any renewal of a property's registration, along with payment of the annual registration fee, shall be completed prior to October 1st of each year.
- (d) A failure to register a property, renew a registration, or pay any required fees in a timely manner shall be a violation of this division.
- (e) Properties subject to this division shall be maintained in accordance with all applicable provisions of this article.
- (f) Properties subject to the provisions of this division shall be posted with the name, address and 24-hour contact phone number of the applicable owner, mortgagee, and/or property management company. The posted sign shall be no less than eighteen (18) inches by twenty-four (24) inches in size, and shall be of a font that is legible from a distance of forty-five (45) feet. The posting shall also contain the following statements: "THIS PROPERTY IS MANAGED BY," and "TO REPORT PROBLEMS OR CONCERNS," followed by the applicable contact information. All information thereupon shall be clear, legible, and updated as required.

Sec. 58-324. Responsibility for compliance.

- (a) It shall be the responsibility of the owner and/or mortgagee to maintain a property in accordance with the property maintenance standards and other applicable provisions of this article.
- (b) Notwithstanding the foregoing, a mortgagee shall only be required to comply with the provisions of this division during periods of time when the property is vacant and the subject of foreclosure proceedings, unless or until the property is sold or transferred to a new owner, or any foreclosure proceedings have terminated.

Sec. 58-325. Additional authority.

- (a) If an enforcement officer has reason to believe that a property subject to the provisions of this division poses a serious threat to the public health, safety, and welfare, and in addition to any other enforcement remedies available under the provisions of this article, the enforcement officer may bring the violation before the code enforcement special master, or a court of competent jurisdiction, in order to address or abate the conditions of the property.

(b) Upon a finding that the condition of the property poses a serious threat to the public health, safety and welfare, the code enforcement special master may direct the City to abate the violation and charge the mortgagee with the costs associated with the abatement.

(c) If the mortgagee does not reimburse the City for the cost of abatement within thirty (30) days of the City's issuance of the invoice to the mortgagee, then the City may record a lien against the property for the cost of abatement, along with any and all administrative fees allowed by law, to recover the City's costs.

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 on October 1, 2020.

PASSED AND ADOPTED this ____ day of _____, 2020.

ATTEST:

Rafael E. Granado
City Clerk

Dan Gelber
Mayor

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION
D. E. O. 81- 7-22-20

City Attorney NK Date

Underline denotes additions
~~Strikethrough~~ denotes deletions

First Reading: June 24, 2020
Second Reading: July 29, 2020