

ARTICLE III. - PROPERTY MAINTENANCE STANDARDS

DIVISION 1. - GENERALLY

Sec. 58-176. - Findings of city commission.

The city commission finds and declares that there presently exist in the city buildings that are or may become in the future substandard with respect to structure, equipment or maintenance. It finds further that such conditions, together with inadequate provisions for light and air, insufficient protection against fire hazards, lack of proper ventilation for heating and cooling, unsanitary conditions and overcrowding constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and visitors of this metropolitan area. It is further found and declared that the existence of such conditions, factors or characteristics, if not remedied, will create slum areas requiring large-scale clearance; and further, that in the absence of corrective measures, such areas will experience a deterioration of social values, a curtailment of investment and tax revenues and impairment of economic values. It is further found and declared that the establishment and maintenance of property maintenance standards are essential to the prevention of blight and decay, and the safeguarding of public health, safety, morals and welfare.

(Code 1964, § 17B-2)

Sec. 58-177. - Purpose of article.

- (a) The intent and purpose of this article is to protect the public health, safety, morals and welfare of all the people of the city by:
 - (1) Establishing minimum standards governing the condition, occupancy and maintenance of all buildings and premises;
 - (2) Establishing minimum standards governing utilities, facilities and other physical components and conditions essential to make such buildings and premises safe, sanitary and fit to be occupied;
 - (3) Fixing certain responsibilities and duties of owners, operators, agents and occupants of any building;
 - (4) Authorizing and establishing procedures for the inspection of such buildings; and
 - (5) Fixing penalties for the violations of the provisions of this article.
- (b) This article is declared to be remedial and essential to the public interest, and it is intended that this article be liberally construed to effectuate the purposes as stated in subsection (a) of this section.

(Code 1964, § 17B-3)

Sec. 58-178. - Applicability of article; conflict with other codes or regulations.

The provisions of this article shall be applicable as a minimum standard in the city. Every portion of a building or premises used or intended to be used for stores, commercial or office buildings or any dwelling purpose, and every building structure or lot, except temporary housing in times of local emergency, disaster or necessity, shall comply with the provisions of this article, irrespective of when such building or structure shall have been constructed, altered or repaired, and irrespective of any permits or licenses that shall have been issued for the use or occupancy of the building or premises, for the construction or repair of the building or for the installation or repair of equipment or facilities, prior to May 1, 1974. This article is intended and shall be construed as establishing minimum standards for all buildings and structures and vacant or unimproved lots and shall be construed as establishing minimum standards for the initial and continued occupancy of all buildings. It is not intended to replace, modify, supersede or diminish the standards established for the construction, repair, alteration or use of buildings, equipment or facilities by the South Florida Building Code. In any case where any provision of this article is found to be in conflict with a material and controlling provision of the city's comprehensive zoning ordinance, the South Florida Building Code, any other municipal ordinance, code or regulation, or any rules or regulations of the state board of health, the provision that establishes the highest standard shall prevail. All municipal departments, officials and employees who have the duty, responsibility or authority to issue permits or licenses in regard to the use and occupancy of buildings shall conform to the provisions of this article as a minimum standard. It shall be the duty and responsibility of municipal departments, officials and employees to enforce the minimum standards prescribed by the provisions of this article.

(Code 1964, § 17B-4)

Sec. 58-179. - Existing remedies preserved.

Nothing in this article shall be deemed to abolish or impair any existing remedies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe or unsanitary. This article shall not affect violations of any other municipal ordinance, code or regulation existing prior to May 1, 1974; and such violations shall be governed and shall continue to be punished to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

(Code 1964, § 17B-5)

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.

Accessory building means a detached subordinate building or portion thereof, the use of which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use.

Apartment. See "Dwelling apartment."

Apartment building means a building with or without resident supervision occupied or intended to be occupied by more than two families living separately with separate cooking facilities in each unit.

Apartment hotel means a building containing both apartments and hotel units under resident supervision, which maintains an inner lobby through which all tenants must pass to gain access to apartments or hotel units.

Approved means approved by the head of the enforcement agency or his authorized representatives.

Basement means that portion of a building between floor and ceiling, which is so located that one half or more of the clear height from floor to ceiling is below grade.

Boarded building means any unoccupied building boarded or otherwise secured against entry in a manner approved by the building official.

Building means any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property. This term shall include commercial buildings, single-family dwellings, two-family dwellings and multiple-family dwellings and vacant structures, whether occupied or not occupied.

Building official means that city official designated to enforce the provisions of the South Florida Building Code.

City manager's designee means the director of the city department or division designated by the city manager to enforce the provisions of this article.

Code inspector means any employee of the enforcing agency charged with the responsibility of making inspections of buildings and premises and issuing violation notices when necessary. The term shall be synonymous with "enforcing officer."

Commercial buildings means all stores, offices, garages, restaurants, theaters, clinics, nursing homes or other similar facilities, whether occupied or not occupied, or any parts of the building used or intended to be used to serve, entertain or perform any service or business to or for the public.

Commercial property shall be synonymous with commercial buildings.

Commercial unit means any room or group of rooms located within a building forming a single unit, whether occupied or not occupied, which will be used or intended to be used for any use as described in the term "commercial buildings."

Condominium means a form of real property ownership created pursuant to state statutes comprised of units that may be owned by one or more persons, and in which there is appurtenant to each unit an undivided share in common elements.

Cooperative apartment building or co-op means a form of ownership of improved real property under which there are units subject to ownership by one or more owners and the ownership is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

Dwelling means any room or group of rooms located within a building and forming a single habitable unit, whether occupied or not occupied, with facilities which are used or intended to be used for living, sleeping, cooking or eating, unless otherwise indicated in this article.

Dwelling apartment means one or more rooms occupied as a home or residence for an individual, family or household. The existence of kitchen sink accommodations and cooking facilities and bathroom facilities within shall be sufficient to classify such as an apartment.

Dwelling, multiple-family, includes apartment buildings, apartment hotels, hotels, motel apartments, motels and other building of similar use. This term shall exclude condominiums and cooperatives.

Dwelling, single-family means a building designed for or occupied exclusively by one family. This term includes private homes, condominiums, cooperatives and bungalows and all other buildings of similar use.

Dwelling, two-family, means a detaching building, divided horizontally or vertically and designed for or occupied by two single-family housekeeping units contained under one roof and having one dividing partition common to each unit or having the ceiling structure of the lower unit the floor structure of the unit above.

Enforcing agency means the city department or division designated by the city manager to enforce the provisions of this article.

Enforcing officer or 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; 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.

Floor area means the area measured from the exterior faces of the exterior walls of the living unit, and half the thickness of the interior partition wall or walls between living units.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets, storage spaces, and space used or intended to be used as described in the term "commercial buildings."

Hotel means a building occupied or intended to be occupied generally by transient residents, with all residents occupying sleeping units and with ingress and egress to and from all rooms made through an inside lobby or office supervised by a person in charge at all times.

Hotel unit means any hotel room or group of hotel rooms forming a single, habitable unit used or intended to be used for living and sleeping only and without cooking facilities. Motel units shall be included in this category.

Infestation means the presence of any insects, rodents, vermin or other pests.

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.

Motel means a building occupied or intended to be occupied by transient residents with all residents occupying sleeping units only, and ingress or egress may or may not be through a common lobby or office that is supervised by a person in charge at all times.

Nondwelling structure means any vacant or unoccupied building, commercial building, accessory building, such as a carport, cabana, storage building, etc., and every fence.

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.

Occupant means any person using or having actual possession of any building.

Occupied means any building or structure used or intended to be used by persons. The term shall be construed as though followed by the words, "or intended, arranged, or designed to be occupied."

Operator means any person who has charge, care or control of a building.

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.

Person means adult individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

Premises means any occupied or unoccupied building, accessory structure, lot or parcel of land or any part thereof, used or intended to be used for stores, commercial or office buildings, or residential purposes, including multiple-family dwelling, single-family dwelling, two-family dwelling, condominium and cooperative.

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.

Room means any compartment in any building, but not including bathrooms, halls, closets, pantries, storage or equipment spaces.

Roominghouse means any building of multiple-family status, where for compensation and by prearrangement, lodging, meals or lodging and meals are provided for three or more persons.

Rubbish means all combustible and noncombustible waste materials, except garbage. The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass and crockery, and residue from the burning of wood, coal, coke and other combustible materials.

Supplied means paid for, furnished and provided by or under control of the owner or operator.

Temporary housing means any tent, trailer or other structure used for human shelter, which is designed to be transportable and which is not attached to the ground, to another structure or to any utility system in a permanent manner.

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.

(Code 1964, § 17B-6; Ord. No. 2020-4345, § 1, 7-29-20)

Cross reference— Definitions generally, § 1-2.

Secs. 58-181—58-200. - Reserved.

DIVISION 2. - ADMINISTRATION

Footnotes:

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Cross reference— *Administration, ch. 2.*

Subdivision I. - Generally

Sec. 58-201. - Penalty for violation of article; remedial enforcement procedures.

- (a) It shall be unlawful for any person to fail to comply with the minimum standards established by this article, or to fail or refuse to comply with the requirements of any final order issued in accordance with the provisions of this article. If any person shall knowingly fail or refuse to obey or comply with or willfully violates any of the provisions of this article, or any lawful final order issued under this article, such person shall be subject to enforcement procedures before the special magistrate and to penalties as set forth in chapter 30 of this Code.
- (b) As a cumulative and supplemental method of enforcing the remedial purposes of this article, the code inspector is authorized, empowered and directed, in the event of a willful and intentional failure or refusal to obey or comply with the requirements of any final order issued in accordance with the provisions of this article ten days after date of receipt of such notice, to carry out or cause to be carried out the provisions of such final order. Bids may be requested for the work and material as a whole or for any part thereof, separately. The code inspector shall have the right to reject any or all bids; and if all bids are rejected, the code inspector may readvertise for all or part of such work and materials, or may determine to do all or a part of the work by city forces.

After a contract shall have been entered into for any work or materials required for compliance, or if the work or materials are performed or furnished by city forces, the code inspector shall prepare an appropriate claim of lien which shall set forth the following:

- (1) A description of the lots and parcels of land involved;
- (2) The name of the owner of each lot or parcel where such can be ascertained from the city records;
- (3) The total cost of the work and materials which, if made by contract, shall be the price named in the contract; or the price computed from unit prices named in the contract, taking into consideration minor changes and alterations found necessary; but if city forces shall do the work or furnish the material, the actual cost of such work or material; and
- (4) The amount of incidental expenses, estimated or actual.

Such claim of existing lien or lien imposed later shall thereupon be filed of record in the public records of the county and shall be treated as special assessment liens against the subject real property, and until fully paid and discharged, shall remain liens equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. The maximum rate of interest allowable by law shall accrue to such delinquent accounts. Such liens shall be enforced by any of the methods provided in F.S. ch. 86; or, in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions applicable to practice, pleading and procedure for the foreclosure of mortgages on real estate set forth in Florida Statutes, or may be foreclosed per F.S. ch. 173, or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law. The owner and/or operator shall pay all costs of collection, including reasonable attorney fees, incurred in the collection of fees, service charges, penalties and liens imposed by virtue of this article.

(Code 1964, § 17B-18; Ord. No. 98-3110, § 2, 6-3-98; Ord. No. 2021-4431, 7-28-21)

Sec. 58-202. - When notice of violation or emergency order constitutes final order.

Any notice of violation provided for in section 58-231 shall automatically become a final order in the event that no appeal from the notice of violation is filed with the special magistrate within ten days after the date of service of the notice of violation, other than emergency orders, as set forth in section 58-232. Any emergency order provided for in section 58-232 shall automatically become a final order if no appeal from the emergency order is filed with the special magistrate within 24 hours after the date of service of the emergency order, exclusive of the date of service and intervening Saturdays, Sundays and legal holidays, if any. Orders of the special magistrate affirming or modifying any action or decision of the code inspector shall be recorded in the office of the clerk of the circuit court, so as to afford constructive notice to prospective purchasers of the real property involved, of the nature and extent of the violation involved, and

the requirements for the correction thereof. Such recording shall be made following the expiration of the time given to the appellant for the correction of the violations specified, or any extension thereof granted by the special magistrate. The costs of the recording of the order and satisfaction thereof shall be borne by the legal or beneficial owner of the premises involved.

(Code 1964, § 17B-15; Ord. No. 2021-4431, 7-28-21)

Secs. 58-203—58-225. - Reserved.

Subdivision II. - City Manager's Designee

Sec. 58-226. - Assistants; code inspector.

The city manager shall appoint a designee to administer and enforce the provisions of this article. The city manager shall appoint such assistants to the designee as may be necessary in order that his duties may be properly performed, subject to budget limitations. The office of code inspector is designated to be an assistant to the city manager's designee. The organization and administrative operating procedures of the city office enforcing this article and its relationship and coordination with other administrative departments, agencies, officials and employees of the city government shall be established and placed in effect by administrative order of the city manager.

(Code 1964, § 17B-7)

Sec. 58-227. - Powers and duties generally.

The duties, functions, powers and responsibilities of the code inspector regarding this article shall include the following:

- (1) The enforcement of the provisions of this article and rules and regulations promulgated under this article, and all city ordinances, codes, rules and regulations pertaining to housing and commercial buildings and the use and occupancy of buildings, and all rules and regulations of the state board of health and the state hotel and restaurant commission, in cooperation with such state agencies.
- (2) Investigate complaints, make a continuing study of all buildings, structures and lots in the city, institute actions necessary to abate violations of all city and state regulations governing the use and occupancy of such buildings, structures and lots and prosecute proceedings for violations of this article.
- (3) Make appropriate surveys and inspections to determine whether the provisions of this article are being complied with and whether minimum standards are being maintained.

- (4) Make inspections of all buildings, premises or facilities and equipment in accordance with procedures prescribed by this article to determine whether the provisions of this article are being complied with and make recommendations for methods by which minimum standards may be more effectively maintained.
- (5) Render all possible assistance and technical advice to persons operating and maintaining any building facilities, premises and equipment.
- (6) Establish, operate and maintain a continuous program for monitoring and inspection of buildings in the city, designed to provide accurate data and information as to whether the minimum standards established by this article are being complied with and whether the level of adequate housing and commercial property facilities is increasing or decreasing in the city.
- (7) Publish and disseminate information to the public concerning all matters relating to property maintenance standards and the advantages of such adequate facilities.
- (8) Make periodic reports concerning the status of property maintenance standards and the enforcement of the provisions of this article, and recommendations concerning the improvement of minimum standards and controls.
- (9) Perform such other administrative duties as may be assigned by the city manager.

(Code 1964, § 17B-8)

Sec. 58-228. - Identification.

The code inspector and all assistants shall be furnished with official identification cards signed by the city manager's designee, which identification cards shall contain the name of the inspector, his photograph, pertinent descriptive identifying information, and such other matters designed to facilitate recognition by the public of the status of such official. Upon request, the code inspector and assistants shall exhibit such identification when entering any building or premises. The requirements of this section shall not in any way be construed as relieving the code inspector or assistants from compliance with the procedures prescribed in this article for making inspections.

(Code 1964, § 17B-9)

Sec. 58-229. - Records; duty to make record searches and issue certificates thereon.

All records of the code inspector shall be public. Upon request, the code inspector shall be required to make a search of the records maintained under his supervision and control and issue certificates concerning violations and as to whether the property involved has been inspected and whether or not any violations have been found to exist in respect thereto. The code inspector shall have the power and authority to charge and collect reasonable fees for making such searches and certificates.

(Code 1964, § 17B-10)

Sec. 58-230. - Inspection of buildings.

The enforcing agency is hereby authorized and directed to make inspections after written notice by the city manager's designee or assistants setting forth the time and date inspection is to be made to determine the condition of all buildings and premises. For the purpose of making such inspections, the code inspectors of the enforcing agency are hereby authorized to enter, examine and survey between the hours of 9:00 a.m. and 5:00 p.m. all buildings or any other structures or premises. The owner, operator or occupant of every building or the person in charge thereof, shall give the code inspector free access at all reasonable times for the purpose of such inspection, examination and survey, and shall supply as correctly and promptly as possible all information requested by the code inspector or enforcing agency. Every occupant of any building shall give the owner thereof, or his agent or employee, access to any part of such building or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any rule, regulation or lawful order issued pursuant to the provisions of this article. Failure to permit an inspection to be made in compliance with the provisions of this section shall constitute a violation of this article and shall subject the violator to the penalties prescribed in this article.

(Code 1964, § 17B-11)

Sec. 58-231. - Issuance of notice of violation.

Whenever the code inspector finds and determines that there has been a violation of the minimum standards established by this article, he shall give notice of such violation to the person responsible for such violation. Such notice shall be in writing and in the form approved by the city manager's designee or assistants and shall specify the violation. Such notice shall be served upon the person or persons responsible for the violation. Such notice shall be deemed to be properly served and binding upon the person responsible for the violation and upon the facilities or premises involved if a copy is served personally or served by certified mail or if, after diligent search and inquiry, the person responsible for the violation cannot be found or served by personal service or certified mail, a copy of the notice is posted in a conspicuous place on the facilities or premises involved. Notices of emergency violations may be posted. As an additional or supplementary method of service, service of a notice of violation may be had upon an owner by serving any person who has been designated by such owner to collect rents with respect to the subject property. The fact that any tenant has paid rent in any preceding month to such person, and that such tenant has failed to receive any written notice or protest from the owner with respect to that payment within ten days of the date such payment was made shall be deemed prima facie evidence that such person has been designated by the owner to collect rents with respect to such premises. Such designation shall be presumed to continue until such time as the owner or the person designated shall in writing notify the tenant otherwise. The notice of violation shall specify that the violation must be corrected or a building

permit for the work required to correct the violation must be obtained from the appropriate city department within the time specified in the notice, and that final compliance must conform to the requirements of the South Florida Building Code, the city zoning ordinance, and any other applicable ordinances of the city. Such notice may contain an outline of the remedial action which, if taken, will constitute compliance with the requirements of this article. Such notice shall inform the person or persons to whom it is directed of the right to apply to the special magistrate for a variance or an appeal of the administrative decision in accordance with section 58-233. The person served with such notice shall have five days after receipt of such notice to give written notice to the city manager's designee or assistants of their intention to comply with such notice, and shall have five days thereafter to present a certificate of compliance, or a certificate evidencing that correction of such notice of violation has commenced, to the city manager's designee or assistants or notice that they are exercising their right of appeal to the special magistrate. If the violations have not been corrected within the time specified in the notice, and no appeal of an administrative decision or application for variance has been submitted by the property owner, the code inspector is hereby empowered and directed to record a copy of all notices of violation in the public records of the county and to seek compliance. The cost or fee for the recording of such notice of violation and of recording the certificate of compliance with such notice shall be chargeable to the owner of the premises involved, or the person responsible for such violation. A certificate of compliance shall be executed by the code inspector upon request of the legal or beneficial owner of the premises when the violations have been corrected, as determined by the code inspector and the costs of recording the original notice of violation shall have been paid. If the code inspector shall refuse to execute a certificate of compliance when requested because he has determined that the violations have not been corrected, such determination may be appealed to the special magistrate in the same manner as provided for appeal of an original order.

(Code 1964, § 17B-12; Ord. No. 2021-4431, 7-11-21)

Sec. 58-232. - Power to act in emergencies; emergency order.

For the purpose of this article, an emergency means a relatively permanent condition of insufficiency of service or of facilities resulting in immediate peril or threat to the health, safety or general welfare of the occupant of the facility or premises in question or to the general public. Whenever the code inspector finds that a violation of the provisions of this article that is an emergency and requires immediate action to abate a direct and continuing hazard or immediate danger to the health, safety or welfare of the occupants or the public, the inspector shall, after giving notice of the violation within a period of 48 hours after such finding by such service as provided for in section 58-231, issue an emergency order, designated as such, citing the violation and directing that such action be taken as may be necessary to remove or abate the hazard or danger. Immediate action, as set forth in this section, shall be mandatory in regard to defective or inoperative equipment or facilities, including, but not limited to, the following: individual air conditioning units or central air conditioning, toilets, sinks, roof leakage (temporary repair), broken windows, stoves,

refrigerators, flooding and broken pipes, raw sewage leakage, and infestation of rats, mice, roaches or other vermin. Notwithstanding any other provision of this article, such emergency order shall be effective immediately or as otherwise provided.

(Code 1964, § 17B-13; Ord. No. 98-3110, § 1, 6-3-98)

Sec. 58-233. - Appeals from actions or decisions.

Any person aggrieved by any action or decision of the code inspector may appeal to the special magistrate by filing with the special magistrate, within ten days after receipt of the notice of violation, or within 24 hours in cases of emergency orders pursuant to section 58-232 a written notice of appeal, which shall set forth concisely the action or decision appealed from and the reasons or grounds for the appeal. A notice of appeal form shall be provided by the city manager's designee and a filing as specified in appendix A shall accompany the notice of appeal. The only appeal that shall be considered are those appeals that allege that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter. No requests for extension of time will be permitted. The special magistrate shall set such appeal for hearing on the very next agenda following such notice of appeal and cause notice thereof to be given to the appellant and the code inspector. The special magistrate shall hear and consider all facts material to the appeal and render a decision promptly. The special magistrate may affirm, reverse or modify the action or decision appealed from; provided, that the special magistrate shall not take any action which conflicts with or nullifies any of the provisions of this chapter. The decision of the special magistrate shall be final, and no rehearing or reconsideration shall be considered. Any person aggrieved by any decision of the special magistrate on an appeal shall be entitled to apply to the circuit court for a review thereof by petition for writ of certiorari in accordance with the applicable court rules.

(Code 1964, § 17B-14; Ord. No. 2021-4431, 7-28-21)

Secs. 58-234—58-290. - Reserved.

DIVISION 3. - MINIMUM STANDARDS

Sec. 58-291. - Basic equipment, facilities and utilities.

- (a) All buildings, vacant or occupied, shall comply with the requirements of subsections (b)—(h) of this section.
- (b) Every area designed and used for the purpose of cooking in a building shall contain a kitchen sink in good working condition and properly connected to an approved water system and sewer system. It is the intent of this section to exclude hotel units.
- (c)

Every single-family dwelling, two-family dwelling and apartment unit shall contain a room affording privacy to a person within such room and equipped with a flush water closet, lavatory basin and bathtub or shower in good working condition and properly connected to an approved water system and sewer system. Every commercial unit, except office buildings, shall have a room affording privacy to a person within such room and equipped with a flush water closet and a lavatory basin in good working condition and properly connected to an approved water system and sewer system, except where more than ten employees are employed on the premises, in which case there must be two such facilities, one designated for men and one designated for women. Office buildings and restaurants shall have one such facility designated for men and one such facility designated for women. The common areas of hotels and office buildings shall provide one such facility, properly designated for each sex. This is not intended to include office buildings or accessory uses in hotels and apartment hotels where such facilities are provided for the public.

- (d) Every kitchen sink, lavatory basin and bathtub or shower required under the provisions of this section shall be properly connected with both hot and cold water lines.
- (e) Every dwelling and commercial building where there are cooking facilities within shall have water heating facilities which are properly installed, maintained in safe and good working condition and properly connected with the hot water lines required under the provisions of subsection (d) of this section and capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower.
- (f) Every occupied dwelling, excluding hotel units, shall be provided with properly installed cooking facilities having at least two top burners. Vacant dwellings shall be provided with utility connections for such facilities.
- (g) Every building shall have adequate garbage disposal facilities or garbage storage containers.
- (h) Every building shall have two safe and unobstructed means of egress leading to an open space at ground level.
- (i) This section shall not apply to boarded buildings.
- (j) All bedrooms shall be heated and air-conditioned with a reverse cycle wall unit or central air-conditioning unit.

(Code 1964, § 17B-21; Ord. No. 98-3110, § 4, 6-3-98)

Sec. 58-292. - Light and ventilation; door and window screens; electrical outlets.

- (a) All buildings, vacant or occupied, shall comply with the requirements of subsections (b)—(h) of this section.
- (b) Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area providing light to each habitable room shall be not less than ten percent of the floor area of such room. Whenever exterior walls or other light-obstructing structures are located less than three feet from the window, such window shall not be deemed to

face directly to the outdoors and shall not be included in the required minimum total window area. Whenever the only window in a room is a skylight type window located in the top of such room, the minimum total window area of such skylight shall be not less than 15 percent of the total floor area of the room.

- (c) Every habitable room shall be ventilated by openable areas equal to 50 percent of the required minimum window area, as set forth in subsection (b) of this section or by equivalent mechanical ventilation as approved by the code inspector.
- (d) Every bathroom, shower room and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in subsections (b) and (c) of this section; except that no window or skylight shall be required in adequately ventilated bathrooms, shower rooms and water closet compartments equipped with an approved mechanical ventilating system that automatically becomes operational when the bathroom switch is turned on.
- (e) Every door, window or other device opening to outdoor space and used or intended to be used for ventilation shall be provided with an approved type of screen for protection against mosquitos, flies and other insects.
- (f) Every opening beneath a building, including basement or cellar windows and crawl space, shall be equipped with an approved type of screening or lattice work to keep out any animals.
- (g) In all areas where electric power service is available, every habitable room shall contain at least two separate and properly installed wall-type electric outlets or one such outlet and one properly installed ceiling-type electric light fixture. Every bathroom, shower room, water closet compartment and laundry room shall contain at least one properly installed ceiling or wall-type electric light fixture. All electrical devices shall be properly installed and located to prevent electrical shock to any person.
- (h) Every hall and stairway located in a structure used for human habitation shall be provided with not less than one footcandle of natural light throughout or with properly installed electric lighting facilities providing not less than one footcandle of illumination throughout, controllable by the occupants of the structure and available at all times.
- (i) This section shall not apply to boarded buildings.

(Code 1964, § 17B-22)

Sec. 58-293. - Safe and sanitary maintenance of structure and facilities.

- (a) All buildings, vacant or occupied, shall comply with the requirements of subsections (b)—(i) of this section.
- (b) All foundation walls shall be structurally sound, rodentproof, and maintained in good repair. Foundation walls shall be considered to be sound if they are capable of bearing imposed loads and are not deteriorated.

- (c) Every building shall be weathertight and rodentproof. Floors, walls, ceilings and roofs shall be capable of affording adequate shelter and privacy and shall be kept in good repair. Windows and exterior doors shall be weathertight, watertight and rodentproof and shall be maintained in good working condition. All interior and exterior parts of any dwelling, including hotel or motel units, that show evidence of rot, deterioration or need for repainting shall be repaired, replaced or repainted whenever deemed necessary by the code inspector, unless such surface is covered by paneling, wallpaper or other similar covering in which event such shall be thoroughly washed and scrubbed whenever deemed necessary by the code inspector. Whenever repair or repainting of a portion of any interior part shall be required, the entire interior of that room shall be repainted.
- (d) Every inside and outside stairway and porch and every appurtenance thereto shall be maintained in a safe condition and shall be capable of supporting loads that normal use may impose.
- (e) Every chimney and smoke pipe and all flue and vent attachments thereto shall be maintained in such condition that there will be no leakage or backing up of smoke and noxious gases into the dwelling.
- (f) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.
- (g) Every plumbing fixture, water pipe, waste pipe and drain shall be maintained in good sanitary working condition, free from defects, leaks and obstructions.
- (h) The floor surface of every water closet compartment, bathroom and shower room shall be maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- (i) Every facility, piece of equipment or utility supplied by the owner shall be maintained in a safe and satisfactory working condition. No owner or occupant shall cause any service, facility, equipment or utility currently supplied to be removed from or discontinued for any occupied building, except for such temporary interruption as may be necessary while actual repairs, replacements or alterations are in process. This section also includes every refrigerator, stove, elevator, telephone service or air conditioner paid for, furnished or provided by or under the control of the owner or operator whether required by this article or not so required.
- (j) Subsections (c)—(e) and (g)—(i) of this section shall not apply to boarded buildings.

(Code 1964, § 17B-23; Ord. No. 98-3110, § 5, 6-3-98)

Sec. 58-294. - Living space, size, use and location requirements.

- (a) All buildings, vacant or occupied, shall comply with the requirements of subsections (b)—(e) of this section.
- (b)

In every dwelling of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant.

- (c) At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet.
- (d) No dwelling containing two or more sleeping rooms shall be so arranged that access to a bathroom, shower room or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room or outside the structure, nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room, bathroom, shower room or water closet compartment.
- (e) No cellar or basement space shall be used as a habitable room.
- (f) Subsections (b), (c) and (d) shall not apply to boarded buildings.

(Code 1964, § 17B-24)

Sec. 58-295. - Hotels and roominghouses.

- (a) All hotels and roominghouses shall comply with the requirements of subsections (b)—(m) of this section.
- (b) No person shall operate a hotel or roominghouse unless he has complied with all of the licensing and permit requirements of the city.
- (c) Every room used for sleeping purposes constructed after June 25, 1983, shall contain at least 100 square feet of floor area, and every such room occupied for sleeping purposes by more than one person shall contain an additional 100 feet of floor space. Every room used for sleeping purposes constructed prior to June 25, 1983, shall contain at least 70 square feet of floor area exclusive of closets and toilets, and every such room occupied for sleeping purposes by more than one person shall contain an additional 90 square feet of floor space. In every room occupied for sleeping purposes, the shortest dimension of any wall shall be not less than eight feet and shall have an average floor to ceiling height of at least eight feet.
- (d) At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the county health officer and in good working condition, shall be supplied for each eight persons or fraction thereof residing within a hotel, motel or roominghouse, including members of the operator's family whenever they share the use of such facilities; provided, that in a roominghouse where rooms are let only to males, flush urinals may be substituted for no more than half the required number of water closets. All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or

passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. No such facilities shall be located in a basement, except by written approval of the county health officer.

- (e) No cellar or basement space shall be used as a habitable room or as a hotel unit or rooming unit.
- (f) The operator of every hotel, hotel unit or roominghouse shall change supplied bed linen and towels at least once each week and prior to the letting of any room to any occupant. The operator shall be responsible for maintaining all supplied bedding in a clean and sanitary manner.
- (g) The operator of every hotel, hotel unit or roominghouse shall be responsible for the sanitary maintenance of all walls, floors, ceilings and other parts and shall be further responsible for the sanitary maintenance of the entire premises where all of the building is under the control of such operator.
- (h) Every window of every hotel unit or rooming unit shall be supplied with shades, draw drapes or other devices or materials that, when properly used, will afford privacy to the occupant of the hotel unit or rooming unit.
- (i) If one or more persons occupy one or more hotel units or rooming units located on any floor above the ground floor of any hotel, hotel unit or roominghouse, there shall be at least two safe and unobstructed exits from such floor leading to a safe open space at ground level. Each exit shall be easily accessible from every hotel unit or rooming unit on the specified floor without passing through any other hotel unit, rooming unit or any other building. All exit stairways shall have at least one grip rail not less than 42 inches above the stairway treads. Stairways open on both sides shall have such a grip rail on each side.
- (j) The operator of every hotel or roominghouse shall be responsible for keeping the premises free from the accumulation of rubbish at all times.
- (k) The operator of every hotel, hotel unit or roominghouse shall be responsible for the prompt and sanitary disposal of all garbage.
- (l) The operator of every hotel, hotel unit or roominghouse shall be responsible for providing and hanging all window and door screens; this shall not apply if air conditioning is provided.
- (m) The operator of every hotel, hotel unit or roominghouse shall be responsible for the extermination of any insects, rodents, vermin or other pests therein and shall be further responsible for such extermination on the entire premises where all of the building within which the hotel or roominghouse is contained is leased or rented by the operator. Whenever infestation is caused by failure of the owner to maintain the building in a reasonably insectproof or ratproof condition, extermination shall be the responsibility of the owner.
- (n) It shall be the duty of the operator of every hotel, hotel unit or roominghouse to report to the county health department, within 24 hours, the name of any person living in the hotel or roominghouse who is believed to be afflicted with any communicable disease.

(o) Subsections (b), (c), (d), (f), (h), (i), (j) and (m) of this section shall not apply to boarded buildings.

(Code 1964, § 17B-25)

Sec. 58-296. - Assisted living facilities.

- (a) In addition to the property maintenance standards set forth in this article, assisted living facilities (ALF) must comply with the requirements of subsections (b) through (k) of this section, which shall control in case of conflict.
- (b) Facilities must be in conformance with all provisions of the Florida Building Code, Fire Code, and the H.R.S. Fire Safety Standards for assisted living facilities.
- (c) All facilities with enclosed hallways shall have sprinkler systems in hallways and bedrooms.
- (d) Smoke detectors are required in each bedroom.
- (e) All bedrooms, dining and indoor recreation areas shall be heated and air conditioned.
- (f) All facilities of more than two floors shall have an elevator large enough to carry a stretcher 76 inches by 24 inches in a horizontal position.
- (g) Each bedroom and bathroom shall have emergency call buttons.
- (h) A bathroom shall be provided for each two ALF units.
- (i) Units including bedrooms, bathrooms and closets shall be a minimum of 200 square feet for the first two occupants in each unit; for each additional person, another 100 square feet shall be added excepting facilities with valid city and H.R.S. licenses as ALF's as of June 25, 1983.
- (j) Each communal area for eating and recreation shall each be no less than 20 square feet per person; such areas may be contiguous to one another.
- (k) Facilities must be in conformance with state department of children and family services guidelines regarding availability of staff personnel on the premises.

(Code 1964, § 17B-26; Ord. No. 2018-4175, § 3, 3-7-18)

Sec. 58-297. - Nondwelling structures and fences.

- (a) All nondwelling structures and fences shall comply with the requirements of subsections (b)—(f) of this section.
- (b) Every foundation, exterior and interior wall, roof, floor, ceiling, window and exterior door shall be structurally sound and maintained in good repair.
- (c) Every accessory structure shall be kept in a reasonably clean and sanitary condition, free from rodents, insects and vermin.
- (d) The roof of every accessory structure shall be well drained of rain water.
- (e) All exterior surfaces subject to deterioration shall be properly maintained and protected from the

elements by paint or other approved protective coating, applied in a workmanlike fashion.

- (f) Every plumbing fixture, water pipe, waste pipe and drain shall be maintained in good sanitary working condition, free from defects, leaks and obstructions.

(Code 1964, § 17B-27)

Sec. 58-298. - Responsibilities of owners and occupants.

- (a) All buildings, vacant or occupied, shall comply with the requirements of subsections (b)—(o) of this section.
- (b) Every building shall be clean, sanitary and fit for occupancy.
- (c) Every occupant of a building shall keep in a clean and sanitary condition that part of the building and premises he occupies and controls, including yards, lawns, courts and driveways.
- (d) Every owner of a building containing three or more units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the building and premises.
- (e) Exterior premises shall be kept free from the excessive growth of weeds, grass and other flora. The term "excessive" shall be interpreted as detrimental to the health, safety or welfare of the occupants or the public.
- (f) Every occupant of a building shall keep all plumbing fixtures, sanitary facilities, appliances and equipment in that building in a clean and sanitary condition and shall exercise reasonable care in the proper use and operation thereof.
- (g) Every occupant of a building shall dispose of rubbish, garbage and other waste materials in an approved sanitary manner. Garbage shall be placed in the garbage disposal facilities or storage containers required in section 58-291(g).
- (h) Every occupant of a building containing a single dwelling on any premises shall be responsible for the extermination of any insects, rodents, vermin or other pests in the building or on the premises; however, the extermination of termites, and other insects that destroy the structure of the building, shall be the sole responsibility of the owner. If there is more than one unit in a building, whether owned by individual or multiple owners, including condominiums, co-operatives, townhouses, duplexes and similar structures, the owner shall be responsible for the extermination of all insects, termites, and other insects that destroy the structure of the building, rodents or other pests in the building or on the premises, including public spaces of the building and outside premises. The exterminator shall be permitted reasonable access to any building during daylight hours, except for fumigation and like work for extermination of structural infestation, in which case access for a reasonable amount of time necessary for such work shall be permitted by the occupant and owner. The owner shall be responsible for adequate substitute sleeping facilities of all occupants during the period of extermination for termites or structural infestation.

- (i) Every owner of a building shall, before renting or subletting to another occupant, provide approved door and window screens whenever such screens are required under the provisions of this article, and shall repair or replace them when necessary.
- (j) Every owner shall grade and maintain the exterior premises so as to prevent the accumulation of stagnant water on the premises.
- (k) Animals and pets shall not be kept in any dwelling or on any premises in such manner as to create unsanitary conditions or constitute a nuisance.
- (l) Where a refrigerator, stove or air conditioner, whether individual units or central air conditioning, is supplied by the owner, it shall be the duty and responsibility of such owner to maintain each in good and proper working order. Where central air conditioning is provided and not individually controlled by thermostat, it shall be the duty and responsibility of the owner to operate the same continuously, maintaining a continual temperature range between 70 and 76 degrees based on normal outside temperature and humidity factors, on a 24-hour basis, except for minimal shutdown periods required for reasonable maintenance and repair. Where air conditioning is provided and individually controlled by thermostat, it shall be the duty and responsibility of the owner to maintain such units so as to be capable of maintaining a continual temperature range between 70 and 76 degrees on a 24-hour basis. The owner or operator of a commercial building shall be required to operate central air conditioning only during normal business hours.
- (m) Every owner or owner's agent of a building that has rental units shall post a sign in a conspicuous place, inside the vestibule or lobby of the building, indicating the names, addresses and telephone numbers, local and foreign, of the owner or manager; but this subsection shall not apply where there is a resident agent on the premises. Every owner who does not maintain his principal residence within the county shall be required to designate, in writing, to the city manager's designee some legally competent person who shall be designated as the owner's agent and who shall reside within the county. Such person shall be authorized by the owner to accept notices of violation, process and other communications relating to the enforcement of this article. The owner shall obtain the acceptance of such designation from the person so designated in writing and file it with the city manager's designee at the time the designation is filed. If the designated agent resigns, retires, is terminated or the agency relationship is otherwise terminated, the owner shall appoint another agent. The code inspector is authorized and directed to prescribe a form for the purpose of implementing this subsection. The information to be provided on the form shall include the name and residence address and telephone number of the owner and designated agent, the address of the building, and the designated agent's work address and telephone. The form shall be required to be acknowledged before a notary or other person authorized by law to take oaths.

(n)

Every owner of a building shall be responsible for removing unauthorized signs, posters and graffiti from the building's exterior; those signs authorized or exempted by the city zoning ordinance are exempted from this subsection.

- (o) Every tenant shall provide reasonable access to repairmen or other services required to rectify violations provided the landlord's representative or the tenant is on the premises.
- (p) Every owner or landlord of a dwelling shall be responsible for any violation of the occupancy level standards set forth in subsection (b).
- (q) Subsections (b), (f), (i), (j) and (o) of this section shall not apply to boarded buildings.

(Code 1964, § 17B-28; Ord. No. 98-3110, § 6, 6-3-98)

Sec. 58-299. - Responsibilities of owners of vacant buildings, vacant structures and vacant or unimproved lots.

- (a) All vacant buildings, vacant structures, and vacant and unimproved lots shall comply with the requirements of subsections (b)—(k) of this section.
- (b) Every owner of a vacant building, structure or lot shall keep the premises in clean and sanitary condition, including yards, lawns, courts and driveways.
- (c) Exterior premises shall be kept free from the excessive growth of weeds, grass and other flora. The term "excessive" shall be interpreted as detrimental to the health, safety or welfare of the occupants or the public.
- (d) Every owner of a vacant building, structure or lot shall grade and maintain the exterior premises so as to prevent the accumulation of stagnant water on the premises.
- (e) Animals and pets shall not be kept on the premises in such manner as to create unsanitary conditions or constitute a nuisance.
- (f) Every owner of a vacant building, structure or lot shall keep the premises free from rodents, insects and vermin.
- (g) The roof of every vacant building or structure shall be well drained of rain water.
- (h) All exterior surfaces shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.
- (i) Every owner of a vacant building, structure or lot shall be responsible for removing unauthorized signs, posters and graffiti from the building's exterior; those signs authorized or exempted by the city's zoning ordinance are exempted from this subsection.
- (j) Every owner of a vacant building or structure shall secure and maintain in secure condition all entrances and all other openings of the building or structure, including but not limited to windows and doorways. Such vacant building or structure shall be secured as follows:

(1)

Ground floor entrances, windows and other openings shall be secured and sealed with concrete block or other materials of the same durability as determined by the building official. For purposes of this subsection the words "ground floor entrances" shall include all openings readily accessible to a person six feet in height without use of a ladder or other climbing aid.

- (2) All other unsecure entrances, windows and openings not covered by subsection (j)(1) of this section shall be secured by wood or other similar materials approved by the building official. Entrances and windows above the ground floor shall be regarded as secure if the entrances are locked and not otherwise open to entry and the windows contain glass that is not cracked or broken or shutters that prevent entry.
 - (3) As an alternative to subsections (1) and (2) above, vacant buildings and structures may be secured in accordance with a total building security plan if approved by the building official.
- (k) All materials used to secure a vacant building or structure shall be painted in a workmanlike fashion in the same color as its other exterior walls.

(Code 1964, § 17B-29; Ord. No. 92-2789, § 1, 7-22-92; Ord. No. 98-3110, § 7, 6-3-98)

Sec. 58-300. - Unsanitary vacant properties declared nuisances; enclosure required; action by city when owner fails to enclose.

- (a) *Unsanitary vacant properties declared nuisances.* The existence of excessive accumulation or untended growth of weeds or either dead or living plant life or any garbage or rubbish upon any vacant lot, tract or parcel of land or any land containing a vacant building or vacant structure and located within 200 feet of the boundary line of any improved property within the city to the extent and in the manner that such property is or may become infested or inhabited by rodents, vermin or wild animals, or may furnish a breeding place for mosquitos, or threatens or endangers the public health, safety or welfare, or may reasonably cause disease, or adversely affects and impairs the economic welfare of adjacent property is hereby prohibited and declared to be a public nuisance.
- (b) *Enclosure required.*
 - (1) Any vacant building, structure or lot not completely enclosed by a wall or a black or green vinyl coated fence and which is found in violation of subsection (a) of this section or of section 58-299(j)(1) or (2) by the city's special magistrate in accordance with chapter 30 of this Code on two separate occasions in any 18-month period, or any such vacant lot that has been cleared by the city due to the owner's failure to comply with the forestated lot maintenance requirements on three separate occasions within any 18-month period, shall be enclosed by its owner(s) by a wall or a black or green vinyl coated fence five feet in height. The code

inspector shall notify the owner by certified mail when a wall or a black or green vinyl coated fence is required pursuant to this subsection, and the owner shall have 45 days from receipt of the notice to cause the wall or a black or green vinyl coated fence to be erected.

- (2) If an owner believes that the code inspector has erred in determining that enclosure is required pursuant to subsection (a) of this section, that determination may be appealed to the special magistrate as provided in section 58-233. If the special magistrate determines that enclosure is required, the owner shall have 30 days from the date of determination to enclose the property.
 - (3) Where the city's zoning ordinance permits walls or fences to exceed five feet in height, the owner may choose to erect a wall or a black or green vinyl coated fence exceeding five feet in height in keeping with the zoning ordinance. Walls or fences erected pursuant to this section shall also conform to all requirements of the zoning ordinance, including those pertaining to the type of fencing materials permitted and required above, and to the requirements of the South Florida Building Code.
- (c) *Action by city when owner fails to enclose.* If within 45 days after mailing of the notice, as stated in subsection (b)(1) of this section, or, if an appeal is requested, within 30 days of the determination of the special magistrate as stated in subsection (b)(2) of this section, the required wall or fence has not been erected, the city manager or his designee may cause the subject property to be enclosed by a black or green vinyl coated five-foot fence at the property owner's expense. Chain link shall be used for this purpose where permitted by the zoning ordinance.
- (d) *Unpaid costs to be special assessment lien.* The city manager or his designee shall certify the expense incurred by the city in enclosing the subject property, whereupon such expenses shall be billed to the property owner and shall become due and payable within 30 days of the mailing of the bill. Any such expenses that have not been paid within the 30-day period shall become a special assessment lien upon the property, equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the property. This lien shall be payable with interest at the legal rate from the date of the certification until paid and may be foreclosed in the manner provided by law or ordinance.
- (e) *Other responsibilities.* Notwithstanding anything contained in this section, and regardless of whether or not a property is enclosed by a wall or fence, property owners shall be required to comply at all times with the requirements of section 58-299, including the requirement to keep properties clean.

(Ord. No. 93-2833, § 2, 1-20-93; Ord. No. 2021-4431, 7-28-21)

Sec. 58-301. - Lot clearance by city; liens; foreclosure.

- (a) As an alternative to the enforcement procedures set forth in section 58-201, upon the failure of the owner of any lot, parcel or tract of land within the city to keep such premises clean and free of vegetation and debris as required by section 58-299, the city manager or his designee shall give notice requesting the owner to remedy the condition within 15 days after service of such notice.
- (b) Such notice shall be given by certified mail, addressed to the owner of the property described, as recorded in the current county tax rolls, and shall be deemed complete and sufficient notice when so addressed and deposited in the United States mail with proper postage prepaid. The notice shall be in substantially the following form:

"Date _____

"Name of owner _____

"Address of owner _____

"Our property records indicate you to be the owner(s) of the following described property in the City of Miami Beach:

"An inspection of this property discloses, and the city manager has found and determined, it to be in such condition as to be in violation of section 58-299 of the Code of the City of Miami Beach because (state why property is in violation, i.e., height of weeds, grass or undergrowth, debris, dead trees, etc.).

"Section 58-301(a) of the Code of the City of Miami Beach provides that it shall be unlawful for you to permit this condition to continue, and you are hereby notified that unless this condition is remedied so as to make it nonviolative of section 58-299 of the Code of the City of Miami Beach within 15 days from the date hereof, the City of Miami Beach will proceed to remedy such condition, and the cost of such work will be imposed as a lien upon this property. The estimated cost to remedy this condition would be _____, plus \$75.00 for administrative charges, for a total cost of _____.

"This notice will be the only notice given to you in a period of one year from this date. Any other violations occurring under this section shall be remedied by the city without further notice.

	Very truly yours,
	_____ City Manager"

- (c) Upon failure of the owner of property to remedy the conditions existing in violation of the requirements of section 58-299 within 15 days after service of notice to do so, the city manager or his designee shall proceed to have such condition remedied by contract or direct labor, or both; and the cost thereof shall become a special assessment lien against such property 30 days after notice of completion of the work by the city. The special assessment lien shall be equal in rank and dignity with the lien of ad valorem taxes and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the property. The lien shall be payable with interest at the legal rate from the date of the certification until paid, and may be foreclosed in the manner provided by law or ordinance. Repeated violations of section 58-299 occurring within 12 months of the initial notice may be remedied by the city without further notice to the violator.
- (d) Notwithstanding section 58-233, the filing of an appeal from the city's determination of the need for lot clearance by the city shall not delay action by the city as described in subsection (c) of this section. An aggrieved property owner may appeal this determination, and this appeal shall be heard by a special magistrate appointed by the city commission upon recommendation of the city manager. The hearing will be conducted in accordance with the procedures set forth in sections 102-384 and 102-385 of this Code. If the special magistrate determines that lot clearance was unnecessary, the property shall not be assessed for the cost of the lot clearance.

(Ord. No. 93-2842, § 2, 4-21-93; Ord. No. 2021-4431, 7-28-21)

Sec. 58-302. - Reserved.

Editor's note— Ord. No. 2000-3276, § 2, adopted Oct. 18, 2000, repealed section 58-302, which pertained to graffiti removal within 15 days; removal by the city when property owner fails to remove, and derived from Ord. No. 94-2930, § 1(17B-29.3), adopted June 15, 1994.

Secs. 58-303—58-319. - 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.

(Ord. No. 2020-4345, § 1, 7-29-20)

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.

(Ord. No. 2020-4345, § 1, 7-29-20)

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:
 - (1) Properly register a property pursuant to this division,
 - (2) Amend the property's registration from time to time to reflect a change in circumstances, or
 - (3) 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.

(Ord. No. 2020-4345, § 1, 7-29-20)

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 \$200.00 per property shall be paid.
- (b) In addition to the annual registration fee, a nonrefundable annual fee of \$0.30 per square foot of a building or structure shall be paid for any building or structure that exceeds three stories in height.
- (c) The term of each property's annual registration shall correspond with the city's fiscal year (i.e. between October 1 and September 30 of each year). Any renewal of a property's registration, along with payment of the annual registration fee, shall be completed prior to October 1 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 18 inches by 24 inches in size. and shall be of a font that is legible from a distance of 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.

(Ord. No. 2020-4345, § 1, 7-29-20)

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.

(Ord. No. 2020-4345, § 1, 7-29-20)

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 magistrate, 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 magistrate, 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 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.

(Ord. No. 2020-4345, § 1, 7-29-20; Ord. No. 2021-4431, 7-28-21)

Secs. 58-326—58-335. - Reserved.

ARTICLE IV. - RENTAL HOUSING

Footnotes:

DIVISION 1. - GENERALLY

Sec. 58-336. - Penalty for violation of article.

Any person who willfully violates any of the provisions of this article, upon conviction of such offense, shall be punished as provided in section 1-14. Each day of continued violation shall be considered as a separate offense; however, the imprisonment provision of this section shall not be applicable to more than one violation that is a recurring or continuing violation on consecutive dates. The provisions of this article may be enforced by mandatory injunction or other appropriate civil action.

(Code 1964, § 17A-4)

Secs. 58-337—58-360. - Reserved.

DIVISION 2. - BUILDINGS UNFIT FOR HUMAN HABITATION

Sec. 58-361. - Designation of buildings as unfit for human habitation; placarding of unfit buildings; condemnation of unfit buildings.

- (a) The designation of buildings as unfit for human habitation and the procedure for condemnation and placarding, as unfit for human habitation, of such unfit buildings shall be carried out in compliance with the requirements of subsections (b) through (g) of this section.
- (b) Any building found to have any of the following defects shall be designated by a city code compliance officer, or by the building official if the building is designated unsafe pursuant to the provisions of the South Florida Building Code, as unfit for human habitation and shall be so placarded:
 - (1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.
 - (2) One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety-of the occupants or of the public.
 - (3) One which, because of its general condition or location, is unsanitary, or otherwise dangerous to the health or safety of the occupants or of the public.
- (c) Any building declared unfit for human habitation by the enforcing agency shall be so designated by posting a placard in a conspicuous place on the structure.

- (d) A building condemned and placarded as unfit for human habitation shall be vacated within 30 days as ordered by the enforcing agency and shall not be used for occupancy again until written approval is secured from, and the placard removed by, the enforcing agency. The enforcing agency shall order the removal of the placard whenever the defect upon which the condemnation and placarding actions were based, have been eliminated.
- (e) When, in the opinion of the enforcing agency, there is actual or immediate danger of the failure or collapse of a building or structure, or there is a health, windstorm or fire hazard, he or she may order, by condemnation and placarding, the occupants to vacate, temporarily close for use or occupancy the rights-of-way thereto, sidewalks, streets or adjacent buildings or nearby area and institute such other temporary safeguards, including securing the building or structure, as he or she may deem necessary under the circumstances, and may employ the necessary labor and materials to perform the required work as expeditiously as possible. In such event, the operation of the notice and hearing requirements of this section shall be suspended as reasonably necessary in the opinion of the enforcing agent to redress the emergency situation, except that expeditious post-deprivation notice and hearing before a city special magistrate (if requested) shall be provided. Costs incurred in the performance of such emergency work shall be paid by the appropriate governmental authority and upon the recording in the public records of this county a certificate executed by the building official, certifying the amount so expended, the same shall become a lien against the property involved.
- (f) No person shall deface or remove the placard from any building condemned as unfit for human habitation and placarded as such, except as provided in subsection (d) of this section.
- (g) Any person whose property has been placarded as unfit for human habitation may request and shall be granted a hearing on the matter before the special magistrate of the city in accordance with the procedures set forth in section 58-233.
- (h) Where a code compliance officer determines that a building is an unsafe building within the provisions of the South Florida Building Code, he or she shall immediately report the matter to the city building official, who shall evaluate the building and surrounding area for possible condemnation and placarding as referenced herein.

(Code 1964, § 17A-1; Ord. No. 2021-4431, 7-28-21; Ord. No. 2022-4518, § 1, 10-26-22)

Sec. 58-362. - Owner's duty to relocate residents.

- (a) Within 14 days from the time an occupied residential building is declared unfit for human habitation and placarded, or within eight hours if the building is declared unfit for human habitation as an emergency pursuant to subsection 58-361(e), the owner shall make all necessary arrangements and pay for all reasonable expenses incurred by the residential tenant(s), including, without limitation:
 - (1)

All necessary arrangements to relocate the displaced residents into housing in the City of Miami Beach and, if practicable, within two miles of the condemned building, that is safe, sanitary, and secure until such time that the building, unit, or units are made safe for re-occupation, or for at least a three-month period, whichever is shorter;

- (2) Actual and reasonable moving costs incurred by the tenant(s);
 - (3) Actual and reasonable cost of meals incurred by the tenant(s) from the time of the condemnation and placarding until the building is deemed safe for human habitation or for at least a three-month period, whichever is shorter;
 - (4) Parking expenses;
 - (5) Transportation expenses;
 - (6) Storage expenses; and
 - (7) Owner shall, if the building remains uninhabitable for more than three months or the tenant elects to permanently relocate, return the tenant's full security deposit as soon as practicable, in compliance with all existing ordinances and/or statutes governing security deposits.
- (b) If the owner shall fail to timely take the necessary steps to provide and pay for the relocation of displaced residents, city personnel will be empowered to assist in the relocation. If any expenses are incurred by the city, the owner shall pay all expenses incurred by the city, with payment to occur within seven days from receiving an itemization of expenses incurred in the relocation.
- (c) If the owner shall fail to pay city-incurred expenses, a lien against the realty and personalty of the owner shall be filed in the public records of the county and shall be of a dignity equal to liens filed for ad valorem taxation. This lien shall carry an interest rate at the maximum rate provided by F.S. § 687.02. Upon foreclosure of the lien, the city shall be entitled to attorney fees and costs.

(Code 1964, § 17A-2; Ord. No. 2022-4518, § 1, 10-26-22)

Sec. 58-363. - Tenants' rights to present grievances.

- (a) Any tenant or group of tenants may at any time submit in oral or written form a list of grievances to the landlord, his agents, or to any proper governmental agency concerning the management, the physical conditions, or operation of the rental unit or units.
- (b) The management of any rental unit complained against or criticized shall not coerce, retaliate or discriminate in any manner against a tenant or tenant group because of participation in the presentation of a grievance or complaint.
- (c) It shall be unlawful for any person to willfully and knowingly initiate any complaint under the provisions of this section without probable cause and for the purpose of harassment.

(Code 1964, § 17A-3)

Sec. 58-364. - Provisions of division supplemental and additional to other laws.

The provisions of this division are supplemental and additional to any mandate, requirement, or payment provided under county, state, or federal law. They do not replace them.

(Ord. No. 2022-4518, § 1, 10-26-22)

Secs. 58-365—58-385. - Reserved.

DIVISION 3. - TERMINATION OF TENANCY

Sec. 58-386. - Written notice of amendment or termination of tenancy.

- (a) *Required.* A residential tenancy without a specific duration in which the rent is payable on a monthly basis may be terminated by either the landlord or tenant by giving not less than 30 days' written notice prior to the end of any monthly period.
- (b) *[Notice to be given.]* A residential landlord that proposes to increase the rental rate by more than five percent at the end of a lease for a specific term, or during a tenancy without a specific duration in which the rent is payable on a monthly basis, must provide 60 days' written notice to the tenant before the tenant must either:
 - (1) Accept the proposed amendment;
 - (2) Reach an acceptable compromise; or
 - (3) Reject the proposed amendment to their tenancy.

If the required 60 days' written notice has been provided and the tenant has not agreed to the proposed amendment or an acceptable compromise within 30 days of receiving the notice, (i) the landlord may impose the proposed amended term(s) at the end of the 60-day notice period, or (ii) in the case of an expiring lease, either party may terminate the tenancy at the conclusion of the lease term, or (iii) in the case of a month-to-month tenancy, either party may terminate the tenancy by providing the 30-day notice of termination required by subsection (a) of this section.

- (c) *Applicability of state law.* Except for the notice provisions set forth in subsections (a) and (b) of this section, all other provisions set forth within F.S. Ch. 83, pt. II, governing residential tenancies shall apply to the rental of a residential dwelling unit within the city.

(Ord. No. 94-2936, § 1, 7-28-94; Ord. No. 2022-4470, § 1, 2-9-22)

Secs. 58-387—58-399. - Reserved.