

AN ORDINANCE OF THE TOWN OF WEST MIAMI PROVIDING FOR THE VACATION, REMOVAL, REPAIR, OF ANY BUILDING OR STRUCTURE WHICH IS OR THREATENS TO BE A PUBLIC NUISANCE, DANGEROUS TO THE HEALTH, MORALS, SAFETY OR GENERAL WELFARE OF THE PEOPLE OF THE TOWN OF WEST MIAMI, OR WHICH MIGHT TEND TO CONSTITUTE A FIRE MENACE; AND PROVIDING FOR A LIEN IN FAVOR OF THE TOWN OF THE COST OF VACATION, REMOVAL, REPAIR OR DEMOLITION THEREOF AGAINST SUCH LAND, BUILDING AND PREMISES.

WHEREAS, in the Town of West Miami, Florida, there are or may be in the future buildings or structures which are dilapidated, unsafe, dangerous, unsanitary, a menace to the health, morals, safety and general welfare of the people of this Town and which might tend to constitute a fire menace, and which are a public nuisance:

NOW, THEREFORE, BE IT ENACTED by the Mayor and Town Council of the Town of West Miami, Florida:

Section 1. Sub-Standard Building or Structure Defined.

All buildings or structures which have any or all of the following defects shall be deemed "sub-standard buildings or structures":

- (a) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (b) Those buildings which, exclusive of foundation, show thirty-three percent or more, of damage or deterioration of the supporting member or members, or fifty percent of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- (c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- (d) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the Town.

- (e) Those which have become or are so dilapidated, decayed, unsafe, insanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare to those living therein.
- (f) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.
- (g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.
- (h) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (i) Those which because of their condition are unsafe, insanitary, or dangerous to the health, morals, safety or general welfare of the people of the Town.
- (j) Those buildings existing in violation of any provision of the building or fire ordinances or other ordinances of this Town.

Section 2. Sub-Standard Buildings or Structures -  
Nuisances. All "sub-standard buildings or structures" within the terms of Section 1 of this ordinance are hereby declared to be public nuisances and shall be repaired, removed or demolished as hereinbefore and hereinafter provided.

Section 3. Mayor shall Act as Building Commissioner. The Mayor of the Town of West Miami shall be known as the Building Commissioner and shall perform the duties of Building Commissioner as hereinafter defined, in addition to all other duties he may have as Mayor.

Section 4. Town Engineer Shall Act as Building Inspector.

The Town Engineer shall act as Building Inspector and shall perform the duties of Building Inspector as hereinafter defined, in addition to all other duties he may have as Town Engineer.

Section 5. Standards for Repair, Demolition or Removal.

The following standards shall be followed in substance by the Building Inspector and said Building Commissioner in ordering demolition, repair or removal of any "sub-standard building or structure", to-wit:

(a) If the "sub-standard building or structure" can reasonably be repaired in compliance with the building codes and zoning ordinances of the Town so that it will no longer exist in violation of the terms of this ordinance it shall be ordered repaired.

(b) If the "sub-standard building or structure" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of the occupants thereof it shall be ordered to be removed.

(c) In any case where a "sub-standard building or structure" is 50 per cent damaged or decayed, deteriorated from its original value or structure it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this ordinance it shall be demolished. In all cases where a "sub-standard building or structure" is a fire hazard existing or erected in violation of the terms of this ordinance or any ordinance of this Town or statute of the State of Florida, it shall be demolished.

Section 6. Duties of Building Inspector. The Building

Inspector shall:

(a) Inspect or cause to be inspected, whenever directed by the Town Council or Building Commissioner, all public buildings, schools, halls, churches, theatres, hotels, tenements, commercial, manufacturing, loft buildings or other buildings for

the purpose of determining whether any conditions exist which render such places a "sub-standard building or structure" within the terms of Section 1 of this ordinance.

(b) Inspect any building, wall or structure reported (as hereinafter provided for) by the fire or police departments of this Town as probably existing in violation of the terms of this ordinance.

(c) Notify in writing the owner, occupant, lessees, mortgagee, agent and all other persons having an interest in said building as shown by land records in the office of the Clerk of the Circuit Court in and for Dade County, Florida, of any building found by him to be a "sub-standard building or structure" within the standards set forth in Section 1 of this ordinance, that: (1) the owner must vacate, remove or repair, or demolish said building or structure in accordance with the terms of the notice and this ordinance; (2) the occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession; (3) the mortgagee, agent or other person having an interest in said building as shown by the records in the office of the Clerk of the Circuit Court in and for Dade County, Florida, may at his own risk, repair, remove or demolish said building or structure or have such act or work done; provided, that any person notified under this sub-section to repair, remove or demolish any building or structure shall be given such reasonable time, not exceeding 90 days, as may be necessary to do or have done, the work or act required by the notice provided for herein.

(d) Set forth in the notice provided for in sub-section (c) hereof a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a "sub-standard building or structure" and an order requiring the same to be put in such condition as to comply with the terms of this ordinance within such length of time, not exceeding 90 days, as is reasonable.

(e) Report to the Building Commissioner any non-compliance with the "Notice" provided for in sub-sections (c) and (d).

(f) Appear at all hearings conducted by the Building Commissioner, or the Town Council, and testify as to the condition of "sub-standard buildings or structures."

(g) Place a notice on all "sub-standard buildings or structures" reading as follows:

"This building has been found to be a sub-standard building by the Building Inspector. This notice is to remain on this building until it is repaired, removed or demolished in accordance with this notice that has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the records in the office of the Clerk of the Circuit Court in and for Dade County, Florida. It is unlawful to remove this notice until such notice is complied with."

Section 7. Duties of Building Commissioner. The Building Commissioner shall:

(a) Upon receipt of a report of the Building Inspector as provided in Section 6 of this ordinance, give written notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the records in the office of the Clerk of the Circuit Court in and for Dade County, Florida, to appear before him on the date specified in the notice to show cause why the building or structure reported to be a "sub-standard building or structure" should not be repaired, removed or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice provided for herein in Section 6.

(b) Hold a hearing after written notice as provided above and hear such testimony as the Building Inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the records in the office of the Clerk of the Circuit Court in and for Dade County, Florida, shall offer relative to the "sub-standard building or structure."

(c) Make written findings of fact from the testimony offered pursuant to subsection (b) as to whether or not the building in question is a "sub-standard building or structure" within the terms of Section 1 hereof, and present the same to the Town Council of West Miami, Florida, for its approval or rejection.

(d) Upon the approval by the Town Council of such written findings ordering the demolition, repair or removal of such "sub-standard building or structure", to issue an order, made pursuant thereto commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the records in the office of the Clerk of the Circuit Court in and for Dade County, Florida, to remove, repair or demolish any building found to be a "sub-standard building or structure within the terms of this ordinance and within such time as may be provided therein; provided further that any person not the owner of such "sub-standard building or structure" but having an interest therein as aforesaid, may demolish or remove said "sub-standard building or structure" at his own risk to prevent the acquiring of a lien against the land upon which said "sub-standard building or structure" stands by the Town as provided in sub-section (e) hereof. Such order shall be served upon the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building aforesaid,

either by personal service or by registered mail, giving such person or persons 90 days from the service thereof or from the mailing thereof within which to comply with said order.

(e) If the owner, occupant, mortgagee or lessee fails to comply with the order provided in sub-section (d) hereof within 90 days the Building Commissioner shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant under the standards hereinbefore provided in Section 5 of this ordinance and the cost of such repair, vacation or demolition shall thereupon be and become a lien or charge against the land on which the building existed and against said building or structure, and the materials contained therein; and the Building Commissioner, with the assistance of the Town Attorney, shall thereupon take such steps, if any, necessary to perfect the lien of the Town against such land, building and materials.

(f) Removal or demolition of any such building or structure shall be carried out by the Building Commissioner in the manner deemed by him most economical and considered by him to best preserve property interest therein for the owner or owners. He shall have authority to sell salvaged material in such manner as he shall deem proper and apply all proceeds from such sales against the expense of removing or demolishing such building or structure.

Section 8. Where Owner Absent from the Town. In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the Town all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the land records in the office of the Clerk of

the Circuit Court in and for Dade County, Florida, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the sub-standard building to which it relates. Such mailing and posting shall be deemed adequate service.

Section 9. Ordinance Cumulative. This ordinance shall in no way limit or restrict the authority now existing in this municipality or any authority now vested in the State Fire Marshal for the regulation or control of such building or structures, and the powers provided herein shall be cumulative to the other powers of the Town as prescribed in the Charter and ordinances of the Town.

Section 10. Building Permit Required for Repairs. Where repairs are ordered to be made to any building or structure under the terms of this ordinance, the owner, occupant or other person making such repair shall, as a prerequisite thereto, obtain a building permit from the Town of West Miami as required by the zoning ordinances and building codes of the Town, and shall pay the fees prescribed therefor.

Section 11. Time and Method of Appeal. Any person aggrieved by any order issued by the Building Commissioner or the Town Council by virtue of this ordinance may appeal to the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, within 30 days from the service of such order upon him. Filing of action in the Circuit Court shall not stay the order appealed from unless and until the party so appealing shall file a bond in the sum of at least \$500.00 to be approved by the Mayor, conditioned that appellant will prosecute the appeal without delay and will pay all costs that may be adjudged against him in the Circuit Court. Such bond shall be payable to the Town of West Miami, Florida.



Section 12. Violations - Penalty for Disregarding Notices

or Orders. The owner of any "sub-standard structure or building" who shall fail to comply with any notice or order to repair, vacate, or demolish said building given by any person authorized by this ordinance to give such notice or order shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding two hundred dollars (\$200.00) for each offense and a further sum of ten dollars (\$10.00) for each and every day such failure to comply continues beyond the date fixed for compliance.

The occupant or lessee in possession who fails to comply with any notice to vacate in accordance with any notice given as provided for in this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding two hundred dollars (\$200.00) for each offense and a further sum of ten dollars (\$10.00) for each and every day such failure to comply continues beyond the date fixed for compliance.

Any person removing the notice provided for in Section 6 (g) hereof shall be guilty of a misdemeanor and upon conviction shall be fined not exceeding two hundred dollars (\$200.00) for each offense.

Section 13. Duties of the Town Attorney. The Town Attorney shall:

(a) Appear at all hearings before the Building Commissioner in regard to "sub-standard building or structure."

(b) Bring suit to collect all municipal liens, assessments, or costs incurred by the Building Commissioner in repairing or causing to be vacated or demolished "sub-standard buildings or structures."

(c) Take such other legal action as is necessary to carry out the terms and provisions of this ordinance.

Section 14. Emergency Cases. In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a "sub-standard building or structure" as defined herein is immediately repaired, vacated, or demolished, the Building Inspector shall report such facts to the Building Commissioner and the Building Commissioner shall cause the immediate repair, vacation, or demolition of such "sub-standard building or structure". The costs of such emergency repair, vacation or demolition of such "sub-standard building or structure" shall be collected in the same manner as provided in Section 7 hereof.

Section 15. Administrative Liability. No officer, agent, or employee of the Town of West Miami, Florida, shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this ordinance. Any suit brought against any officer, agent, or employee of the Town of West Miami as a result of any act required or permitted in the discharge of his duties under this ordinance shall be defended by the Town Attorney until the final determination of the proceedings therein.

Section 16. Duties of Fire Department. The employees of the Fire Department shall make a report in writing to the Building Inspector of all buildings or structures which are, may be, or are suspected to be "sub-standard buildings or structures" within the terms of this ordinance. Such reports must be delivered to the Building Inspector within 24 hours of the discovery of such buildings by any employee of the Fire Department.

Section 17. Duties of Police Department. All employees of the Police Department shall make a report in writing to the Building Inspector of any buildings or structures which are, may be, or are suspected to be "sub-standard buildings or structures" within the terms of this ordinance. Such reports must be delivered to the Building Inspector within 24 hours of the discovery of such buildings by any employee of the Police Department.

Section 18. Separability. It is the intention of the Town Council that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the Town Council that if any provision of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

PASSED AND ADOPTED at West Miami, Florida, this 2nd day of March, 1960.

Attest:

Mildred Dorie  
Town Clerk

Approved:

Edmund Rooper  
Mayor

Matthew W. Seftin  
President of the Town Council