52-046 **2025**

ORDINANCE TO ADOPT CHAPTER 52 – REAL PROPERTY MAINTENANCE AND ENFORCEMENT ARTICLE VIII. VACANT STRUCTURE REGISTRY FOR THE HENRY AARON LOOP

ARTICLE VIII. VACANT STRUCTURE REGISTRY FOR THE HENRY AARON LOOP

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, AS FOLLOWS:

VACANT STRUCTURE REGISTRY

Sec. 52-200. Adoption.

There is hereby adopted a vacant structure registry code for the Henry Aaron Loop in the City of Mobile.

Sec. 52-201. Purpose.

(a) The city has determined that uninspected and unmonitored vacant commercial structures in the Henry Aaron Loop (i) present a fire hazard; (ii) are often utilized by vagrants and transients (including drug abusers and traffickers) as dangerous and unsafe temporary shelters; (iii) detract from private and/or public efforts to rehabilitate or maintain surrounding buildings; and (iv) require additional regulation and services to protect the health, safety and welfare of the public.

(b) Under this Article, vacant commercial structures in the Henry Aaron Loop will be registered with the city, owners will pay a vacant structure registration fee as set forth herein, and the owners will otherwise conform to the requirements of this vacant structure code.

(c) It is the intent of this Article that, through a registration, inspection, and monitoring process, and other improved public safety efforts, vacant commercial structures in the Henry Aaron Loop will be kept weathertight and secure from trespassers, will provide safe entry to police officers and firefighters in times of emergency, will not impede private and/or public efforts to rehabilitate or maintain surrounding properties, and will not otherwise present a public nuisance.

(d) It is the city's further intent for the provisions of this Article to supplement Chapter 52 Article II, Abatement of Unsafe Buildings and Structural Nuisances, by placing the responsibility to register and maintain a vacant commercial structure on the Owner of the structure before a condition of the structure becomes unsafe or a public nuisance. Under no circumstances is the city undertaking a duty to register or maintain any vacant commercial structure.

Sec. 52-202. Definitions.

(a) For purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them as follows:

(1) *Actively marketed:* A property is listed with a realtor and placed on the MLS or other realty website, or is being promoted through consistent, proactive, and direct efforts to attract and engage potential customers or buyers, through methods like advertising, direct outreach, and digital platforms such as realty websites. The term implies that the marketer is not just passively waiting for customers but is actively taking steps to connect with them, modify their approach, and create a strong, visible presence in the market.

(2) *Boarded:* A Vacant Structure shall be deemed to be "boarded" if in place of one or more exterior doors, other than a storm door, or of one or more windows, there is a sheet or sheets of plywood or similar material covering the space for such door or window, in compliance with Mobile City Code, Section 52-1, Property Maintenance Code Boarding Methods.

(3) *Code official:* The city's code official, as defined in Section 52-22 of this Chapter, or his or her designee.

(4) *Commercial structure*: Any structure used or intended to be used to generate revenue. Commercial structures include structures leased to tenants who occupy the property for non-commercial uses such as residences or offices of non-profit organizations.

(5) *Director*: The City of Mobile official designated by the Mayor as the person to whom the Code Official reports, either directly or through the chain of command.

(6) *Henry Aaron Loop*: That geographic area within downtown Mobile bounded by Beauregard Street on the north, Water Street on the east, Canal Street on the south, and Broad Street on the west.

(7) *Occupy/occupied/occupies:* Any building or structure shall be deemed to be "occupied" if one or more persons conducts a lawful business or lawfully resides in the building as the licensed business occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same.

(8) *Open:* A Vacant Structure shall be deemed to be "open" if any one or more exterior doors other than a storm door is broken, open, and/or closed but without a properly functioning lock to secure it; if one or more windows is broken or not capable of being locked and secured from intrusion; if any other opening in the structure allows entry into the structure by an unauthorized person; or any combination of the same.

(9) *Owner:* Any person, agent, firm or corporation having legal title to the real property, including any mortgage holder, bank, lien holder, company, institution, individual or other entity listed in the records of the office of the judge of probate of the county, and/or the estate of any deceased owner(s), and/or the last assessed owner in the property tax records of the Mobile County Revenue Commissioner with the legal right to enter the property.

(10) *Plan for Maintenance:* A formal strategy and detailed document that outlines the specific tasks, required materials, tools, and procedures needed to keep the building maintained according to the city building code.

(11) Square footage: The gross interior floor area of the structure measured to the exterior face of perimeter walls, including basements and mezzanines, but excluding structured parking and unenclosed exterior areas.

(12) *Vacant Structure Registry:* The structure registry created pursuant to this Article, specifically by section 52-204(a).

(13) *Vacant Structure:* A commercial structure on a parcel of real property that either:

(A) Has, for a continuous period of at least six (6) months, lacked regular, lawful occupancy by persons entitled to be on the premises, excluding **intermittent, token, or incidental presence not amounting to bona fide use;** or

(B) Has had substantially all lawful business operations cease for at least six (6) months.

For purposes of this definition, if a **discrete** floor or other **separately occupiable** portion of a

building has a current **Certificate of Occupancy (CO)** and is actively occupied, that occupied portion is not a Vacant Structure; however, any **vacant** portions of the building must be protected by fire-alarm systems that comply with Section 52-209(a)(5).

Sec. 52-203. Applicability, obligation to register, automatic registration, exemptions.

(a) *Applicability and obligation to register.* Except as provided in subsection (c) below, this Article is applicable to all Vacant Structures and their Owners in the Henry Aaron Loop in the City of Mobile. It is the obligation of the Owner of any Vacant Structure to register it with the Code Official in accordance with the provisions of section 52-204. Registration shall be required for all Vacant Structures, whether vacant and secure, vacant and open or vacant and boarded. Vacant Structures shall be registered on or before 30 days after becoming a Vacant Structure, unless exempt under subsection (c) below. The registration of a Vacant Structure and the payment of registration fees do not exonerate the Owner, agent, or responsible party from compliance with any other building code or zoning requirement.

(b) *Registration by Code Official.* When the Code Official has reason to believe a structure is a Vacant Structure, a notice may be posted on the subject structure stating that the Code Official has reason to believe that the structure is a Vacant Structure and directing the Owner to either (i) register the structure in accordance with the provisions of this Article or (ii) provide the Code Official evidence demonstrating that the structure is not a Vacant Structure. In addition to posting a notice on the suspected Vacant Structure, the Code Official is hereby authorized, by certified mail; if undeliverable, by first-class mail, send a copy of the same notice to the Owner(s) of the property listed in the records of the Revenue Commissioner of Mobile County, or other records readily available to the City. If, 30 days after posting and mailing, the Owner has neither registered the property in the Vacant Structure Registry nor demonstrated to the Code Official that the property is not a Vacant Structure, the Code Official may add the structure to the Vacant Structure Registry using the information of record. In addition to all other fees, Owners of properties registered by the Code Official under this section shall owe a failure to register fee under Section 52-204 (d) (4).

(c) *Exemptions.* The following are exempt from the requirements of this Article:

(1) Any building owned by the city, county, state, or federal government.

(2) Buildings under construction or property that is being actively renovated or rehabilitated; provided, this exemption shall be available for no more than 18 months, unless the Owner provides a work plan to accomplish the renovation or rehabilitation or other written justification the Code Official to extend the exemption.

(3) Actively Marketed Vacant Structures; provided, this exemption shall be available for no more than twelve (12) months, unless the Owner provides written justification to the Code Official to extend the exemption.

(4) Vacant Structures that are vacant due to fire damage or damage caused by an extreme weather event; provided, this exemption shall be available for no more than six (6) months following the fire or extreme weather event, unless the City Council by resolution extends the exemption period due to a major disaster affecting numerous properties in the Henry Aaron Loop.

(5) Actively Marketed commercial structures in the Henry Aaron Loop purchased through an arm's length transaction for up to twelve (12) months following the date on which the purchase closes.

(6) Mixed-Occupancy Buildings. A building containing one or more Vacant Areas is not required to register under this Article if: (i) at least one discrete area of the building holds a current Certificate of Occupancy

(CO) and is actively occupied; and (ii) all Vacant Areas comply with §52-209(a)(5), provided that the occupied area constitutes at least twenty percent (20%) of the building's gross leasable floor area or ten thousand (10,000) square feet, whichever is less.

Sec. 52-204. Registry, registration information, amending information, fees, dedicated account, publication.

(a) *Registry created.* The Vacant Structure Registry is hereby created. The Code Official is hereby authorized to create, compile, monitor and enforce the Vacant Structure Registry. The city finance department is authorized to aid and assist the Code Official with the administration and collection of fees and other matters related to this Article.

(b) *Registration information.* Owners of property(ies) on which one or more Vacant Structures are located, upon notification by the Code official shall, within thirty (30) days of notification register the same with the city on a form supplied by the city. The registration form will require the following information:

(1) The street address of the Vacant Structure(s);

(2) The type of Vacant Structure(s);

(3) The square footage for each Vacant Structure;

(4) The name, residence address, business address, email address, telephone number, and mobile telephone number of all Owners of the Vacant Structure;

(5) The name, address, e-mail address, telephone number, and mobile telephone number, of all persons authorized to make or order repairs or services for the Vacant Structure;

(6) If an Owner resides or is domiciled outside the city, the name, address, e-mail address, mobile number and telephone number of a person located within the city who is designated to accept legal notices or service of process on matters concerning the Vacant Structure;

(7) If the Owner is a corporation or a limited liability company, the name(s), address(es), email address(es) and telephone number(s) of an officer or agent of the corporation or limited liability company designated to accept all legal notices of fees due or services of process with respect to the Vacant Structure;

(8) If the Owner is an estate, the name, address, business address, email address and telephone number of the executor of the estate;

(9) If the Owner is a trust, the name, address, business address, email address and telephone number of the trustee(s) designated to accept all legal notices of fees due or services of process with respect to the Vacant Structure;

(10) If the Owner is a partnership, the names, addresses, business address, email addresses and telephone number of all partners with an interest of ten percent or greater;

(11) If the Owner is any other form of unincorporated association, the names address, business address, email address and telephone numbers of all principals with an interest of ten percent or greater;

(12) Proof of a liability insurance policy in force for protection against damage to persons and property, so as to ensure that the purposes of this Article are met;

(13) Proof of a fire protection system(s) maintained and monitored in accordance with the International Fire Code 2021 Edition Section 901.6, as currently enacted or as hereafter amended.

(14) Proof of a plumbing system that either complies with city plumbing and building codes or is properly closed off and secured from infestation by rodents and insects.

(15) The Owner's plan for maintenance and repair of the Vacant Structure(s), including the time within which

the Owner anticipates completion of all repairs necessary to bring the Vacant Structure(s) into compliance with the city building code, outline of specific tasks, scope of work and required materials needed to accomplish the repairs.

(c) *Amending information.* If the registration information collected in accordance with this section changes or becomes inaccurate during any calendar year, it is the responsibility of the Owner, responsible party or agent for the same to contact the Code Official within 30 days of the occurrence of such change and advise the city of those changes in writing.

(d) *Fees.* There shall be a fee for each Vacant Structure on the Vacant Structure Registry. The fees shall be remitted to the Code Official for deposit into a dedicated fund as defined in paragraph (e) below, as follows:

(1) For commercial structures used as residences with one to three units;

(i) For the first year, $250.

(ii) For the second year, $500.

(iii) For the third year, $750.

(iv) For each subsequent year, $1,000.

(2) For commercial structures used as residences with four or greater units and mixed commercial use and residential use of two or greater units:

(i) For the first year, $500.

(ii) For the second year, $1,000.

(iii) For the third year, $1,500.

(iv) For each subsequent year, $2,000.

(3) For commercial structures without any residential units, the greater of:

(i) For the first year, $500 or $0.05 per square foot.

(ii) For the second year, $1,000 or $0.10 per square foot.

(iii) For the third year, $1,500 or $0.15 per square foot.

(iv) For each subsequent year, $2,000 or $0.20 per square foot.

(4) In addition to the above registration fees, for Vacant Structures that are registered by the Code Official under Section 52-203 (b), a failure to register fee of $500.00.

(5) The Vacant Structure shall be registered prior to the issuance of any building permits for that structure, except for a demolition permit. No demolition permit shall be issued except in accordance with Section 6 of the Downtown Development Code (Appendix A, Chapter 64, Mobile City Code); and, in the case of any structure located within a designated historic district, only upon approval by issuance of a Certificate of Appropriateness, as required Chapter 44.

(e) *Dedicated account.* All fees collected pursuant to this Article shall be deposited into a separate fund known as the Vacant Structures Registry Fund and shall be appropriated to the city's Tax Increment Finance District 1 Fund, and earmarked solely to repair, rehabilitate or stabilize Vacant Structures, to administer this Article, in an effort to support economic development, property rehabilitation and blight reduction, blight being defined as in Sec. 52-152(c), in the Henry Aaron Loop. All amounts remaining in the Vacant Structures Registry Fund at the end of the fiscal year shall not lapse but shall retain their dedication to the purposes of the Fund.

(f) *Publication.* The city may, from time to time, publish or disclose certain information contained in the Vacant Structure Registry, including, but not limited to:

(1) General demographic information about Vacant Structures registered on the Vacant Structure-Registry;

(2) The address of Vacant Structures on the Vacant Structure Registry;

(3) The Owners of each Vacant Structure;

(4) The amount of time any Vacant Structure has been on the Vacant Structure Registry; and

(5) The amount of any delinquent fees due under this Article, or otherwise due to the city for any Vacant Structure.

The City shall not publish personal telephone numbers, personal e-mail addresses, individual residential mailing addresses, or other information protected from disclosure by law of natural-person Owners listed on the Vacant Structure Registry.

(g) *Changes in ownership.* A change in ownership of a Vacant Structure shall not remove the Vacant Structure from the Vacant Properties Registry or from complying with the requirements of this Article, nor shall it restart the period of exemption in subdivision (3), or (5), subsection (c) of section 52-203 of this Code. Fees arising under this article shall continue to accrue at the applicable rate until the structure either no longer constitutes a Vacant Structure or qualifies for an exemption, all transfers of ownership notwithstanding. All fees arising under this article shall run with the property and failure to pay such fees may result in the city filing a lien that attaches to the property. Such liens shall be municipal code liens enforceable in rem pursuant to Ala. Code §§ 11-40-62 through 11-40-69.

Sec. 52-205. Right of appeal.

(a) *Request for reconsideration.* The Owner shall have the right to request reconsideration by the Director of (i) the imposition of the registration fees imposed by this Article and/or (ii) the designation of a building as a Vacant Structure, by filing a request for reconsideration in writing to the Director no later than 15 calendar days after the date of the notice to the Owner that a property has been placed on the Vacant Structure Registry pursuant to section 52-203(b) or that fees are due under this Article. On the request for reconsideration, the Owner shall bear the burden of providing evidence that the building is occupied, such evidence can include leases, sub-leases, rental agreements, purchase agreements, affidavits of occupancy or other documents that provide evidence the building is not a Vacant Structure, or that the building is a Vacant Structure but exempt from registration.

(b) *Director's determination.* Within 30 days, or as soon thereafter as is practicable, after the Director receives a request for reconsideration pursuant to section 52-205(a) above, the Director is authorized to contact the Owner(s) and afford them the opportunity to meet in person or virtually to present their request for reconsideration. Within 30 days, or as soon thereafter as is practicable after consideration of all information provided by the Owner, the Director shall grant or deny the request in writing and provide the Owner with a copy of the decision.

(c) *Appeal of Director's decision.* If the Owner receives an unfavorable decision from the Director, the Owner may appeal that decision to the City Council for review at a public hearing, which may be conducted during a regularly scheduled City Council meeting. Within 15 days following the date of the notice of the Director's decision, an Owner may file a written appeal with the City Clerk, indicating the portion of the decision he or she claims is inaccurate or incorrect. As soon as practicable after receiving the appeal, the City Clerk will request a copy of the record from the Director and, following receipt of the record, will schedule a public hearing to consider the appeal. Notice of the public hearing shall be provided to the Owner who shall be afforded the opportunity to appear in person and be heard. As soon as practicable after conclusion of the public hearing, the City Council will determine whether the decision of the Director properly applied the provisions of this Article and will affirm the decision if it finds that the Director properly applied the provisions of this Article and the decision is supported by substantial evidence.

(d) An Owner may appeal a decision of the City Council made pursuant to section 52-205(c) above, within thirty (30) days of its issuance to the Circuit Court of Mobile County.

Sec. 52-206. Penalties for Violations of this Article.

The failure or refusal of any Owner to register a Vacant Structure as required by this Article, knowingly providing false information or withholding information required to be provided by the registration requirements, or failure to comply with any of the provisions of this Article shall constitute a misdemeanor offense, punishable upon conviction thereof by a fine of up to $500, imprisonment for a period not to exceed six (6) months, and other penalties in accordance with Chapter 1 Article II of the Mobile City Code for each violation. Each month that an Owner knowingly fails or refuses to register a vacant structure as required by this Article shall be a separate violation. Criminal enforcement under this section is reserved for willful or repeated violations; nonpayment of fees may be pursued through civil remedies, including liens, under Section 52-208.

Sec. 52-207. Inspections, monitoring, corrective action.

(a) At the time of registration, or at any time thereafter, the Code Official shall determine whether an inspection of a Vacant Structure is necessary to identify any conditions that present a threat to public safety.

(b) The Code Official is authorized to conduct inspections of structures on the Vacant Structure Registry, and, to the extent feasible under the circumstances to take reasonable steps to ensure the structure (i) complies with the security and maintenance regulations for Vacant Structures in Section 52-209; (ii) is being kept weathertight and secure from trespassers; (iii) provides for safe entry to police officers and firefighters in times of emergency, (iv) does not impede private and/or public efforts to rehabilitate or maintain surrounding properties; (v) and does not present a public hazard. Inspection may be a visual inspection of the exterior of the vacant structure by the Code Official or his/her designee.

(c) If the Code Official determines that an internal inspection is necessary, he/she is authorized to make a reasonable effort to locate the owner, the owner's authorized agent, or other person having charge or control of the structure (herein referred to collectively as the "Owner") and request entry. If the Owner fails or refuses to grant entry, the Code Official shall have recourse to the remedies provided by law to secure entry.

(d) Any corrective action required to abate unsafe buildings and structural nuisances shall proceed under Article II of this Chapter 52.

Sec. 52-208. Non-payment; collection; municipal code liens.

(a) Personal obligation; civil action. Except for Owners who have properly perfected an appeal under §52-205, any registration, renewal, or other non-penalty fee due under §52-204 constitutes a debt due to the City. The City may commence a civil action to collect any unpaid amount. Nothing herein limits the City's ability to assess late charges authorized by this Article.

(b) Municipal code liens (civil penalties; enforcement/abatement costs). In lieu of, or in addition to, a civil action, the City may, upon nonpayment, record a Notice of Municipal Code Lien against the real property for any civil penalty imposed under this Article and any enforcement or abatement costs incurred to secure, inspect, re-inspect, board, clean, or otherwise remedy violations of this Article, consistent with Ala. Code §§11-40-62 through 11-40-69. Such municipal code liens do not include routine registration or renewal fees.

(c) Recording; interest; priority; owner-occupied exclusion. Upon recordation in the Office of the Judge of Probate, a municipal code lien shall bear interest at seven and one-half percent (7.5%) per annum from the date of filing and shall be superior to all liens except tax liens, as provided in Ala. Code §§11-40-62(4) and 11-40-63(b). Owner-occupied real property is excluded from in-rem enforcement as provided in §11-40-63(a).

(d) Notice of nonpayment. Prior to recording a municipal code lien or filing suit, the City shall provide written notice by certified mail to the Owner at the address of record; if undeliverable, the City may provide notice by first-class mail and posting a conspicuous notice on the structure.

(e) Foreclosure of municipal code liens. Municipal code liens may be enforced by judicial in-rem foreclosure pursuant to Ala. Code §§11-40-64 through 11-40-69 and City Code §52-139.

(f) Other lien authorities unaffected. This section does not limit the City's authority to assess and enforce assessment liens arising from unsafe structure abatement under Ala. Code §11-53B-1 et seq. or weed liens under Ala. Code §11-67-1 et seq., when those statutes are invoked.

Sec. 52-209. Vacant structure security and maintenance regulations.

(a) It shall be the responsibility of the Owner of a Vacant Structure to ensure the following:

(1) Vacant Structures shall be secured so as not to be accessible to unauthorized persons. Securing of Vacant Structures includes, but is not limited to, closing and locking windows, doors, walk-through, sliding, and garage doors/gates, and any other opening that may allow access to the interior of the property and/or structures. In the case of broken windows securing means re-glazing or boarding the windows.

(2) The Owner shall ensure that the property on which the structure is located is continuously in compliance with the requirements of this Article and all applicable provisions of the city's building code.

(3) The Owner of a Vacant Structure shall perform or provide for the performance of periodic maintenance, including but not limited to grass cutting or leaf removal on a timely basis.

(4) The Owner shall maintain a policy of liability insurance with coverage for not less than One Million Dollars ($1,000,000.00) per occurrence and Two Million Dollars ($2,000,000.00) aggregate protecting against injury or damage to person or property arising from the Vacant Structure and shall provide the Code Official proof of insurance upon request.

(5) The Owner shall ensure that the Vacant Structure is at all times protected by a fire alarm system(s) that detects fires, transmits alarm signals to the public safety answering point (PSAP) via a UL-listed central station and is continuously monitored, maintained, and inspected as required by the International Fire Code 2021 Edition Section 901.6 and NFPA 72, as currently enacted or as hereafter amended. The system shall be supported by a dedicated power source. If the power source is electricity, it must comply with the city's electrical code. The power source may be a temporary pole supplying the electricity.

(6) The Owner shall ensure that the Vacant Structure has a plumbing system that either complies with the city's plumbing and building codes or is properly closed off and secured from infestation by rodents and insects.

(7) The Owner shall install and maintain a Knox Box, type and mounting location as required by the Fire Code Official.

(8) The Owner shall ensure that the Vacant Structure and surrounding property have exterior lighting as required by the Code Official.

Sec. 52-210. Relation to other codes and laws.

It is to be understood that the intent and purpose of this Article are separate and distinct from other parts and sections of this City Code and the general laws of the State of Alabama which may also be applicable. The provisions of this Article are applicable to the Owners of such Vacant Structures as set forth herein and are in addition to and not in lieu of all other applicable provisions of this City Code. Where a condition constitutes an unsafe building or structural nuisance under Article II of this Chapter, enforcement, abatement, and cost recovery shall proceed under Article II; this Article addresses registration, inspection, and monitoring of vacant structures before such conditions arise or in parallel where appropriate.

Sec. 52-211. Severability.

The provisions of this Article VIII are severable. If any part of this article is held to be invalid by a court of competent jurisdiction, the remaining provisions of this chapter and of this article shall remain in full force and effect.

Sec. 52-212. Effective Date

This Article shall be effective the first day of the first month commencing six (6) months following its adoption.

Sec. 52-213. Review.
Within twenty-four (24) months after the effective date of this Article, the Director shall report to the City Council on compliance, costs, and outcomes in the Henry Aaron Loop and recommend whether to (i) continue, (ii) modify, or (iii) expand the program citywide.

ADOPTED: NOV 18 2025

City Clerk