

1 Introduced by Councilmember Diamond:
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4 **ORDINANCE 2022-842**

5 AN ORDINANCE CREATING A NEW SECTION 320.504
6 (MILESTONE INSPECTIONS), CHAPTER 320 (GENERAL
7 PROVISIONS), PART 5 (INSPECTIONS), *ORDINANCE*
8 *CODE*, TO REQUIRE MILESTONE INSPECTIONS OF
9 DESIGNATED BUILDINGS ACCORDING TO S. 443.899,
10 *FLORIDA STATUTES*; CREATING A NEW CHAPTER 328
11 (MILESTONE INSPECTION REGULATION), TITLE VIII
12 (CONSTRUCTION REGULATIONS AND BUILDING CODES),
13 *ORDINANCE CODE*, TO IMPLEMENT THE STATUTORY
14 REQUIREMENTS PROVIDED IN S. 553.899, *FLORIDA*
15 *STATUTES*; ESTABLISHING THE INTENT AND AUTHORITY;
16 PROVIDING APPLICABILITY AND AREAS OF
17 ENFORCEMENT; PROVIDING DEFINITIONS; DESIGNATING
18 THE ADMINISTRATION; CREATING A REGISTRATION
19 PROCESS; PROVIDING A NOTICE REQUIREMENT;
20 IDENTIFYING THE TYPES OF INSPECTION; DEFINING
21 THE MINIMUM CONTENTS OF THE REPORTS; DESIGNATING
22 POSTING AND PUBLISHING REQUIREMENTS FOR THE
23 REPORT; ESTABLISHING TIMELINES FOR REPAIRS AND
24 CORRECTIVE REPORTS; PROVIDING FOR ENFORCEMENT;
25 AUTHORIZING EXTENSIONS; DESIGNATING FINES;
26 DESIGNATING PROCESS FOR UNSAFE STRUCTURES,
27 REPORTING AND CONDEMNATION; ALLOWING
28 SEVERABILITY; INCLUDING CODIFICATION
29 INSTRUCTIONS; AND PROVIDING AN EFFECTIVE DATE.

30
31 **WHEREAS**, the Florida Legislature passed Senate Bill 4-D (2022)

1 following the 2021 collapse of Champlain Towers in the Town of
2 Surfside, Florida; and

3 **WHEREAS**, while a detailed report with final findings on the
4 cause will take an extensive period of time, initial investigation
5 into the conditions of the building at the time of the collapse
6 revealed a number of factors that may have contributed to the collapse
7 many of which related to the structural integrity of the building
8 based on its age (approx. 40 years) and design; and

9 **WHEREAS**, Senate Bill 4-D (2022) imposes mandatory inspections
10 for structural integrity for structures in the State based on the
11 type of building, height of the building, location of the building,
12 and age of the building; and

13 **WHEREAS**, numerous buildings in the City of Jacksonville will be
14 required to complete these structural inspections; and

15 **WHEREAS**, the Legislature recognized the power of local
16 governments to inspect buildings for the protection of the health,
17 safety and welfare of the public; and

18 **WHEREAS**, the enactment of the Senate Bill 4-D (2022) places the
19 burden on local building officials to regulate the process for notice,
20 review, supervision, timing, and enforcement, which would be
21 appropriate governed by a City Ordinance; now therefore

22 **BE IT ORDAINED** by the Council of the City of Jacksonville:

23 **Section 1. Incorporation of Recitals.** The foregoing
24 "WHEREAS" clauses are hereby ratified and confirmed as being true and
25 correct and are hereby made a specific part of this Ordinance upon
26 adoption thereof.

27 **Section 2. Creating a new Section 320.504 (Milestone**
28 **Inspections), Chapter 320 (General Provisions); Part 5 (Inspections);**
29 **Ordinance Code.** Section 320.504 (Milestone Inspections), *Ordinance*
30 *Code*, is hereby created to read.

31 **CHAPTER 320. GENERAL PROVISIONS.**

1 * * *

2 **PART 5. INSPECTIONS.**

3 * * *

4 **Sec. 320.504. Milestone Inspections.**

5 In accordance with F.S. § 553.899, structural milestone
6 inspections, as provided under Ch. 328, *Ordinance Code*, for
7 condominium and cooperative buildings are mandatory within 25 years
8 of the issuance of the certificate of occupancy if the structure is
9 three stories or more. This requirement does not apply to buildings
10 that have three or fewer stories above ground and are single-family,
11 two-family, or three-family dwellings.

12 **Section 3. Creating a new Chapter 328 (Milestone Inspection**
13 **Regulation), Title VIII (Construction Regulations and Building**
14 **Codes), *Ordinance Code*.** Chapter 328 (Milestone Regulation) is hereby
15 created to read as follows:

16 **CHAPTER 328 - MILESTONE INSPECTION REGULATION.**

17 **Sec. 328.101. Intent and Authority.**

18 It is the intent of the Council, acting as the governing body
19 for the City of Jacksonville, in creating this Milestone Inspection
20 program to implement processes and regulations to comply with
21 statutory requirements mandating inspections for the public safety
22 and welfare for applicable properties located in the General Services
23 District, less Urban Services Districts 2, 3, 4, and 5.

24 **Sec. 328.102. Applicability, Area of Enforcement.**

25 A condominium association under chapter 718 and a cooperative
26 association under chapter 719, located in Duval County excluding
27 Urban Services Districts 2, 3, 4, and 5, must have a milestone
28 inspection performed for each building that is three stories or more
29 in height by December 31 of the year in which the building reaches
30 25 years of age, based on the date the certificate of occupancy for
31 the building was issued, and every 10 years thereafter.

1 **Sec. 328.103. Definitions.** As used in this section, the term:

2 "Inspector" means a Florida actively licensed architect or
3 engineer, with experience in multi-story structural design, who is
4 specifically insured for performing "Milestone Inspection" work at a
5 rate of no less than one million dollars (\$1,000,000) per
6 occurrence/two million dollars (\$2,000,000) aggregate coverage.

7 "Milestone Inspection" means a structural inspection of a
8 building, including an inspection of load-bearing elements, primary
9 structural members, and primary structural systems as those terms are
10 defined by the Florida Building Code or the Florida Statutes,
11 whichever definition is broader, by an Inspector for the purposes of
12 attesting to the life safety and adequacy of the structural components
13 of the building and, to the extent reasonably possible, determining
14 the general structural condition of the building as it affects the
15 safety of such building, including a determination of any necessary
16 maintenance, repair, or replacement of any structural component of
17 the building. The purpose of such inspection is not to determine if
18 the condition of an existing building is in compliance with the
19 Florida Building Code or the fire safety code.

20 "Phase One Inspection" or "Phase One Milestone Inspection" means
21 performance of (a) a visual examination of habitable and non-habitable
22 areas of a building, including the major structural components of a
23 building, including but not limited to roofing, balconies, post
24 tension slabs and anchorage, caulking, curtain walls, window
25 installation, flashing, building cladding, foundations (settlement
26 or subsidence), and flood and storm protective measures; (b) a
27 historical analysis of existing construction documents, permits,
28 inspections, and maintenance records; and (c) provide a qualitative
29 assessment of the structural conditions of the building based on the
30 examination and analysis of the above by an Inspector.

31 "Phase Two Inspection" or "Phase Two Milestone Inspection" means

1 an inspection necessary to fully assess areas of structural distress
2 in order to confirm that the building is structurally sound and safe
3 for its intended use and to recommend a program for fully assessing
4 and repairing distressed and damaged portions of the building, said
5 inspection may involve destructive or nondestructive testing at the
6 Inspector's direction. The Inspector may determine the extensiveness
7 of the inspection or the limitation of the areas of inspection based
8 on their experience, education, and training. When determining
9 testing locations, the Inspector must give preference to locations
10 that are the least disruptive and most easily repairable while still
11 being representative of the structure.

12 "Story" means that portion of a building included between the
13 upper surface of a floor and the upper surface of the floor or roof
14 next above. A story is measured as the vertical distance from top to
15 top of two successive tiers of beams or finished floor surfaces and,
16 for the topmost story, from the top of the floor finish to the top
17 of the ceiling joists or, where there is not a ceiling, to the top
18 of the roof rafters.

19 "Substantial structural deterioration" means substantial
20 structural distress that negatively affects a building's general
21 structural condition and integrity. The term does not include surface
22 imperfections such as cracks, distortion, sagging, deflections,
23 misalignment, signs of leakage, or peeling of finishes unless the
24 Inspector performing the phase one or phase two inspection determines
25 that such surface imperfections are a sign of substantial structural
26 deterioration.

27 **Sec. 328.104. Administration.**

28 The Building Inspection Division shall serve as the local
29 enforcement agency for the purposes of this section. The Building
30 Inspection Division may work with other city and county entities for
31 the investigation, notification, and registration process.

1 **Sec. 328.105. Registration.**

2 (a) In order to determine the inventory of structures in the
3 enforcement area, all existing buildings two stories in height
4 (including parking levels as a floor) and taller that are not single-
5 family homes, shall register with the Building Inspection Division
6 by January 1, 2023.

7 (b) Registration will require each building to identify at a
8 minimum:

9 (1) Property type

10 (i) "Condominium" means a form of ownership of real
11 property which is comprised entirely of units
12 that may be owned by one or more persons, and
13 in which there is, appurtenant to each unit,
14 an undivided share in common elements, or as
15 defined under F.S. § 718.103(11), which may be
16 revised from time to time.

17 (ii) "Cooperative" means that form of ownership of
18 real property wherein legal title is vested in
19 a corporation or other entity and the
20 beneficial use is evidenced by an ownership
21 interest in the association and a lease or
22 other muniment of title or possession granted
23 by the association as the owner of all the
24 cooperative property, or as defined under F.S.
25 § 719.103(12), which may be revised from time
26 to time.

27 (iii) "Other Ownership" means the building and unit
28 ownership does not qualify as either a
29 Condominium under Chapter 718, *Florida*
30 *Statutes*, or a Cooperative under Chapter 719,
31 *Florida Statutes*.

1 (2) Number of Stories

2 (i) Identify if the building is 3 stories tall or
3 higher.

4 (ii) Identify if the building is less than 3 stories
5 tall.

6 (3) Association Information.

7 (i) Where applicable, each building shall disclose
8 the contact information for the association
9 including the registered agent or party
10 responsible for receiving legal notices.

11 (4) Board Information.

12 (i) Where applicable, each building shall disclose
13 the contact information for the Board
14 president.

15 (5) Year of Construction

16 (i) Identify the year construction was completed
17 on the entire complex.

18 (ii) Identify the year(s) construction was
19 completed by building.

20 (6) Type of Construction

21 (i) Identify the type of construction for the
22 buildings.

23 (7) Date of Occupancy

24 (i) Identify if the building received its initial
25 Certificate of Occupancy before July 1, 1992.

26 (ii) Identify what year the building received its
27 initial Certificate of Occupancy.

28 (8) Number of residential units

29 (i) Identify total number of units in the complex.

30 (ii) Identify the number of units per building when
31 applicable.

1 (9) Additional features of the complex.

2 (c) Any structure that is converted to a condominium or
3 cooperative association shall register within 72 hours of providing
4 the notice of conversion to the tenants, per F.S. s. 718.608 or F.S.
5 s. 719.608.

6 (d) Any new building completed and issued a certificate of
7 occupancy after December 31, 2022, shall be required to register the
8 building within 30 days of the receipt of certificate of occupancy.

9 (e) Upon submission of the registration, the Building
10 Inspection Division will review the submission and use the information
11 provided in application of the law.

12 **Sec. 328.106. Notice of Milestone Inspection Deadline.**

13 (a) The Building Inspection Division shall provide written
14 notice that a Milestone Inspection is required by certified mail,
15 return receipt requested and e-mail when e-mail contact information
16 has been provided.

17 (b) The notice shall provide the association with the date by
18 which the building's Milestone Inspection must be completed.

19 **Sec. 328.107. Inspections.**

20 (a) Phase One Inspections. Within 180 days after receiving
21 the written notice under Section 328.105, *Ordinance Code*, the
22 condominium association or cooperative association must complete
23 Phase One of the Milestone Inspection. For purposes of this section,
24 completion of a Phase One Milestone Inspection means the Inspector
25 who performed the Phase One Inspection submitted the inspection report
26 to the Building Inspection Division through the Division's permitting
27 system or other means authorized in writing by the Chief of the
28 Building Inspection Division, or his designee.

29 (1) The Inspector must indicate whether a Phase Two
30 Inspection, as provided in Section 328.106(b),
31 *Ordinance Code*, or section 553.899(7)(b), Florida

1 Statutes, whichever is more stringent, is required.

2 (2) An Inspector who completes a Phase One Milestone
3 Inspection shall prepare and submit an inspection
4 report, pursuant to Section 380.107, *Ordinance Code*,
5 to the City through the Building Inspection
6 Division's permitting system.

7 (b) Phase Two Inspections. A Phase Two Milestone Inspection
8 must be performed if any substantial structural deterioration is
9 identified during the Phase One Milestone Inspection.

10 (1) An inspector who completes a Phase Two Milestone
11 Inspection shall prepare and submit an inspection
12 report pursuant to Section 380.107, *Ordinance Code*.

13 **Sec. 380.108. Inspection Report.**

14 (a) Submission. Upon completion of a Phase One or Phase Two
15 Milestone Inspection, the Inspector who performed the inspection must
16 submit a sealed copy of the inspection report with a separate summary
17 of, at minimum, the material findings, and recommendations in the
18 inspection report to:

- 19 (1) the condominium association or cooperative
20 association, and
21 (2) the building official of the local government and pay
22 a report review fee based on 1.5% of the total cost
23 of the milestone inspection and report.

24 (b) Terminology. Any terminology providing a rating, grade, or
25 status of a component, system, or structure shall be explained in
26 sufficient detail to justify the rating or status.

27 (c) Contents.

28 (1) The Phase One Inspection report must contain or
29 address, at a minimum, all of the following:

- 30 (i) Bear the seal and signature, or the electronic
31 signature, of the Inspector who performed the

1 inspection, a date for each inspection, if
2 multiple days, and the date of the final
3 report.

4 (ii) The complex and management information,
5 including but not limited to the name and
6 contact information for the association entity
7 and any management company. The report should
8 also identify the current members of the
9 association's board and each member's contact
10 information.

11 (iii) Indicate the manner and type of inspection
12 forming the basis for the inspection report.

13 (iv) Provide a general condition rating and any
14 specific detail observations, along with any
15 recommendations for each inspection category
16 listed in the inspection criteria, including
17 but not limited to: foundations, roof/roofing
18 systems, bearing walls, floor systems, framing
19 systems, windows, wall openings, railings,
20 stairs, and balconies.

21 (v) Identify any substantial structural
22 deterioration, within a reasonable
23 professional probability based on the scope of
24 the inspection, describe the extent of such
25 deterioration, and identify any recommended
26 repairs for such deterioration.

27 (vi) Include color photographs with sufficient
28 resolution to convey the conditions at the time
29 of the inspection and identify any recommended
30 repairs.

31 (vii) State whether unsafe or dangerous conditions,

1 as those terms are defined in the Florida
2 Building Code, were observed.

3 (viii) Recommend any remedial or preventive repair for
4 any items that are damaged but are not
5 substantial structural deterioration.

6 (ix) Provide an overall qualitative structural
7 assessment of the building.

8 (x) Identify and describe any items requiring
9 further inspection.

10 (xi) Indicate if a Phase Two Inspection, or other
11 subsequent inspections are required,
12 necessary, or recommended.

13 (xii) Include a copy of the Certificate of Insurance
14 specifically providing coverage for the
15 Inspector, and their company if applicable.

16 (xiii) Include a copy of the Inspector's Resume or
17 Curriculum Vitae with three (3) references from
18 prior multi-story projects and a self-
19 qualification letter from the Inspector
20 stating their professional experience with the
21 design and inspection of similar structures.

22 (2) A Phase Two Inspection report shall contain at a
23 minimum the following:

24 (i) Bear the seal and signature, or the electronic
25 signature, of the Inspector who performed the
26 inspection, a date for each inspection, if
27 multiple days, and the date of the final
28 report.

29 (ii) The complex and management information,
30 including but not limited to the name and
31 contact information for the association entity

1 and any management company. The report should
2 also identify the current members of the
3 association's board and each of their
4 individual contact information.

5 (iii) Provide references to the Phase One Inspection
6 Report for each item requiring additional
7 examination.

8 (iv) Identify the type and manner of inspections
9 performed.

10 (v) Identify any damage, including color
11 photographs when possible, and extent of
12 repairs needed along with any repair
13 recommendations.

14 (vi) Provided graded urgency for each required,
15 necessary, or recommended repair.

16 (vii) Identify any testing performed and the results
17 of any testing.

18 (viii) List any additional inspections or testing that
19 should be performed and provide a timeline for
20 completion.

21 **Sec. 380.109. Association Distribution, Posting and**
22 **Publishing Obligations.**

23 The association must comply with the distribution, posting and
24 publication requirements set forth in Chapter 553, Florida Statutes.

25 **Sec. 380.110. Repairs; Corrective Action Report.**

26 Based on the recommendations in the Phase One report, any repairs
27 determined to be required by the inspector must be permitted within
28 6 months and the repairs must be completed within 18 months. The
29 permit application shall include a direct reference to the Phase One
30 Inspection Report and the page and item or paragraph number of the
31 repair being permitted. A copy of the Inspection Report page marking

1 the noted repair item shall be submitted with the permit application.

2 Based on the recommendations in the Phase Two report, all
3 required repairs the association must permitted in 90 days and
4 completed within one year. The permit application shall include a
5 direct reference to the Phase Two Inspection Report including the
6 page and item or paragraph number of the repair being permitted. A
7 copy of the Inspection Report page marking the noted repair item
8 shall be submitted with the permit application.

9 Following the completion of any repairs from either the Phase
10 One or Phase Two Inspection Report, the Inspector and Association
11 shall sign a Completion of Corrective Action Report to the Building
12 Inspection Department through the Department's permitting system.

13 **Sec. 380.111. Enforcement.**

14 The requirements of Chapter 380, Ordinance Code, shall be
15 enforced as follows:

16 (a) By the Special Magistrate pursuant to the authority granted
17 by F.S. Ch. 162, Part I;

18 (b) By citation for civil penalties pursuant to the authority
19 granted by F.S. Ch. 162, Part II, and Ch 609, *Ordinance Code*;

20 (c) By issuance of a notice to appear in county court pursuant
21 to F.S. § 162.23;

22 (d) By an action for injunctive relief, civil penalties, or a
23 combination thereof, through a court of competent jurisdiction.

24 A violation of this Chapter shall constitute a separate offense
25 of each day it recurs or continues.

26 **Sec. 380.112. Extensions.**

27 (a) Phase Two Inspections. The Building Official may issue an
28 extension of not more than 60 days to submit the Phase Two Milestone
29 Inspection report upon a written extension request from the Inspector
30 performing the inspection. Such request must contain a signed and
31 sealed statement from the Inspector that the building may continue

1 to be occupied while undergoing inspection and that the reason the
2 extension is needed.

3 (b) Permit Applications. The Building Official may issue an
4 extension of not more than 60 days to obtain any necessary permits
5 related to repairs or work based on a Phase One Inspection or Phase
6 Two Inspection upon a written extension request from an engineer or
7 architect. Such request must contain a signed and sealed statement
8 from the engineer or architect that the building may continue to be
9 occupied while undergoing the applicable required Milestone
10 Inspection repairs and shall provide the reason for the extension.

11 **Sec. 380.113. Fines.**

12 Failure to meet the required timelines may result in the
13 following fines:

14 (a) Failure to register the building(s) \$50 per day.

15 (b) Failure to complete the Phase One Milestone Inspection \$100
16 per day.

17 (c) Failure to complete the Phase Two Milestone Inspection \$500
18 per day.

19 (d) Failure to apply for applicable permit for recommended or
20 required repairs within deadline \$50 per day.

21 (e) Failure to make inspection documented repairs \$200 per day.

22 **Sec. 380.114. Unsafe Structures; Duty to Report; Condemnation;**
23 **Liens**

24 In the event a structure is determined to be unsafe for
25 habitation, including but not limited to a danger of collapse, during
26 the Phase One or Phase Two Inspection, the Inspector shall notify the
27 Association within 12 hours of the determination. The Association
28 shall notify owners based on the instruction of the Inspector. In
29 no event shall the notice to owners exceed 24 hours after the
30 Association receipt of the notice of the unsafe condition.

31 The Inspector must report findings that a property is unsafe for

1 habitation including but not limited to a danger of collapse to the
2 City, the City's Fire Marshall, and the City's Chief of Municipal
3 Code Compliance within 24 hours of the determination.

4 Authority for condemnation by the City shall be in accordance
5 with Part 6 of Section 320 or Part 3 of Section 518, *Ordinance Code*.

6 Recovery of costs for abatement related to the unsafe structure
7 will be recovered through the processed provided in Part 6 of Section
8 320, and Part 3 of Section 518, Jacksonville Ordinance Code, or as
9 otherwise authorized by law.

10 **Section 4. Severability.** It is the specific intent of the Council
11 that in the event that any portion of this ordinance, is declared
12 invalid, unenforceable, unconstitutional or void, or is permanently
13 enjoined, or if the existence of any provision of this ordinance
14 would result in any other portion of any chapter of the *Ordinance*
15 *Code* being held to be invalid, unenforceable, unconstitutional or
16 void, and the court does not sever such invalid portion of this
17 section, then the invalid portion of this ordinance is repealed and
18 invalid. It is the specific intent that the invalidity of any portion
19 of this ordinance shall not affect any other section, subsection,
20 paragraph, subparagraph, sentence, phrase, clause or word of the
21 Ordinance Code.

22 **Section 5. Codification Instructions.** The Codifier and the
23 Office of General Counsel are authorized to make all chapter and
24 division "table of contents" consistent with the changes set forth
25 herein. Such editorial changes and any other necessary to make the
26 Ordinance Code consistent with the intent of this legislation are
27 approved and directed herein, and the changes to the Ordinance Code
28 shall be made forthwith and when inconsistencies are discovered.

29 **Section 6. Effective Date.** This Ordinance shall become effective
30 upon signature by the Mayor or upon becoming effective without the
31 Mayor's signature.

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Form Approved

Office of General Counsel

Legislation Prepared by: Trisha Bowles

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