

ORDINANCE 23-

AN ORDINANCE OF THE CITY OF PORT ST. LUCIE, FLORIDA, AMENDING CHAPTER 98 STATE OF EMERGENCY MANAGEMENT PLAN OF THE CODE OF ORDINANCES OF THE CITY OF PORT ST. LUCIE, FLORIDA, BY AMENDING, SECTION 98.01, DEFINITIONS; SECTION 98.02, DECLARATION; TIME LIMITS; SECTION 98.03, ORDER OF SUCCESSION; SECTION 98.04, POWERS DURING EMERGENCY; 98:09, REMOVAL OF DEBRIS; AND SECTION 98.14, EMERGENCY RESPONSE PLAN; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port St. Lucie, Florida's ("City") responsibility has been, and continues to be, the preservation of the health, safety, and welfare of its citizens and the public in general; and

WHEREAS, the City intends to clarify the City's legal responsibilities at the time of any declared State of Emergency affecting the City; and

WHEREAS, the City desires to update position titles bearing responsibilities pertaining to this chapter; and

WHEREAS, the City desires to update the title of the plan formally known as the Comprehensive Emergency Operations Plan (CEOP), to the Comprehensive Emergency Management Plan (CEMP); and

WHEREAS, during a State of Emergency, unknown and unusual or threatening circumstances may arise that must be addressed in an expeditious manner to insure the health, safety, and welfare of the community; and

WHEREAS, during Debris Management operations the City may need to remove debris from private property for the health and safety of the City's residents; and

WHEREAS, the emergency powers granted by the laws of the state and City to the designated City official(s) must be expansive, as needed, so as to assure the achievement of these goals.

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. The foregoing recitals are hereby ratified and confirmed as true and correct and are hereby made a part of this Ordinance.

Section 2. Title IX General Regulations, Chapter 98. – State of Emergency Management Plan of the Code of ordinances is amended as follows:

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Section 98.01. -Definitions.

Comprehensive Emergency Management Operations Plan (CEMOP), as amended. City of Port St. Lucie's standard of operating policy, procedures, guidelines, forms, and supporting materials to be used during any state of emergency declared in the city.

Disaster means the actual occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from a natural or human-made cause including, but not limited to, fire, flood, hurricane, tornado, snowstorm, ice storm, wind storm, oil spill, water contamination, utility failure, hazardous peacetime radiological incident, epidemic, air contamination, blight, drought, infestation, explosion, mass casualty incident, cyber-attack, or hostile military action or paramilitary actions, or similar occurrences resulting from terrorist activities, riots, or civil disorders.

Emergency or local emergency means any natural or man-made event including but not limited to flood, conflagration, hazardous material dispersal, hurricane, tornado, earthquake, or explosion affecting ~~with~~ the limits of the city resulting in, or imminently threatening the death or injury of persons, or the destruction of property, to such an extent that extraordinary measures must be taken to protect the public health, safety, and welfare.

Sec. 98.02. Declaration; time limits.

The city manager shall be authorized to declare a state of emergency. An emergency council meeting shall be convened, as soon as practicable within 24 ~~42~~ hours thereafter, for the purpose of assessing the emergency and the procedures taking effect. The duration of a declared state of emergency shall be limited to seven days, which may be extended by seven-day increments, as necessary. However, if the local emergency involves a threat to private structure or public infrastructure, the local emergency may remain in effect for up to 30 days.

Sec. 98.03. Order of Succession.

During a state of emergency, the order of succession of authority is as follows: city manager, ~~chief~~ assistant city manager, deputy city manager, emergency operations division director ~~management director~~, and chief of police.

Sec. 98.04. Powers during emergency.

The city manager, or its designee (or named authority by 98.03), as chief administrator for the city, shall be empowered during a state of emergency:

- (a) To implement emergency plans and procedures and take such other prompt and necessary action to save lives and protect property, including but not limited to, the authority to compel and direct timely local evacuation, if necessary.
- (b) Pursuant to the established "Comprehensive Emergency ~~Operations~~ Management Plan" (CEMOP) of the city, declare that the CEOMP is in effect, as appropriate.
- (c) To obligate emergency expenditures for payment from the emergency reserve fund when such action is necessary to preserve the public safety, health, and welfare.

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1. All such transfers and obligations shall be reported to the city council at the first opportunity following such action, but no later than 30 days after such occurrence.

(d) To automatically initiate the use of the CEOMP, including but not limited to all annexes and appendices, such as Part III the Debris Management Plan, Appendix D (FDOT Primary and Secondary Road List), as a directive to staff to include all named locations as a responsibility of the city.

(e) To act on behalf of the city, in any matter provided by F.S. § 252.38(3).

(f) To determine a threat to public health and safety that may result from the generation of widespread debris throughout the city, that such debris constitutes a hazardous environment for all modes of movement and transportation of the residents as well as emergency aid and relief services, endangerment to all properties in the city, an environment conducive to breeding disease and vermin, and greatly increased risk of fire, and that it is in the public interest to collect and remove disaster debris from all property whether public lands, public or private roads, and gated communities to eliminate an immediate threat to life, public health and safety to reduce the threat of additional damage to improved property and to promote economic recovery of the community at large.

(g) To authorize the city or its contracted agent(s) right of access to private roads or gated communities as needed by emergency vehicles such as, but not limited to, police, fire, medical care, debris removal, and sanitation to alleviate immediate threats to public health and safety.

Sec. 98.09 Removal of Debris

~~(a) Once the City has been identified as a potential impact region by the National Weather Service (NWS) and, the City is within a 72-hour projected impact path of a storm event, the placing out of all yard waste materials and cutting and/or trimming back of trees, shrubs and bushes shall be suspended and no further collection of such debris may occur until after the storm event has passed and the City per, NWS is no longer in the potential impact region. Once the City is placed in the "cone of uncertainty" by the National Weather Service, City residents are required to cease all trimming of vegetation. Once the City is forecast to incur tropical storm force winds within 96 hours the City will cease all Solid Waste Operations to prepare for the storm. After the storm event has passed and the City, per NWS, is no longer in the potential impact region, residents are encouraged to place their waste curbside.~~ This also applies to the placing out of bulky waste such as furniture, mattresses, white goods etc.

~~(b) During a declared state of emergency, the city manager shall have the power to authorize the removal of disaster generated debris and wreckage resulting from a declared disaster from all property whether public lands, public or private roads, or gated communities to ensure a safe and sanitary living and functioning conditions, and to protect improved property from immediate threat. After declaration of a disaster, the City's primary mission will be to protect lives and property, restore governmental services and clean public streets. Depending on the magnitude of the disaster and after accomplishment of the primary mission, resources may be available to the City that may not be available to a private property owner. The intent and purpose of this Section is to establish a process by which the City may evaluate and, if necessary, remove debris from along privately owned streets, roads, roadways, and other private property in the event of an immediate threat to life, public health and safety after a significant disaster. While the City recognizes that, as a general proposition, the removal of Debris from private property is the responsibility of the property owner,~~

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there are occasions when, because of the magnitude of the disaster and the threat posed to life, health, and safety, there may be a compelling need to remove debris from private streets, roads, and roadways and other private property as described in this Section.

The City shall remove debris from Private Roadways when such debris is determined to pose an immediate threat to the health, safety, and welfare of the community. The City Manager (Incident Commander) shall determine whether there is an immediate threat to public health, safety and welfare sufficient to removal of said debris from private roadways in accordance with any one of the following standards:

- 1) There is a significant likelihood that rescue vehicles will be significantly hindered from rendering emergency services to residential and commercial property should the Debris be allowed to remain in place absent City removal.
- 2) The type of debris is such that it may reasonably cause disease, illness, or sickness which could injure or adversely affect the health, safety, or general welfare of those residing and working in the area if it is allowed to remain.
- 3) The clearing is necessary to effectuate orderly and expeditious restoration of City-wide utility services including, but not limited to, power, water, sewer, and telephone.
- 4) The debris is determined by the City Building Official to be dangerous or hazardous.
- 5) The debris prevents garbage collection thereby creating a public health hazard.
- 6) The debris contains contaminants which have a reasonable likelihood of leeching into the soil and/or aquifer of the City.
- 7) The debris has a substantial negative impact in preventing or adversely affecting emergency repairs to buildings and/or property.
- 8) The debris presents a reasonable danger of being transported by wind and/or water into the surrounding areas of the City and thereby increasing the cost of recovery and removal.
- 9) The debris poses a significant likelihood of, if left over time, producing mold which would be injurious to public health.
- 10) The presence of the debris significantly adversely impacts the City's recovery efforts.
- 11) The debris significantly interferes with drainage or water runoff, to be a significant hazard in the event of significant rainfall.
- 12) The sheer volume of the debris is such that it is impractical and unreasonable to remove it in an orderly and efficient manner absent action by the City.
- 13) The type, extent and nature of the debris is such that it would cause much greater damage if the debris was not removed immediately.
- 14) Commercial or other specific areas will be cleared if, in the opinion of the City Manager (Incident Commander), the clearance will aid the City's recovery operations or aid the health, safety, or welfare of the residents of the City.

Prior to removal of debris by the City as contemplated herein on private roadways and private property, or clearance by the city of private property as provided herein, the private property owner shall indemnify and hold harmless, to the maximum extent permitted by law, the Federal, State, and local government and all employees, officers and agents of the Federal, State, and local government connected with the rendering of such service.

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Nothing herein shall preclude a first response by the City to clear and push debris from all roadways (both public and private) including properties necessary for the movement of emergency vehicles including police, fire, and ambulance within the first 12 hours after threats to safety of personnel clearing the debris has passed.

Nothing herein shall require the City to remove debris from private property other than the private roadways identified above except where the severity of the situation is of such magnitude or the debris is so widespread that it is determined by the City Manager (Incident Commander) to be a significant immediate threat to the health, safety and welfare of the City and in the overriding public interest of the County to remove debris from such areas.

Sec. 98.14. Comprehensive emergency management ~~response~~ plan.

The city has approved and adopted a "Comprehensive Emergency Management Operations ~~Response~~ Plan," as amended, which is set forth in full in Exhibit "A" (on file with the city clerk) and is adopted by reference, as if fully set forth herein, as the peacetime emergency; management plan for the city.

SECTION 3. Conflict. If any ordinances, or parts of ordinances, are in conflict herewith this Ordinance shall control to the extent of the conflicting provisions.

SECTION 4. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

SECTION 5. Codification. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Port St. Lucie, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; the word "ordinance" may be changed to "section" or other appropriate word as may be necessary.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon final adoption on second reading.

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PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, this _____ day of _____, 2023.

**CITY COUNCIL
CITY OF PORT ST. LUCIE**

By: _____
Shannon Martin, Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney