

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2017-_____

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA, CREATING A STATE OF EMERGENCY ORDINANCE TO ESTABLISH POWERS AND REGULATIONS DURING A STATE OF EMERGENCY; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, ENFORCEABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Coral Gables is in an area that is prone to severe weather events such as tropical storms and hurricanes that due to their danger and effect result in a state of emergency; and

WHEREAS, hurricanes are anticipated to recur in the future, and action in advance is appropriate in order to protect health, safety, and welfare, and falls within the City’s police powers; and

WHEREAS, all areas of the United States are vulnerable to natural disasters, terrorist attacks, riots, and other significant events, which may also result in a state of emergency; and

WHEREAS, during a state of emergency it is of utmost importance that city officials and employees are able to act swiftly and adequately to provide necessary services and to protect the health, safety, and welfare of those in the city; and

WHEREAS, Chapter 252, F.S. generally, and specifically Sec. 252.38(3)(a), F.S. grants municipalities extensive authority during a state of emergency; and

WHEREAS, during Hurricane Irma, the City noted powers it needed to use in order to adequately protect its residents, and wishes to expressly incorporate those powers in the City Code in order to ensure appropriate preparations are made for the next disaster; and

WHEREAS, the City Commission wishes to adopt a State of Emergency Ordinance establishing the powers granted to elected and appointed officials during such time, as well as to set forth requirements to ensure the safety and welfare of City residents and visitors.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:

SECTION 1. The foregoing “**WHEREAS**” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. That Chapter 27 “State of Emergency Ordinance” of the Code of the City of Coral Gables, Florida, be hereby created to read as follows:

CHAPTER 27 – STATE OF EMERGENCY ORDINANCE

Sec. 27-1. State of Emergency.

For purposes of this Ordinance, a state of emergency exists when either, the President of the United States, the Governor of the State of Florida, or the Miami-Dade County Mayor declares a state of emergency that applies to the City of Coral Gables, or when an emergent situation exists or is imminent in the City of Coral Gables that impacts the health, safety, and welfare of the residents of the City, including situations where it affects the City uniquely.

Sec. 27-2. Mayor; Powers.

- (a) The Mayor may declare a state of emergency when the conditions in sec. 27-1 exist.
- (b) Once a state of emergency is declared, it remains in existence until affirmatively terminated by the Mayor.
- (c) When a state of emergency has been declared, the Mayor shall exercise all powers granted to him or her under state law and under Section 6 of the Charter of the City of Coral Gables and, in doing so, may waive any requirement of any law or rule that impedes the emergency efforts being undertaken by the City. Specifically, the Mayor's powers include, but are not limited to, the following:
 - 1. Approve any item that the City Commission would be required to approve outside of the state of emergency, if a quorum cannot be obtained for the City Commission to meet or if time does not permit for the City Commission to meet prior to the action being taken;
 - 2. Delegate his or her authority to the City Manager, and direct City officials to perform their functions as stated herein;
 - 3. Issue evacuation and curfew orders;
 - 4. Approve contracts related to emergency efforts;
 - 5. Call emergency meetings; and
 - 6. Exercise all powers granted in Ch. 252.38, F.S.

Sec. 27-3. City Commission; Powers.

- (a) Given the exigency and danger that exists during a state of emergency, the City Commission may attend emergency briefings in person or by phone. These briefings are intended to inform members of the Commission on the status of emergency preparedness and/or rescue and clean-up efforts, and of any emergency issues that may have arisen. Emergency briefings will not involve any items that will later be presented to the City Commission to act on as a body and will only relate to emergency matters.
- (b) The City Commission retains authority to act if a City Commission meeting is held during the state of emergency. The Commission may prospectively

modify any emergency policies or approvals issued by the Mayor under section 27-2(c)(1), although any prior actions taken in reliance on such emergency policies or approvals shall remain effective and enforceable.

Sec. 27-4. City Manager; Emergency Operations Center (Director of Public Safety) Powers.

- (a) The City Manager shall exercise all powers delegated to him or her by the Mayor, when the declaration of state of emergency is issued, and shall take all prudent and lawful actions necessary to protect the health, safety, and welfare of the community and its residents.
- (b) The City Manager shall designate members of the Emergency Operations Center staff consistent with applicable law, with the Director of Public Safety serving as head of the Emergency Operations Center and coordinator of the City's emergency response effort.
- (c) The City Manager may, in his or her discretion, grant extensions of special event permits, suspend or reschedule special events, and take any action necessary to secure City property and or the City's right-of-way.
- (d) The City Manager, in conjunction with the Director of Public Safety, shall coordinate with other governmental agencies to ensure the City's actions are consistent with the emergency management plans for the State of Florida and Miami-Dade County.
- (e) The City Manager may require that utilities provide detailed and geographically specific outage information to him or her or his or her delegates.
- (f) The City Manager may, in his or her discretion, delegate all or part of this authority to Assistant City Managers.

Sec. 27-5. City Attorney; Powers.

- (a) The City Attorney may issue authoritative interpretations of any emergency management provision upon which the Mayor, City Commissioners, and City Manager and their designees may rely.
- (b) The City Attorney and Deputy City Attorney/City Prosecutor may issue cease and desist letters, as necessary, in order to require compliance with the city code, zoning code, Florida state statutes, or other applicable law. Cease and desist letters issued under this Ordinance shall carry a fine of up to \$15,000 (per day or per violation, as may be applicable) if violated, unless the letter indicates otherwise.
- (c) The City Attorney may execute emergency documents on behalf of the Mayor and other City officials with their permission.
- (d) The City Attorney may delegate emergency authority to the Deputy City Attorney/City Prosecutor, Assistant City Attorneys, and special counsel.

Sec. 27-6. Building Official and Code Enforcement Division; Powers.

- (a) During a state of emergency, the Building Official has full jurisdiction over any construction site and can give any orders deemed appropriate which can be enforced by the City Attorney or Code Enforcement.
- (b) Hurricane Inspections
 - 1. During a state of emergency or once the five-day forecast cone from the National Hurricane Center predicts that the City will be impacted by a tropical storm or hurricane, whichever comes first, best efforts shall be used by owners and/or any occupants of real property to secure all furniture, display racks, materials and similar loose objects in exposed outdoor locations, including loose materials or equipment at construction sites that must be secured or otherwise appropriately braced to rigid construction or stored in buildings to the extent practicable, given the conditions. The City shall give oral or written orders to any person on the premises most logically responsible for maintenance and such orders shall be carried out before winds of tropical storm velocity begin. In the event of construction, the City shall also attempt to give notice to the contractor, if practicable.
 - 2. Failure to comply with the requirements in (1) will subject the property owner and/or contractor to the following fines:
 - i. A property owner who fails to remove or secure furniture, display racks, materials and similar loose objects in exposed outdoor locations, \$1,000 per day, through the duration of the storm;
 - ii. A property owner who fails to remove or secure loose materials or equipment at a construction site, including items in dumpsters, \$5,000 per day, through the duration of the storm;
 - iii. A contractor who fails to remove or secure loose materials or equipment at a construction site, including items in dumpsters, \$5,000 per day, through the duration of the storm.
 - 3. If damage is caused to property due to the owner or contractor's failure to remove or secure loose materials or equipment at a construction site, a fine of up to \$15,000 may be issued.
 - 4. City employees may enter onto private property to secure items, if necessary, to protect life, safety and welfare, and will not be held liable for any damage caused while doing so. This authority to enter private property does not impose a duty on the City or its employees to do so or to otherwise inspect private property or secure items.
- (c) Cranes are regulated as set forth in the City's Crane Ordinance, should one exist at the time of the state of emergency.

Sec. 27-7. Disaster-generated Debris Removal; generally.

- (a) When the removal and disposal of disaster-generated debris is necessary, the City Manager and his or her designee is authorized to designate a site for placement of

- a chipper and any other equipment needed for an efficient and effective operation. This applies both when the City is conducting the debris-removal and processing operations as well as when the operations are being conducted by a private party.
- (b) The City Manager or his or her designee shall set all conditions for the operation of the equipment at the designated sites.

Sec. 27-8. Disaster-generated Debris Removal on Private Roads and Private Property.

- (a) Disaster-generated debris located on private roads and private property is the responsibility of the property owner. Property owners and communities must rely heavily on private contractors to collect, remove, and otherwise manage debris located on private property.
- (b) The City may remove debris from private roads and private property when the following conditions are met:
1. Disaster-generated debris located on private roads and private rights-of-way are determined to be an immediate threat to the public. The determination shall be made by:
 - i. The City Commission, Mayor, City Manager, his or her designee, or any other public entity with legal authority stating that disaster-generated debris on private roads and private rights-of-way within the City constitute an immediate threat to life, public health, and safety, and/or;
 - ii. The Assistant City Manager for Operations and Infrastructure, by providing documentation stating that the debris on private property poses an immediate threat to improved property and that its removal is cost effective.
 2. The property is located within the City's jurisdictional boundaries.
 3. When reasonably possible, documentation is received from the property owner which includes a right-of-entry, hold harmless and indemnification agreement, along with the applicable scope of work to be performed by the City.
- (c) Disaster-generated debris removal on private property shall be limited to clearance of the living, recreational and working areas of the property except for areas used for crops and livestock or unused areas.

Sec. 27-9. Trees.

During a state of emergency, the fine for unlawful removal of a tree or unlawful tree abuse is up to \$15,000 per tree.

Sec. 27-10. Emergency Management Division.

- (a) The City Emergency Management Division is comprised of individuals appointed by each City Commissioner, including the Mayor. When appointed, the order of succession is specified.
- (b) Members of the Emergency Management Division shall serve as interim successors for the City's elected officials if the official is unavailable to provide

for the continuation of the essential functions of the City, due to the state of emergency. Members shall serve in the order of succession specified by the appointed elected official. While serving as the emergency interim successor, the individual shall exercise the powers and discharge the duties of the office to which he or she is designated until the vacancy created is filled in accordance with the Charter or when the elected official again becomes available to exercise the powers and discharge the duties of his or her office.

- (c) During a state of emergency, the City’s Emergency Management Division is authorized to provide service to the residents of the City under the supervision of the City Manager’s Office or perform other duties as directed by the Director of Public Safety, who is the individual leading the City’s Emergency Operations Center (EOC) during the state of emergency.

Sec. 27-11. Immunity.

Elected and appointed officials, their designees, and all City employees have immunity for any actions taken in accordance with this ordinance and the City retains its sovereign immunity for all actions taken relating to emergency preparedness, response and/or clean-up. The City retains extensive sovereign immunity for actions taken during a state of emergency and does not waive any of its sovereign immunity in this ordinance.

SECTION 3. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. If any section, part of section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 5. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the City Code, which provisions may be renumbered or re-lettered and the word ordinance be changed to “section”, “article”, or other appropriate word to accomplish such intention.

SECTION 6. If the City Code’s Tables of Contents, Supplemental History Table, or other reference portions are affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This ordinance shall become effective upon adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D. 2017.

APPROVED:

RAUL VALDES-FAULI
MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

CRAIG E. LEEN
CITY ATTORNEY