

RESOLUTION NO. 2021-111

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA ADOPTING THE EMERGENCY PREPAREDNESS AND RESPONSE POLICY ON REMOVAL OF DISASTER DEBRIS FROM PRIVATE RESIDENTIAL COMMUNITIES, ATTACHED HERETO AND MADE A PART HEREOF AS “EXHIBIT A”; PROVIDING FOR INCLUSION IN THE CITY OF HIALEAH, FLORIDA COMPREHENSIVE EMERGENCY MANAGEMENT PLAN ADOPTED BY HIALEAH, FLA. RESOLUTION NO. 2019-080 (June 25, 2019); REPEALING ALL CONFLICTS HERewith; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City has determined that there is a need to address debris removal from private residential properties in the event that there is a declared emergency where the disaster debris present on Private Roads is so widespread that it is in the public interest to remove the debris to protect the public health, safety and welfare, to reduce the threat of additional damage to improved property, or to promote economic recovery of the community at large; and

WHEREAS, by incorporating guidelines and regulations into a policy, in the event of a declared emergency and under certain circumstances as set forth in the regulations, the City may be able to recoup funds from the Federal Emergency Management Agency (FEMA) for expenditures related to the remove disaster debris from private properties.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this resolution are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The Emergency Preparedness and Response Policy on Removal of Disaster Debris from Private Residential Communities attached hereto and made a part hereof as “Exhibit A” is hereby approved and adopted.

Section 3: The Emergency Preparedness and Response Policy on Removal of Disaster Debris from Private Residential Communities shall be included and incorporated in the City of Hialeah, Florida Comprehensive Emergency Management Plan adopted by Hialeah, Fla. Resolution No. 2019-080 (June 25, 2019), as an addition or amendment thereto.

Section 4: Repeal of Conflicts. The provisions of this Resolution shall supersede all City of Hialeah resolutions or policies, or parts thereof, in conflict herewith to the extent such conflicting resolutions, or parts thereof, regulate emergency debris removal from private communities.

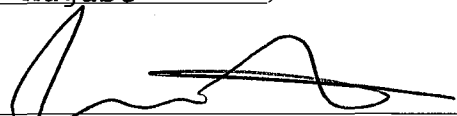
Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this resolution shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this resolution.

Section 6: Effective Date.

This resolution shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

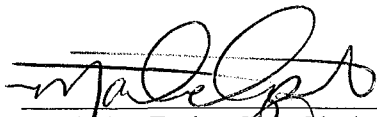
PASSED and ADOPTED this 24 day of August, 2021.



Jesus Tundidor
Council President

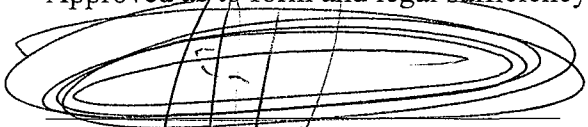
Attest:

Approved on this 3 day of September, 2021.



Marbelys Fatjo, City Clerk

Approved as to form and legal sufficiency:



Lorena E. Bravo, City Attorney



Mayor Carlos Hernandez

Resolution was adopted by 5-0-2 vote with Councilmembers, Cue-Fuente, De la Rosa, Garcia-Roves, Perez, and Zogby voting "Yes" and with Council Member Hernandez absent and Council President Tundidor away during the roll call for a vote.

CITY OF HIALEAH, FLORIDA

EMERGENCY PREPAREDNESS AND RESPONSE POLICY ON REMOVAL OF DISASTER DEBRIS FROM PRIVATE RESIDENTIAL COMMUNITIES

I. Intent and purpose.

In the event of a disaster, the primary mission of the City will be to protect lives and property, restore governmental services and clear public streets. Depending on the magnitude of the disaster and after accomplishment of the primary mission, resources may be available to the incorporated areas of the City that may not be available to private residential communities. The intent and purpose of this section is to establish a process by which the City may evaluate and, if necessary, remove debris from private residential communities 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 residential communities is the responsibility of the private community, 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 residential communities as described in this section.

II. Definitions.

As used in this section, the following terms shall have the following meanings, unless the context clearly otherwise requires:

(a) *Debris* shall include, but is not limited to, displaced, broken or discarded building and construction materials, garbage, vegetative matter and spoiled or ruined household goods or materials.

(b) *Private Residential Community* includes private streets and roads within a private homeowners, condominium or residential community that are not owned or controlled by a governmental entity.

III. Removal of Disaster Debris from Private Residential Communities

Subsequent to a disaster and the declaration of a state of emergency by the City, the City may remove debris from private residential communities when such debris is determined to pose an immediate threat to the health, safety and welfare of the community. The Mayor shall determine whether there is an immediate threat to the public health, safety, and welfare sufficient to warrant removal of debris on private streets in private residential communities 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 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 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 removal is necessary to eliminate immediate threat or significant damage to improved public and residential property.
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 or other water bodies of the City.
7. The debris has a substantial negative impact in preventing or adversely affecting emergency repairs to residential 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 debris significantly, adversely impacts the City's recovery efforts.
11. The debris significantly interferes with drainage or water runoff, so as to be a significant hazard in the event of significant rainfall and removal of the debris is required to eliminate immediate threats of significant damage to improved public and private property.
12. The sheer volume of debris is such that it is impractical and unreasonable to remove 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. The clearing of the debris is necessary to ensure the economic recovery of the affected community to the benefit of the community-at-large.

IV. Federal Funding.

Depending on the severity of the situation, with regard to eligibility for federal funding, the Federal Emergency Management Agency (FEMA) may waive the requirement for the City to

establish the criteria listed in section III as a condition precedent to City action or cost reimbursement.

V. Indemnification and hold harmless.

Prior to removal of debris by the City from private residential communities and other private property in accordance with this section, the property owner, community associations, homeowner or condominium association and/or governance boards 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.

VI. Commercial and other areas.

Commercial or other specific areas may be cleared, if in the opinion of the City Council, the clearance will aid the City's recovery operations or aid the health, safety, or welfare of the residents of the City and in the public interest. The indemnification and hold harmless provisions set forth in subsection (e) will be also applicable with respect to the property owners or associations for such commercial and other areas. The City acknowledges that commercial property debris removal is generally ineligible for reimbursement unless determined to be in the public interest and subject to the other private property provisions defined in FEMA's Disaster Assistance Policy for Debris Removal from Private Property and Private Roads, as amended from time to time.

VII. City Property.

As immediate threat of significant damage to City property or facilities shall be deemed to exist if the cost to remove the disaster-generated debris is less than the cost of potential damage to the City property of facility, thereby being a cost-effective removal.

VIII. Emergency roadway clearance.

Nothing in this section shall preclude a first response by the City to clear and push debris from all roadways, both public and private, as necessary for the movement of emergency vehicles, including police, fire and ambulance and other emergency responders, within a reasonable time after a disaster declaration.

IX. Private property.

Nothing shall require the City to remove debris from private property and from areas within private residential communities other than from the private streets and roadways necessary for access to the egress from the residence and communities, except where the severity of the situation is of such magnitude or the debris is so widespread that it is determined by the City Council to be a significant immediate threat to the health, safety and welfare of the City and in the overriding public interest of the City to remove debris from such other areas.

X. Gated Communities.

In the event of a hurricane warning, private residential communities must provide reasonable access for emergency vehicles and any debris removal vehicles and personnel. If the gates are unable to be opened for the emergency access, then the entrance gates are required to be secured in the open position to allow for access during the emergency event. This provision in no way obligates the City to remove any debris.

Adopted by Hialeah, Fla. Resolution No. 2021-_____ (August ____, 2021)