

ORDINANCE NO. 20- 15

AN ORDINANCE AMENDING HILLSBOROUGH COUNTY CODE OF ORDINANCES AND LAWS CHAPTER 22, ARTICLE II, SECTIONS 22-19 THROUGH 22-30; AMENDING SECTION 22-20, PROVIDING FOR DEFINITIONS; AMENDING SECTION 22-21, PROVIDING FOR DESIGNATION OF OFFICIAL AUTHORITY; AMENDING SECTION 22-22, PROVIDING FOR DECLARATION OF A STATE OF LOCAL EMERGENCY; DELETING THE CURRENT SECTION 22-23; RENUMBERING AND AMENDING SECTION 22-24, PROVIDING FOR THE HILLSBOROUGH COUNTY OFFICE OF EMERGENCY MANAGEMENT; RENUMBERING SECTION 22-25; RENUMBERING SECTION 22-26; RENUMBERING AND AMENDING SECTION 22-27, PROVIDING FOR TERMINATION OF EMERGENCY STATUS; RENUMBERING AND AMENDING SECTION 22-28, PROVIDING FOR PENALTIES; RENUMBERING SECTION 22-29; RENUMBERING SECTION 22-30; PROVIDING FOR TRANSFER OF EMERGENCY MANAGEMENT AUTHORITY TO THE BOARD OF COUNTY COMMISSIONERS AND RETENTION OF CURRENT EXECUTIVE ORDERS OF THE EMERGENCY POLICY GROUP; PROVIDING FOR RESOLUTION OF CONFLICT OF LAWS; PROVIDING FOR INCLUSION IN THE HILLSBOROUGH COUNTY CODE; PROVIDING FOR FILING OF ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes, authorizes the Hillsborough County Board of County Commissioners to provide for the citizens of said County standards which ensure their health, safety and welfare; and

WHEREAS, the Hillsborough County Board of County Commissioners, Florida, pursuant to Chapter 252, Florida Statutes, has the authority to provide for the health, safety, and welfare of the people and property within Hillsborough County during an emergency; and

WHEREAS, the Hillsborough County Board of County Commissioners, pursuant to Chapter 252, Florida Statutes, has the authority to direct and coordinate the development of emergency management plans and responses for all areas of the County; and

WHEREAS, the Hillsborough County Board of County Commissioners enacted Ordinance No. 06-13, codified as Hillsborough County Code of Ordinances and Laws, Chapter 22, Article II, Sections 22-19 through 22-30, as amended, to provide for the preparation and response to local emergency occurrences; and

WHEREAS, the Hillsborough County Board of County Commissioners created the Hillsborough County Emergency Policy Group as part of the County's Peacetime Emergency Plan and later codified the Group by enacting Hillsborough County Ordinance 94-9 (amended and replaced by Hillsborough County Ordinance 06-13); and

WHEREAS, on March 9, 2020 the Governor of the State of Florida issued Executive Order Number 20-52, as extended by EO 20-114 and EO 20-166 declaring that a state of

emergency exists throughout the State of Florida as a result of the spread of COVID-19 and its imminent threat to health and welfare of the citizens of Florida; and

WHEREAS, on March 12, 2020, the Hillsborough County Emergency Policy Group issued an Executive Order declaring a local state of emergency for all of Hillsborough County due to the county wide threat from COVID-19, which order has been continuously extended by the Executive Policy Group as required by law; and

WHEREAS, there has been no indication that the spread of COVID-19 is significantly slowing in the State of Florida and Hillsborough County; and

WHEREAS, Hillsborough County must continue to take emergency action to lessen the spread of COVID-19; and

WHEREAS, the Hillsborough County Board of County Commissioners has determined that the nature and duration of the threat from COVID-19 represents a demonstrably different category of emergency from the storm related local states of emergency historically administered by the Hillsborough County Emergency Policy Group; and

WHEREAS, the Hillsborough County Board of County Commissioners has determined that this Ordinance should be amended to better serve and protect its citizens by restoring all emergency management powers under Chapter 252, Florida Statutes, previously delegated to the Hillsborough County Emergency Policy Group, to the Hillsborough County Board of County Commissioners.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA:

Chapter 22, Article II, Sections 22-21, 22-22, 22-23, 22-24, 22-27, and 22-28 of the Hillsborough County Code of Ordinances and Laws, are hereby amended as follows:

ARTICLE II. – EMERGENCY MANAGEMENT

Sec. 22-19. - Purpose and intent.

- (a) The Board of County Commissioners of Hillsborough County, Florida finds and declares that in order to protect the health, safety, and welfare of the people and property of Hillsborough County in local emergency situations, the provisions of this article are necessary.
- (b) It is the legislative intent of the Board of County Commissioners that all provisions of this article shall be liberally construed to protect and preserve the public health, safety and welfare of the citizens in the incorporated and unincorporated areas of Hillsborough County, Florida.

SECTION 1: Section 22-20 is amended to read;

Sec. 22-20. - Definitions.

For purposes of this article, the following terms shall have the meaning indicated in this section unless otherwise indicated by the context. Words used in the present tense include the future, and include both singular and plural forms:

Board means the Board of County Commissioners of Hillsborough County, Florida.

County means the incorporated and unincorporated areas of Hillsborough County.

Emergency means any occurrence, or threat thereof, whether accidental, natural, or caused by man, in war or peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Person means any individual, trust, firm, corporation, joint stock company, partnership, association, municipality or other public entity.

SECTION 2: Section 22-21 is amended to read;

Sec. 22-21. – **Designation of official authority.**

When a quorum of the Board is unable to meet, the Board Chair or a person designated by the Chair (designee) is hereby empowered to declare a local state of emergency whenever the Chair or designee determines that natural or manmade disaster, pandemic, or emergency has occurred or that the occurrence or threat of one is imminent and requires immediate and expeditious action. Unless otherwise designated by the Board Chair, the designee shall be the County Administrator.

SECTION 3: Section 22-22 is amended to read;

Sec. 22-22. – **Declaration of state of emergency by the Board, Board Chair, or designee.**

- (a) A state of emergency shall be declared by order of the Board, Board Chair, or designee. The duration of a state of emergency shall be limited to seven days; however, it may be extended, as necessary, in seven-day increments. Upon finding that the threat no longer exists, the Board, or, if a quorum of the Board is unable to meet, Board Chair, or designee may terminate the state of emergency.

Nothing in this section shall be construed to limit the authority of the Board to declare or terminate a state of emergency and take any action authorized by law when sitting in regular or special session, including its ordinance and emergency ordinance making authority pursuant to section 125.66, Florida Statutes.

- (b) An order declaring a state of emergency shall activate the disaster emergency plans applicable to the county and shall be the authority for use or distribution of any supplies, equipment, materials, facilities assembled or arranged to be made available pursuant to such plans.
- (c) Upon the declaration of a state of emergency pursuant to this section, the Board Chair or designee may impose by order any or all of the following restrictions:
 - (1) Prohibit or regulate the purchase, sale, transfer, or possession of explosives, combustibles, dangerous weapons of any kind except firearms, or alcoholic beverages;
 - (2) Prohibit or regulate any demonstration, parade, march, vigil, or participation therein from taking place on any public right-of-way or upon any public property;
 - (3) Prohibit or regulate the sale or use of gasoline, kerosene, naphtha, or any other explosive or flammable fluids or substances altogether, except by delivery into a tank properly affixed to an operable vehicle;
 - (4) Prohibit or regulate the participation in or carrying on of any business activity and prohibit or regulate the keeping open of places of business, places of entertainment, and any other places of public assembly;
 - (5) Prohibit or regulate travel upon any public street, highway, or upon any other public property. Persons in search of medical assistance, food, or other commodity or service necessary to sustain the well-being of themselves or their families, or some member thereof, may be exempted/excepted from such prohibition or regulation;
 - (6) Impose a curfew upon all or any portion of the county, thereby prohibiting persons from being on public streets, highways, parks, or other public places during the hours the curfew is in effect;
 - (7) Prohibit state and/or local business licensees, vendors, merchants, and any other person operating a retail business from charging more than the normal average retail price for any goods, materials, or services sold during a declared state of local emergency, except when the wholesale price or the cost of obtaining the merchandise is increased as a result of the local emergency. The average retail price, as used herein, is defined to be that price which is the average of any two prices for similar goods, material, or services sold during the 12 months immediately preceding the declared state of emergency; and
 - (8) Prohibit any person, firm, or corporation from using the fresh water supplied by the county for any purpose other than cooking, drinking, or bathing.

- (d) Upon declaration of a state of local emergency, the Board Chair or designee, pursuant to F.S. § 252.38, shall have the power and authority to waive the procedures and formalities otherwise required of the County by law or ordinance pertaining to:
- (1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
 - (2) Entering into contracts;
 - (3) Incurring obligations;
 - (4) Employment of permanent and temporary workers;
 - (5) Utilization of volunteer workers;
 - (6) Rental of equipment;
 - (7) Acquisition and distribution, with or without compensation, of supplies, materials, and facilities;
 - (8) Appropriation and expenditure of public funds;
 - (9) Appropriation or requisition of merchandise, goods, equipment, services, property or personnel needed to alleviate the emergency with reimbursement paid at a later date. Reimbursement shall be at the rate charged during the 90-day period immediately preceding the emergency unless there is good and sufficient reason to reimburse at a different rate.
- (e) The orders of the Board Chair or designee may exempt, from all or part of any restrictions, physicians, nurses, and ambulance operators performing medical services; on-duty employees of hospitals and other medical facilities; on-duty military personnel; bona fide members of the news media; personnel of public utilities maintaining essential public services; county authorized and requested firefighters, law enforcement officers and personnel; and such other classes of persons as may be essential to the preservation of public order or necessary to serve safety, health, and welfare needs of the people within the county.

Pursuant to F.S. § 252.46(2), all orders and emergency rules imposed and enacted pursuant to this article shall be reduced to writing as soon as possible, filed with the office of the Clerk to the Board of County Commissioners, and concurrently posted prominently on the county website. Further, copies of all such orders and emergency rules shall be delivered, as soon as possible to representatives of the print and electronic news media and all appropriate law enforcement officers and other appropriate government administration officials.

- (f) All orders and emergency rules issued under this section shall indicate the nature of the emergency, the threatened area or areas of the county, and the conditions creating the disaster or threat. The content of such orders shall be promptly disseminated to the general public and to the governing bodies of the applicable municipalities within Hillsborough County and contiguous counties.
- (g) During any declaration of a local state of emergency the Board shall retain supervisory and advisory authority over the emergency response personnel. The BOCC may delegate this authority to the Chair of the BOCC. The Board shall retain the authority to rescind or otherwise modify any order of the Board Chair or designee.

SECTION 4: Section 22-23 is amended to read;

Sec. 22-23. – Hillsborough County Office of Emergency Management

- (a) In order to provide effective and orderly governmental control and coordination of emergency operations in times of emergencies or disasters, there is established, pursuant to F.S. § 252.38, an emergency management agency known as the "Hillsborough County Office of Emergency Management," which, for purposes of this article, shall be referred to as OEM. OEM shall have jurisdiction over and serve the entire County, shall be the coordinating agency for all activity in connection with emergency operations and shall be the instrument through which the Board Chair or designee shall exercise his/her authority under the laws of the State in times of emergencies.
- (b) There is further established the position of director of the Office of Emergency Management (OEM), which, for purposes of this article, shall be referred to as director. The director shall supervise the day-to-day operations of the organization. The director shall be designated by, serve at the pleasure of and be subject to the direction and control of, the County Administrator. The director shall have those responsibilities enumerated in F.S. § 252.38 for directors of County emergency management agencies, including, but not limited to direct responsibility for the structure, administration, and operation of the organization; coordination of emergency management activities, services, and programs within the County; and shall serve as a liaison to the State Division of Emergency Management, or its successor, and to other local emergency management agencies and organizations.

SECTION 5: Section 22-25 is renumbered Section 22-24;

Sec. 22-24. – Hurricane evacuation levels established.

The hurricane evacuation levels of the County are hereby established as designated upon the map on file at the Emergency Operations Center known as the Hillsborough County Evacuation Map and such map and all notations, references, or other information shown

thereon are incorporated by reference and shall be a part of this section the same as if such information were fully and completely described and set forth herein.

SECTION 6: Section 22-26 is renumbered Section 22-25;

Section 22-25. - Response to hazardous materials incidents.

- (a) Definitions. For purposes of this section, the following terms shall have the meaning indicated in this subsection:

Extremely hazardous substances refers to any substance listed as an Extremely Hazardous Substance in Appendix A and B of 40 CFR 355.

Hazardous chemical has the meaning given such term by section 311 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA).

Hazardous material refers generally to any material that because of its quantity, concentration, or physical chemical characteristics, poses significant present or potential hazard to human health and safety or to the environment if released into the environment. Hazardous Materials include, but are not limited to, Extremely Hazardous Substances, Hazardous Chemicals, and Toxic Chemicals.

Incident means a release or threatened release of a hazardous material, as described herein that constitutes an emergency.

Incident Commander means the pre-designated local, State, or federal official responsible for the coordination of a hazardous materials response action, as outlined in Hillsborough County's Response Plan for Releases of Extremely Hazardous Substances.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles) of any hazardous chemical, toxic chemical or extremely hazardous substances.

Threatened release means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property or the environment.

Toxic chemical means a substance on the list described in Section 313(c) of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA).

- (b) Whenever it becomes evident or reasonable to assume that an emergency exists as a result of a release or threatened release which is or may become injurious to or endanger the public health, safety and welfare, or the environment, the Director of

Emergency Management, or his designee, in conjunction with the Incident Commander, shall have the following powers:

- (1) To monitor with or without monitoring devices the hazardous material release and any person who is or may become contaminated with the hazardous chemical, toxic chemical or extremely hazardous substance.
- (2) To take any actions to abate the hazardous material release and to contain the same.
- (3) To prohibit any person from discarding any property that monitoring or other evidence has revealed to be contaminated to a degree injurious to the health of any person or the environment.
- (4) To prohibit any person who is contaminated with a hazardous substance or who is wearing contaminated clothing from entering an uncontaminated area without undergoing prescribed decontamination procedures.
- (5) To prohibit the movement or transfer of any vehicles or equipment from a contaminated area to an uncontaminated area without undergoing prescribed decontamination procedures.
- (6) To cause any person to vacate an area which is or may become contaminated or where other great menace to public health, safety and welfare exists.
- (7) To cause any person who has become contaminated to undergo prescribed decontamination procedures.
- (8) To prohibit entry of unauthorized persons, vehicles or equipment into areas in which there is evidence of contamination or where other great menace to public health, safety and welfare exists.
- (9) To establish areas for the reception, storage and disposal of contaminated property and materials.
- (10) To prohibit any unauthorized person from recovering any article, property, material or item that has been placed in any area designated for the reception, storage or disposal of contaminated material or property.

SECTION 7: Section 22-27 is renumbered Section 22-26 and amended to read;

Sec. 22-26. - Termination of emergency status.

- (a) The terms and conditions imposed by this article shall terminate upon a declaration by the Board, Board Chair, or designee that the state of local emergency has ended.

- (b) Nothing in this article shall be construed to limit the authority of the Board, Board Chair, or designee to declare or terminate a state of local emergency or to limit the authority of the Board, Board Chair, or designee to take any action to alleviate or address any emergency situation.

SECTION 8: Section 22-28 is renumbered 22-27 and amended to read;

Sec. 22-27. - Penalties.

- (a) Any person, firm or corporation who violates or refuses to comply with any section of this article, or the emergency measures which may be effectuated pursuant to this article, shall be prosecuted in the name of the State in the same manner as misdemeanors are prosecuted and upon conviction, shall be subject to fines and/or imprisonment, as set forth in F.S. § 125.69.
- (b) Each day of continued violation or noncompliance shall constitute a separate offense.
- (c) In addition to the foregoing, the Board of County Commissioners may suspend or revoke the license of any licensee of Hillsborough County found guilty of violating any provision of this article, or the emergency measures which may be effectuated pursuant to this article.
- (d) Hillsborough County shall have the authority to shut off or disconnect water service to any residence, business, commercial establishment or other users of water which use fresh water during an emergency for a purpose other than cooking, drinking or bathing.
- (e) Nothing herein contained shall prevent the County from taking such other lawful action in law and equity as may be necessary to remedy any violation or refusal to comply with this article or the emergency provisions which may be effectuated pursuant to this article, including but not limited to:
 - (1) Injunctive and/or declaratory relief in a court of competent jurisdiction.
 - (2) Any action to recover any and all damages that may result from a violation of this article.
 - (3) Enforcement through county civil code violation procedures. For the purposes of civil enforcement, a violation of any provision of an order shall be considered a violation of this ordinance and shall be enforceable pursuant to the provisions of Hillsborough County Code of Ordinances and Laws, Chapter 14, Article III.
 - (4) Any other action or enforcement method allowable by law.

SECTION 9: Section 22-29 is renumbered Section 22-28;

Sec. 22-28. - Severability.

If any section, subsection, sentence, clause, provision, or part of this article shall be held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision and the validity of the remaining portions of this article shall not be affected thereby, but shall remain in full force and effect.

SECTION 10: Section 22-30 is renumbered Section 22-29;

Sec. 22-29. - Liberal construction.

This article shall be liberally construed in order to effectively carry out the purposes hereof which are deemed to be in the best interest of the public health, safety and welfare of the citizens and residents of Hillsborough County, Florida. The provisions of this article shall supersede any existing provisions of any ordinance of Hillsborough County, Florida, which conflict with any provisions set forth herein.

SECTION 11: TRANSFER OF EMERGENCY MANAGEMENT AUTHORITY TO BOARD AND RETENTION OF CURRENT EXECUTIVE ORDERS OF THE EMERGENCY POLICY GROUP

Effective immediately, all emergency management authority and responsibility is transferred to the Board, and will no longer be vested in the Emergency Policy Group. The Emergency Policy Group's March 12, 2020 executive order declaring a local state of emergency, as amended and extended, and the Emergency Policy Group's June 22, 2020 executive order mandating face coverings be worn in indoor locations of businesses, with certain exceptions, as amended and extended, as of the effective date of this ordinance amendment remain in effect and may be amended, extended, or rescinded by the Board, Board Chair, or designee in subsequent orders.

SECTION 12: RESOLUTION OF CONFLICT OF LAWS.

In all instances where Florida law, as evidenced by the Florida Administrative Code, Florida Statutes, applicable case law or otherwise, mandates standards or requirements that are stricter than the provisions of this Ordinance, or where a matter is addressed by Florida law that is not addressed by this Ordinance, then said law shall govern. In situations where this Ordinance addresses a matter in a manner that is stricter than that of Florida law, the provisions of this Ordinance shall control.

SECTION 13: INCLUSION IN THE HILLSBOROUGH COUNTY CODE.

The provisions of this Ordinance shall be included and incorporated in the Hillsborough County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Hillsborough County Code, once established.

The recitations contained in the "WHEREAS" clauses are incorporated herein by reference, but are not required to be reproduced and included in the Code.

SECTION 14: FILING OF ORDINANCE.

In accordance with the provisions of Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Florida Department of State.

SECTION 15: EFFECTIVE DATE.

This Ordinance shall become effective upon filing with the Florida Department of State.

STATE OF FLORIDA))

COUNTY OF HILLSBOROUGH))

I, PAT FRANK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board of County Commissioners at its meeting of August 5, 2020, as the same appears of record in Minute Book 531, of the Public Records of Hillsborough County Florida.

WITNESS my hand and official seal this 5th day of August 2020.

PAT FRANK
CLERK OF CIRCUIT COURT

By: *Michael D. D.*
Deputy Clerk



Approved by County Attorney
as to Form and Legal Sufficiency

By: *Paul D. Johnston*
Sr. Assistant County Attorney