

RESOLUTION NO. 2017- 293

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR TO ISSUE EMERGENCY ORDERS AND RULES TO PROVIDE FOR THE REMOVAL OF DISASTER GENERATED DEBRIS FOR THE DURATION OF A STATE OF LOCAL EMERGENCY

RECITALS

WHEREAS, in accordance with Chapter 252 of the Florida Statutes, the St. Johns County Board of Commissioners (Board) is authorized to declare or extend a state of local emergency by proclamation; and

WHEREAS, such proclamation shall authorize the County Administrator, or his designee(s), to take all appropriate emergency measures without further action by the Board; and

WHEREAS, by adoption of this Resolution, the Board hereby specifically sets forth the authority of the County Administrator, or his designee(s), to remove Disaster-Generated Debris located within St. Johns County, Florida (County).

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, that:

1. Definitions. As used in this Resolution, the following terms shall have the following meanings:
 - a. "County work forces" means officers, employees, and agents of the County, including, but not limited to, contractors retained by the County to push, remove, store, or dispose of Disaster-Generated Debris or to otherwise act in response to the implementation of the County's Disaster-Generated Debris removal plan.
 - b. "Director" means the St. Johns County Director of Emergency Management.
 - c. "Disaster" means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by the County, the Governor, or the President of the United States.
 - d. "Disaster-Generated Debris" or "Debris" means any material deposited on County-owned property or rights-of-way, or on Private Roads, as a direct result of a major Disaster or catastrophic Disaster, including, but not limited to:
 - i. Vegetative Debris, which means Debris consisting of whole trees, tree stumps, tree branches, tree trunks, and other leafy material;

- ii. Hazardous limbs and hazardous trees, which means limbs or trees damaged in a major Disaster or a catastrophic Disaster that are in danger of falling on primary ingress or egress routes or on County right-of-way;
- iii. Construction and demolition Debris, as defined in Section 403.703, Florida Statutes;
- iv. Household hazardous waste, such as household cleaning supplies, insecticides, herbicides, and other products or materials containing volatile chemicals that catch fire, react, or explode under certain circumstances, or that are corrosive or toxic;
- v. Electronic waste, such as computer monitors, televisions, and other such electronics that contain hazardous materials;
- vi. White goods, which means air conditioners, heaters, refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances; and
- vii. Putrescent Debris, which means Debris that will decompose or rot, such as animal carcasses and other fleshy organic material.

The terms Disaster-Generated Debris or Debris do not include:

- i. Debris from vacant lots, forests, heavily wooded areas, unimproved property, and unused areas;
 - ii. Debris on agricultural lands used for crops or livestock;
 - iii. Concrete slabs or foundations-on-grade; or
 - iv. Construction and demolition Debris consisting of materials used in the reconstruction of Disaster-damaged improved property.
- e. "Division" means the St. Johns County Division of Emergency Management.
 - f. "Emergency" means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.
 - g. "Emergency management" means the preparation for, the mitigation of, the response to, and the recovery from emergencies and Disasters, including, but not limited to:

- i. Reduction of vulnerability of people and communities to damage, injury, and loss of life and property resulting from natural, technological, or manmade emergencies or hostile military or paramilitary action;
 - ii. Preparation for prompt and efficient response and recovery to protect lives and property affected by emergencies;
 - iii. Response to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency;
 - iv. Recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies;
 - v. Provision of an emergency management system embodying all aspects of pre-emergency preparedness and post-emergency response, recovery, and mitigation; and
 - vi. Assistance in anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.
- h. “Hazardous limb” means a broken tree limb greater than 2 inches in diameter measured at the point of break.
- i. “Hazardous tree” means a tree greater than 6 inches in diameter (measured at diameter breast height), which meets any of the following criteria:
 - i. More than 50 percent of the crown is damaged or destroyed;
 - ii. The trunk is split or broken branches expose the heartwood; or
 - iii. The tree is leaning at an angle greater than 30 degrees and shows evidence of ground disturbance.
- j. “Manmade emergency” means an emergency caused by an action against persons or society, including, but not limited to, enemy attack, sabotage, terrorism, civil unrest, or other action impairing the orderly administration of government.
- k. “Natural emergency” means an emergency caused by a natural event, including, but not limited to, a hurricane, tornado, storm, flood, severe wave action, drought, or earthquake.
- l. “Plan” means the County’s Comprehensive Emergency Management Plan adopted pursuant to Section 252.38, Florida Statutes.

- m. “Private Road” means any improved street or road located within a right-of-way or access easement owned by any entity other than the County, the State of Florida, or another local government, including, but not limited to, roads owned and maintained by homeowners associations, whether gated or ungated, and roads for which no individual or entity has claimed or exercised maintenance responsibility. The term also includes the land lying within the 3-foot roadside shoulder area on both sides of the travel lanes.
 - n. “Public Road” means any street or road located within a right-of-way owned by the County, the Florida Department of Transportation, or another local governmental entity. The term includes the county-owned land on both sides of the street or road up to the boundary of the adjoining property.
 - o. “Technological emergency” means an emergency caused by a technological failure or accident, including, but not limited to, an explosion, transportation accident, radiological accident, or chemical or other hazardous material incident.
2. **County Administrator’s Authority.** The County Administrator, or his or her designee, shall have the authority to remove Disaster-Generated Debris located within the County on County-owned property, County-owned roads, and Private Roads to the extent that such removal is reasonably necessary to eliminate an immediate threat to life, public health, and safety; to eliminate an immediate threat of significant damage to improved County-owned property; or to ensure economic recovery of an affected community to the benefit of the community at large.
3. An immediate threat to life, public health, and safety shall be deemed to exist if any of the following conditions is present:
- a. There is a significant likelihood that rescue vehicles will be significantly hindered from rendering emergency services if the Disaster-Generated Debris is allowed to remain in place;
 - b. The type of Disaster-Generated 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 allowed to remain;
 - c. The removal of the Disaster-Generated Debris is necessary to effectuate orderly and expeditious restoration of County-wide utility services including, but not limited to, power, water, sewer, and telephone services;
 - d. A public health official, or after consultation with the County’s designated building official, the County Administrator, or his designee(s), determines that the Disaster-Generated Debris is dangerous;

- e. The Disaster-Generated Debris prevents solid waste collection, thereby creating a public health and safety hazard;
 - f. The Disaster-Generated Debris contains contaminants that have a reasonable likelihood of leeching into the soil or aquifer of the County;
 - g. The Disaster-Generated Debris has a substantial negative impact upon public health and safety by preventing or adversely affecting emergency repairs to buildings or property;
 - h. The Disaster-Generated Debris presents a reasonable danger of being transported by wind or water to neighboring properties, thereby increasing the cost of recovery and removal;
 - i. The Disaster-Generated Debris is significantly likely to produce mold or may otherwise cause disease, illness, or sickness which could injure or adversely affect the health, safety, or general welfare of the public;
 - j. The presence of the Disaster-Generated Debris significantly interferes with drainage or water runoff, so as to be a significant hazard in the event of significant rainfall;
 - k. The Disaster-Generated Debris significant adversely impacts the County's recovery efforts;
 - l. The sheer volume of the Disaster-Generated Debris is such that it is impractical and unreasonable to remove in an orderly and efficient manner absent action by the County; or
 - m. The type, extent, and nature of the Disaster-generate Debris is such that it would cause much greater damage if not removed immediately.
4. An immediate threat of significant damage to improved County-owned property shall be deemed to exist if the cost to remove the Disaster-Generated Debris is less than the cost of potential damage to the improved property, thereby being a cost-effective removal.
5. **Removal of Disaster-Generated Debris from County-Owned Property and County-Rights-of-Way.** In removing Disaster-Generated Debris from County-owned property and County rights-of-way, the highest priority shall be given to responding to immediate threats to life, public health, and safety; eliminating immediate threats of significant damage to County-owned property or facilities; and pushing or removing Disaster-Generated Debris from the County rights-of-way to permit safe passage.
- a. The removal of Disaster-Generated Debris in accordance with the priority set forth above in Paragraph 4, shall begin as soon as functionally feasible after the occurrence of a major Disaster or catastrophic Disaster. The primary operation of the County work forces will be to cut and toss Disaster-Generated Debris, depositing it along the County rights-of-way, thereby creating access to the major

arterial roadways to allow for expedited search and rescue efforts as well as recovery efforts. Upon completion of the cut and toss operation, County work forces will begin the removal of other Disaster-Generated Debris. The owner of private property, or any individual otherwise in possession of private property, that adjoins County rights-of-way may place Disaster-Generated Debris in the County right-of-way in accordance with the requirements set forth below. The County shall notify the public of the initial start date for the removal of Disaster-Generated Debris by County work forces and shall subsequently notify the public prior to the last removal pass by County work forces.

- b. Upon the resumption of pre-Disaster waste collection activities, County residents will be held accountable for the placement of any remaining Disaster-Generated Debris along County rights-of-way and Private Roads, or on private property, which placement does not meet pre-Disaster collection service standards and is found not to be in compliance with this ordinance or with any other County ordinance or regulation.
- c. The removal of Disaster-Generated Debris consisting of either hazardous trees or hazardous limbs on County-owned property and County rights-of-way is authorized only upon the satisfaction of each of the following conditions:
 - i. The damage to the hazardous tree or hazardous limb was the result of the Disaster; and
 - ii. The hazardous tree or hazardous limb is in danger of falling on a structure or other improvement, on a primary ingress or egress route, or on a County right-of-way.

6. Removal of Disaster-Generated Debris from Private Roads.

- a. The authority of County work forces to enter upon a Private Road for utilization in the Disaster-Generated Debris removal management plan shall be as provided in Chapter 252, Florida Statutes, and shall in no way be deemed to be a trespass.
- b. The removal by County work forces of Disaster-Generated Debris from Private Roads shall be performed only upon the satisfaction of each of the following conditions:
- c. The Disaster-Generated Debris removal plan has been implemented in accordance with this Resolution.
- d. A determination has been made by County work forces that such removal is reasonably necessary to eliminate a threat to life, public health, safety, or to ensure economic recovery of the affected community to the benefit of the community at large; provided, however, that the highest priority shall initially be given to responding to immediate threats to life, public health, and safety; and

- e. Any Disaster-Generated Debris removed from private property has been placed in or adjacent to the Private Road in accordance with the requirements of this section, unless such requirements have been waived by the County Administrator or his or her designee.
- f. The removal of Disaster-Generated Debris consisting of either hazardous trees or hazardous limbs overhanging or otherwise endangering a Private Road shall be the responsibility of the adjacent private property owners. County work forces shall not be authorized to remove or to otherwise act upon such Disaster-Generated Debris unless it is necessary to eliminate an immediate threat to the safety of County work forces.
- g. With regard to the implementation of its Disaster-Generated Debris removal management plan, and subject to the restrictions and requirements of Section 768.28, Florida Statutes, the County shall indemnify and hold the federal government, and its agencies and employees, harmless from any claims arising from or based upon the exercise or performance of, or the failure to exercise or perform, a discretionary function or duty on the part of any federal agency or any employee of the federal government in carrying out the provisions of the Stafford Act.

7. Conditions for Removal of Disaster-Generated Debris from Private Property.

The owners of private property, or those individuals otherwise in possession of private property, will be responsible for assuring that the placement of any Disaster-Generated Debris in County rights-of-way or on Private Roads for removal by County work forces satisfies each of the following conditions:

- a. The Disaster-Generated Debris will be neatly stacked, piled, or placed with its leading edge lying within the 3-foot roadside shoulder area on either side of the travel lanes of the road;
- b. The Disaster-Generated Debris will be separated into stacks or piles of the following types of Debris:
 - i. Putrescent Debris and mixed common household items;
 - ii. Vegetative Debris;
 - iii. Construction and demolition Debris;
 - iv. White goods; and
 - v. Hazardous household waste and electronic waste.
- c. The Disaster-Generated Debris will be placed so that it does not block the roadway, traffic signs and signals, or stormwater structures; and

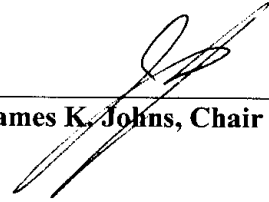
- d. The Disaster-Generated Debris will be placed so that it is not under any power lines, on top of any water meters, or within 3 feet of any power poles, fire hydrants, vehicles, mailboxes, or fences.
 - e. Any damage to personal property resulting from the placement of Disaster-Generated Debris in a manner inconsistent with this section, including damage caused by County work forces, will be the responsibility of the private property owner, or individual otherwise in possession of private property, who misplaced such Debris.
 - f. Any owner of private property, or any individual otherwise in possession of private property, who stacks, piles, or otherwise places any Disaster-Generated Debris in the County right-of-way after the last removal pass by County work forces as described above will be responsible for the removal from the County right-of-way of such Disaster-Generated Debris which meets pre-Disaster service collection and disposal requirements, whether self-provided, provided through a private contractor, or provided through regular waste collection and disposal services.
 - g. Any owner of private property, or any individual otherwise in possession of private property, who stacks, piles, or otherwise places anything for removal on County rights-of-way or on Private Roads that is deemed not to be Disaster-Generated Debris will be responsible for removing such unauthorized Debris within 24 hours after notification of such removal requirement by a member of the County work forces. Any such owner or individual who fails to timely comply with such removal requirement will be responsible for any costs associated with the removal of such Debris by County work forces.
8. This Resolution shall be effective on the 5 day of September, 2017, and shall remain effective until such time as determined by the Board.
9. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval of the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, State of Florida, this 5 day of Sept, 2017.

BOARD OF COUNTY COMMISSIONERS OF ST.
JOHNS COUNTY, FLORIDA

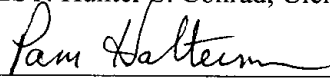
By: _____

James K. Johns, Chair



ATTEST: Hunter S. Conrad, Clerk

By: _____



Deputy Clerk

