

ORDINANCE NO. 2005-16

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING THE VILLAGE CODE BY CREATING CHAPTER 9 "EMERGENCY MANAGEMENT" TO PROVIDE NECESSARY AND APPROPRIATE EMERGENCY MANAGEMENT AUTHORIZATIONS, RESPONSIBILITIES AND PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR PENALTY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is necessary for the Village Council to provide specific procedures applicable to emergency management and to delegate necessary authority to the Village Manager, as provided herein; and

WHEREAS, the Village Council finds that the adoption of this Ordinance is in the best interest of the health, safety and welfare of the residents of the Village.

NOW THEREFORE IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** That each of the above stated recitals is hereby adopted and confirmed.

Section 2. **Village Code Amended.** That the Village Code of the Village of Key Biscayne, Florida, is hereby amended by creating Chapter 9 "Emergency Management" to read as follows:¹

CHAPTER 9. EMERGENCY MANAGEMENT

Sec. 9-400. Definitions.

As used in this Chapter:

Average Retail Price shall mean the price at retail for merchandise, goods or services at which similar

^{1/} Proposed deletions from existing Village Code text are indicated by ~~strike through~~; proposed additions to existing Village Code text are indicated by underline.

merchandise, goods or services were being sold immediately preceding a declaration of public emergency.

Village Manager shall mean the Village Manager of the Village of Key Biscayne or her designee.

Emergency shall mean a condition which threatens or adversely affects the public health, safety, general welfare or security and which is or threatens to be beyond the control of those public and private agencies normally responsible for the management of such a condition, resulting from an act or imminent threatened act of war, riot, terrorism, mob or other acts of violence; from conflagration, explosion, hazardous materials incident or release; from a weather event such as a flood, hurricane or tornado; from a disruption in the Village's utility, or other utility system; or from any other cause, reason, condition or circumstance.

Sec. 9-401. Applicability of provisions.

All officers, employees, contractors, subcontractors, vendors, boards and other agencies of the Village are subject to the provisions of this Chapter.

Sec. 9-402. Emergency management structure.

(a) The Village Manager shall perform the functions of Director of Emergency Management and shall implement, manage and report on all actions authorized and taken under the provisions of this Chapter.

(b) The Village Manager or the Village Manager's designee shall plan for the coordination of those actions necessary for the creation and maintenance of an effective emergency response capability to prepare for and manage emergency conditions.

Sec. 9-403. Powers, duties and responsibilities.

The Village Manager, when acting as the Director of Emergency Management, shall have the following powers, duties and responsibilities.

(1) To declare a state of emergency pursuant to section 9-404 and to inform the Mayor and the Village Council of the reasons for and status of events requiring the declaration.

(2) To direct the creation, revision and the exercise of emergency response plans consistent with State and County emergency plans for the mitigation of, preparation for, response to, and recovery from emergencies, and to exercise all powers permitted by F.S. ch. 252.

(3) To recommend funding to the Village Council for the creation and maintenance of an emergency response capability as provided in this Chapter.

(4) To issue emergency regulations necessary for the protection of life and property, establishment

of public order, and control of adverse conditions affecting public welfare resulting from an emergency.

(5) To plan for and develop an emergency operations control center to include equipment, manning, and operational procedures necessary to the management and control of emergency conditions.

(6) To develop and manage the Village's emergency awareness public information program.

(7) To apply for public assistance or other disaster relief funding.

(8) To expend necessary Village funds for emergency relief and for disaster recovery from the Reserve Fund authorized by Section 25-3 of the Village Code. The Village Council may, by resolution, establish procedures which apply to this paragraph (8).

Sec. 9-404. Declaration of a state of emergency.

(a) The Village Manager shall have the sole authority to declare a state of emergency hereunder.

(b) Any declaration of a state of emergency and all emergency regulations activated under the provisions of this Chapter and any emergency expenditures made hereunder pursuant to Section 9-403(8) shall be confirmed by the Village Council by resolution no later than at the next regular meeting, unless the nature of the emergency renders a meeting of the Village Council impossible. Confirmation of the emergency declaration shall disclose the reasons for actions proposed and taken to manage the emergency, and other pertinent data relating to the emergency requiring the declaration.

(c) Emergency resolutions or orders authorized by this article may include, but are not limited to, the following subjects:

(1) Evacuation;

(2) Curfews; declaration of areas off limits;

(3) Suspension or regulation of the sale of, or offer to sell, with or without consideration: alcoholic beverages; ammunition; firearms; explosives; or combustibles;

(4) Prohibiting the sale of merchandise, goods or services at more than the average retail prices;

(5) Water use restrictions;

(6) Suspension of local building regulations;

(7) Regulating the use of and rationing of fuel, ice and other essentials;

(8) Emergency procurement procedures.

(d) A declaration of a state of emergency shall activate the emergency plans applicable to the Village. A declaration of a state of emergency shall automatically invoke the emergency measures listed in F.S. ' 870.044, if the emergency relates to overt acts of violence or the imminent threat of such violence.

(e) A state of emergency, when declared, shall continue in effect from day to day until declared to be terminated by the Village Manager or Village Council, in accordance with Section 9-405.

(f) Upon the declaration of a state of emergency, the Village Manager shall post a written notice of such declaration upon the main bulletin board in Village Hall, and shall, as promptly as practicable, file in the office of the Village Clerk a notice of a declared state of emergency, or emergency measure declared or ordered and promulgated by virtue of Florida Statutes. The Village Manager shall notify the local media and residents as soon as possible and in the manner most practicable and expeditious.

(g) The Village Manager may issue orders pursuant to this Chapter and may elect to adopt orders issued by County or State emergency management agencies.

Sec. 9-405. Termination of a state of emergency.

A state of emergency shall be terminated by a vote of the Village Council if practicable or upon the certification of the Village Manager that the conditions leading to or causing the emergency no longer exist and the Village's agencies and departments are able to manage the situation without extraordinary assistance; provided, that a state of emergency established under F.S. ' ' 870.041--870.046 shall terminate at the end of a period of 72 consecutive hours after the declaration of the emergency, unless, prior to the end of the 72-hour period, the Village Manager or the Village Council has terminated such state of emergency. Any extension of the 72-hour time by the Village Manager must be confirmed by the Village Council by resolution at the next regular meeting, unless the nature of the emergency renders a meeting of the Village Council impossible. Notice of termination of the emergency declaration shall be made to the public by the Village Manager by the same means as the notice of the declaration of the state of emergency.

Sec. 9-406. Police emergencies.

(a) An emergency may be declared because of civil unrest or imminent threat to public peace or order when the Chief of Police, or if unavailable, the next highest ranking officer in the Police Department chain of command certifies to the Village Manager that an emergency condition arising from hostile actions of others, armed or unarmed or other imminent threat to public peace or order, requires extraordinary measures for control, including, but not limited to curfew; blockade; proscription of the sale of firearms, other weapons or alcohol beverages; explosives and combustibles; evacuation; and other similar actions. The Village Manager may issue a declaration of a state of emergency in accordance with Section 9-404.

(b) The declaration of a state of emergency because of civil unrest or imminent threat to public peace or order, shall authorize the issuance of emergency resolutions or orders and other appropriate resolutions or orders, as may be required and may, if applicable, require automatic emergency measures pursuant to F.S. ' 870.044. In addition, additional discretionary emergency measures pursuant to F.S. ' 870.045 may be issued.

Sec. 9-407. Fire and hazardous materials emergencies.

(a) An emergency may be declared because of fire or a hazardous materials incident emergency when the Fire Chief or the designee of the Fire Chief certifies to the Village Manager that an actual or potential condition arising from fire, explosion, chemical spill or release, building or bridge collapse, or plane, train or other vehicle accident, requires extraordinary measures for control, including, but not limited to calling out of off-duty and reserve personnel; assistance by outside agencies; evacuation; and other similar actions. The Village Manager may issue a declaration of a state of emergency in accordance with Section 9-404.

(b) The declaration of state of emergency because of fire and hazardous material emergency shall authorize the issuance of emergency resolutions or orders and other appropriate resolutions or orders, as may be required.

Sec. 9-408. Utility emergencies.

(a) An emergency may be declared because of utility conditions when the Public Works Director or the designee of the Public Works Director or the Chief Operating Officer or the designee of the Chief Operating Officer of the relevant county or public utility certifies to the Village Manager that:

(1) A condition exists or is imminent that endangers the safety, potability, quantity, availability, collection, conveyance, transmission, distribution, treatment, or storage of water or waste water through or within the water or waste water utility system serving the Village; or

(2) A condition exists or is imminent that endangers the safety, quality, quantity, availability, transmission, distribution, or storage of gas or electricity through or within the Village area of the electrical or gas utility system(s); and

(3) Extraordinary actions to control and correct the situation are required, including, but not limited to emergency purchase; call-in of off-duty personnel; assistance by other communities and agencies; and other similar actions.

(b) The declaration of a state of emergency because of utility conditions shall authorize the issuance of emergency resolutions or orders, and other appropriate resolutions or orders, as may be required.

Sec. 9-409. Weather emergencies.

(a) An emergency may be declared because of weather conditions when the national weather service or a State, County or local emergency management agency informs the Village or the public that emergency conditions resulting from meteorological conditions are present or imminent. Meteorological conditions covered by this section shall include, but are not limited to hurricane, floods, tornados, or other severe weather conditions and the results therefrom. The Village Manager may issue a declaration of a state of emergency in accordance with Section 9-404.

(b) The declaration of a state of emergency because of weather conditions shall authorize the issuance of emergency resolutions or orders and other appropriate resolutions or orders, as may be required.

Sec. 9-410. Suspension of local building regulations.

The Village Manager may authorize a suspension of local building regulations during and following a declared state of emergency when the Chief Building Official certifies to the Village Manager that such action is necessary for the expeditious restoration of property damaged by the emergency event, unless terminated by the Village Council. Such suspension of building regulations may be applied on a case-by-case basis as required to remedy specific conditions and to facilitate the provision of emergency housing to disaster victims. The Chief Building Official shall specify the provisions of the building code to be suspended and the reasons therefore, when certifying the necessity of such suspension to the Village Manager.

Sec. 9-411. Certification of emergency conditions.

A certification of emergency conditions to the Village Manager may be verbal, but each verbal certification shall be confirmed in writing within 24 hours following an emergency declaration.

Sec. 9-412. Penalty.

Any person, firm or corporation who violates any provision of this Chapter or orders issued hereunder, for which another penalty is not specifically provided herein or required by law shall, upon conviction, be subject to such fine or imprisonment or both as provided by section 1-14 of the Village Code. Each day that a violation shall continue to exist shall constitute a separate offense.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. **Inclusion in the Code.** That it is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of the Village of Key Biscayne; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 6th day of September, 2005.

PASSED AND ADOPTED on second reading this 11th day of October, 2005.

MAYOR ROBERT OLDAKOWSKI

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY