

RESOLUTION NO.: 18-17

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SPRINGFIELD, FLORIDA, MAKING APPROPRIATE FINDINGS AND AUTHORIZATIONS FOR CERTAIN PRIVATE PROPERTY DEBRIS REMOVAL; PROVIDING FOR CONFLICT, SEVERABILITY AND AN IMMEDIATEEY EFFECTIVE DATE.

WHEREAS, Rick Scott, Governor of the State of Florida, Issued Executive Order 18-276 declaring a state of emergency in Bay County relating to Hurricane Michael;

WHEREAS, on October 10, 2018, Hurricane Michael struck the City of Springfield (the "City") as a Category 4 hurricane resulting in massive damages to private and public property, as well as public infrastructure;

WHEREAS, the residents and the citizens of the City sustained massive damages and many buildings were made uninhabitable thereby causing a need for temporary housing; and

WHEREAS, as provided in section 2(b), Article VIII of the Constitution of the State of Florida, and section 166.021(1), Florida Statutes, the City, a municipal corporation, enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SPRINGFIELD, FLORIDA:

SECTION 1. PRIVATE PROPERTY DEBRIS REMOVAL – ROADS AND RIGHTS OF WAY.

A. The City of Springfield has determined that it is in the public interest to have debris removed from specified private roads and rights-of-way in order to eliminate immediate threats to life, public health and safety, to eliminate threats of significant damage to improved property, and to ensure the economic recovery of the affected community to benefit the community-at-large.

B. Under the local ordinances of the City of Springfield, specifically Chapters 34 and 66 of the Springfield Code of Ordinances, and/or the powers provided to local jurisdictions by the laws of the State of Florida under Section 252.38, Florida Statutes, as enumerated and discussed in one or more opinions of the State of Florida Attorney General, especially including Attorney General Opinion Numbers 98-22 and 2012-33, the City has the legal responsibility and authority in the public interest to remove such hurricane-generated debris from private property.

C. Based upon the above and all other available facts and circumstances, the City Commission of the City of Springfield has determined to exercise these authorities to enter onto specified private roads and rights-of-way in order to abate the declared public health nuisance and safety emergency by removing the hurricane generated debris from those right of ways.

D. The City certifies that before it initiates hurricane-generated debris removal, it either shall have satisfied all the legal processes and received all legal permissions to carry out these actions of debris removal through the use of Rights of Entry with indemnity clauses signed by the Homeowners Association, or if no Homeowners Association, by each property owner/lessor that uses said specified private road.

E. The City of Springfield will recognize and respect all laws and regulations that concern historic preservation and environmental protection.

F. As required by, and only to the extent required by, section 407(b) of the Stafford Act (42 U.S.C. 5173(b)), the City of Springfield hereby agrees, to the extent allowed by state and federal law, that it shall indemnify and hold harmless the Federal Government and its respective employees, agents, contractors, and subcontractors from any claims arising from debris removal, to the extent such debris removal was authorized by the City. The City of Springfield hereby acknowledges that in accordance with section 305 of the Stafford Act (42 U.S.C. § 5148), the Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of the Act.

G. To avoid duplication of benefits pursuant to section 312 of the Stafford Act (42 U.S.C. 5155), the City of Springfield will obtain from homeowners' associations or private property owners information and documentation relating to any applicable insurance coverage for such debris removal, and any proceeds and settlements and provide this to the Florida Division of Emergency Management.

H. The Mayor or his designee is hereby authorized to execute the private property debris removal pre-approval request letter, or any other agreement, order or directive necessary to implement this Resolution.

SECTION 2. AUTHORIZATION AND REPEALER.


This Resolution is adopted pursuant to general home rule powers of the City and the City Charter. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. EFFECTIVE DATE.

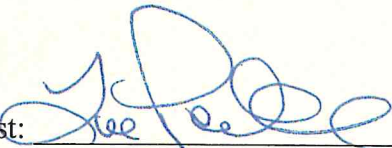
This Resolution shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Springfield, Bay County, Florida, this 3 day of December, 2018.

CITY OF SPRINGFIELD, FLORIDA



Ralph Hammond, Mayor

Attest: 

D. Lee Penton, City Clerk