

ORDINANCE 2013-20

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF VENICE, FLORIDA, CHAPTER 54, SOLID WASTE, ARTICLE VI, DISASTER DEBRIS MANAGEMENT, BY DELETING THE EXISTING SECTIONS AND REPLACING THEM WITH MORE SPECIFIC CRITERIA FOR THE DETERMINATION OF WHEN TO REMOVE DEBRIS FROM PRIVATE STREETS AND ROADWAYS AFTER A NATURAL DISASTER; PROVIDING FOR WAIVER; PROVIDING FOR INDEMNIFICATION OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, protection of the health, safety and welfare of the inhabitants and property owners of the city is its chief priority; and

WHEREAS, the city recognizes that the clearing of private roads after a disaster is primarily a private function; and

WHEREAS, the city recognizes that, owing to the magnitude of a disaster, there may be circumstances where clearing private streets will be required to protect the health safety and welfare of its inhabitants; and

WHEREAS, the city wishes to establish an objective basis for it to evaluate when it will clear private roads in the event of a natural disaster.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, as follows:

SECTION 1. The above Whereas clauses are ratified and confirmed as true and correct.

SECTION 2. Chapter 54, Solid Waste, Article VI, Disaster Debris Management, is hereby deleted in its entirety and replaced with the following:

Sec. 54-170. Intent and purpose.

After declaration 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 city that may not be available to a private property owner. The intent and purpose of this article is to establish a process by which the city may evaluate and, if necessary, remove debris from along privately owned streets, roads, roadways,

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and other private property 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 property is the responsibility of the property owner, 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 streets, roads, and roadways and other private property as described in this article.

Sec. 54-171. Definitions.

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

Access Properties means access to the properties depicted on the map entitled Maintained Roads Map, as it may be amended from time to time, maintained by and in the custody of the public works department, and incorporated herein as if fully set forth verbatim. Access shall be provided if: (1) the city is undertaking to clear and push debris in accordance with Sec. 54-172 and (2) it is reasonably possible with respect to the equipment used to provide access under the circumstances. The Maintained Roads Map represents the best efforts of the city to set forth a complete listing; however, due to the nature of the roadway system and the historical problems relating to documentation and memorialization of roadways and rights-of-way, the listing may not be all inclusive.

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.

Private property means all property that is not owned or controlled by a governmental entity.

Private streets, roads and roadway shall include the rights-of-way as well as the improved surface that provides access to residential and commercial areas as identified as private roadways in the Maintained Roads Map.

Sec. 54-172. Private roadways.

The city shall remove debris from private roadways when such debris is determined to pose an immediate threat to the health, safety and welfare of the community. The city manager shall determine whether there is an immediate threat to the public health,

safety, and welfare sufficient to warrant removal of said debris in accordance with any one of the following standards:

- (a) There is a significant likelihood that rescue vehicles will be hindered from rendering emergency services to residential and commercial property should the debris be allowed to remain in place absent city removal.
- (b) 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 and working in the area if it is allowed to remain.
- (c) 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.
- (d) The debris is determined by the city building official to be dangerous or hazardous.
- (e) The debris prevents garbage collection thereby creating a public health hazard.
- (f) The debris contains contaminants which have a reasonable likelihood of leeching into the soil and/or aquifer of the city.
- (g) The debris has a substantial negative impact in preventing or adversely affecting emergency repairs to buildings and/or property.
- (h) 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.
- (i) The debris poses a significant likelihood of, if left over time, producing mold which would be injurious to public health.
- (j) The presence of the debris significantly adversely impacts the city's recovery efforts.
- (k) The debris significantly interferes with drainage or water runoff, so as to be a significant hazard in the event of significant rainfall.
- (l) The sheer volume of the debris is such that it is impractical and unreasonable to remove in an orderly and efficient manner absent action by the city.

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(m) The type, extent and nature of the debris is such that it would cause much greater damage if the debris was not removed immediately.

Sec. 54-173. Waiver.

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 54-172 as a condition precedent to city action depending on the severity of the situation.

Sec. 54-174. Indemnification and hold harmless.

Prior to removal of debris by the city as contemplated herein on private roadways and private property, or clearance by the city of private property as provided herein, the private property owner 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. Whenever reasonably practical, this indemnification and hold harmless shall be in writing.

Sec. 54-175. Emergency roadway clearance.

Nothing herein shall preclude a first response by the city to clear and push debris from all roadways (both public and private) including access properties necessary for the movement of emergency vehicles including police, fire and ambulance within the first 70 hours after a disaster declaration.

Sec. 54-176. Private property.

Nothing herein shall require the city to remove debris from private property other than the private roadways identified above except where the severity of the situation is of such magnitude or the debris is so widespread that it is determined by the city manager 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 areas.

SECTION 3. All ordinances of parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 4. This ordinance shall take effect upon adoption in accordance with law and the charter of the City of Venice.

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PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 23RD DAY OF JULY, 2013.

First Reading: June 11, 2013

Second Reading: July 23, 2013

Adoption: July 23, 2013

John W. Holic, Mayor

ATTEST:

Lori Stelzer, MMC, City Clerk

(SEAL)

Approved as to form:

David Persson, City Attorney

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