

ORDINANCE NO. 21-283

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO EMERGENCY MANAGEMENT, AMENDING CHAPTER 2 “ADMINISTRATION”, OF THE TOWN CODE, CREATING ARTICLE VII, TITLED EMERGENCY PROCEDURES, PROVIDING FOR FINDINGS OF FACT, INTENT AND PURPOSE; PROVIDING FOR REGULATIONS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (DIEGUEZ)

WHEREAS, on March 9, 2020, in the wake of COVID-19, the Town of Miami Lakes (the “Town”) Manager issued an Order, Declaring the Town to be in a State of Emergency; and

WHEREAS, the Town currently follows the Miami-Dade County Emergency Management Ordinances; and

WHEREAS, during the January 2021 Town Council Meeting, Councilman Dieguez proposed and the Town Council instructed the Town Attorney to work with staff and create a Town Emergency Procedures Ordinance; and

WHEREAS, during the 2021 Florida Legislation Session, the Florida Senate passed Senate Bill 2001-2006, which curtailed local governments authority to issue emergency orders; and

WHEREAS, the Town’s Emergency Procedures Ordinance provides for structure and instruction in the adoption of emergency orders, incorporating Florida’s new statutory scheme.

THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. Adoption and Creation of Amending Chapter 2, Creating Article VII, Titled Emergency Procedures. The Town Council approves the adopts the Amendment of Chapter 2, of the Town Code to Create Article VII, Emergency Procedures.

Section 3. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. 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 be 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 5. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article,” “Division” or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon its adoption on second reading.

FIRST READING

The foregoing ordinance was moved by Councilmember Councilmember Dieguez who moved its adoption on first reading. The motion was seconded by Mayor Cid and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	Yes
Vice Mayor Luis E. Collazo	Yes
Councilmember Carlos O. Alvarez	Absent
Councilmember Josh Dieguez	Yes
Councilmember Tony Fernandez	Yes
Councilmember Jeffrey Rodriguez	Absent
Councilmember Marilyn Ruano	Yes

Passed and adopted on first reading this 13th day of July 2021.

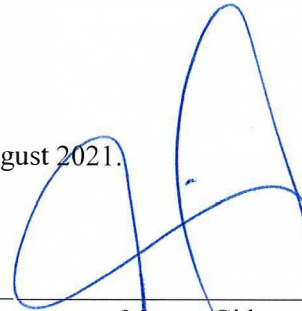
THIS SPACE INTENTIONALLY LEFT BLANK

SECOND READING

The foregoing ordinance was moved by Councilmember Dieguez who moved its adoption on second reading. The motion was seconded by Councilmember Ruano and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	Yes
Vice Mayor Luis Collazo	Yes
Councilmember Carlos O. Alvarez	Absent
Councilmember Josh Dieguez	Yes
Councilmember Tony Fernandez	Yes
Councilmember Jeffrey Rodriguez	Yes
Councilmember Marilyn Ruano	Yes

Passed and adopted on second reading this 10th day of August 2021.



Manny Cid
MAYOR

Attest:



Gina M. Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:



Raul Gastesi, Jr.
Gastesi, Lopez and Mestre, PLLC
TOWN ATTORNEY

CHAPTER 2. ADMINISTRATION

ARTICLE VIII. - EMERGENCY MANAGEMENT

Sec. 2-200. - Definitions.

As used in this article:

Average Retail Price shall mean the price at retail for merchandise, goods or services at which similar merchandise, goods or services were being sold immediately preceding a declaration of public emergency.

Town Manager shall mean the Town Manager of the Town of Miami Lakes or his 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 Town's utility, or other utility system; or from any other cause, reason, condition or circumstance.

Personal Protective Equipment means protective clothing or equipment designed to protect an individual person from injury or the spread of infection.

Public Health Emergency means any occurrence, or threat thereof, whether natural or manmade, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters, declared as a public health emergency as declared as a public health emergency as declared by the State Health Officer.

Sec. 2-201. - Applicability of provisions.

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

Sec. 2-202. - Emergency management structure.

(a) The Town 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 article.

(b) The Town Manager or the Town 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. 2-203. - Powers, duties and responsibilities.

The Town 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 2-204](#) and to inform the Mayor and the Town 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 Town Council for the creation and maintenance of an emergency response capability as provided in this article.

(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 Town's emergency awareness public information program, in conjunction with the Town Mayor.

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

(8) To enter into local agreements for services and resources needed to mitigate and or recover from an emergency.

(9) To inform the Mayor of all ongoing intergovernmental efforts of the Town in an emergency.

Sec. 2-204. - Declaration of a state of emergency.

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

(b) Any declaration of a state of emergency and all emergency regulations activated under the provisions of this article shall be confirmed by the Town Council by resolution no later than at the next ~~regular~~ at no later than the next schedule regular or special call meeting, unless the nature of the emergency renders a meeting of the Town 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; 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 Town. 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, if related to a hurricane or weather related matter, when declared, shall continue in effect from day to day until declared to be terminated by the Town Manager or Town Council, in accordance with section 2-205.

(f) A state of emergency order, not related to a hurricane or weather-related matter, shall automatically expire seven ~~(7)~~ 3 days after issuance, but may be extended by a majority vote of the governing body of the political subdivision, as necessary, in seven ~~(7)~~ 3 day increments for a total duration of not more than 42 days. Upon the expiration of said Order, the Manager or Town Council may no issue a substantially similar order.

(g) A state of emergency order, not related to a hurricane or weather-related matter, must be narrowly tailored to achieve a compelling Town interest.

(h) Upon the declaration of a state of emergency, the Town Manager shall post a written notice of such declaration upon the main bulletin board in Government Center, and shall, as promptly as practicable, file in the office of the Town Clerk a notice of a declared state of emergency, or emergency measure declared or ordered and promulgated by virtue of Florida Statutes. The Town Clerk shall immediately serve upon the Mayor and Town Council a copy of the declaration. Additionally, the order shall be placed on a dedicated webpage accessible through a conspicuous link on the Town's homepage. The webpage will clearly identify the emergency ordinances, declarations, and orders currently in effect. The Town shall provide the The Florida Division of Emergency Management a link to their dedicated webpage. The Town Manager shall notify the local media and residents as soon as possible and in the manner most practicable and expeditious.

(i) The Town Manager may issue orders pursuant to this article and may elect to adopt orders issued by County or State emergency management agencies.

Sec. 2-205. - Termination of a state of emergency.

(a) **Hurricane or Weather Related Emergency** A state of emergency related to a hurricane or weather related emergency shall be terminated by a vote of the Town Council if practicable or upon the certification of the Town Manager that the conditions leading to or causing the emergency no longer exist and the Town's agencies and departments are able to manage the situation without extraordinary assistance.

(b) **Police Emergencies** As provided by Florida Law, 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 Town Manager or the Town Council has terminated such state of emergency. Any extension of the 72-hour time by the Town Manager must be confirmed by the Town Council by resolution at the next ~~regular~~ at no later than the next schedule regular or special meeting, unless the nature of the emergency renders a meeting of the Town Council impossible. Notice of termination of the emergency declaration shall be

made to the public by the Town Manager by the same means as the notice of the declaration of the state of emergency.

(c) — **All Other Emergencies Emergencies.** All other emergencies shall automatically expire seven (7) days after issuance, but may be extended by a majority vote of the governing body of the political subdivision, as necessary, in seven (7) day increments for a total duration of not more than 42 days. Upon the expiration of said Order, the Manager or Town Council may no issue a substantially similar order.

Sec. 2-206. - Police emergencies.

(a) — An emergency may be declared because of civil unrest or imminent threat to public peace or order when the Town Police Commander, or if unavailable, the next highest ranking officer in the Police Department chain of command certifies to the Town 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 weapons or alcohol beverages; explosives and combustibles; evacuation; and other similar actions. The Town Manager may issue a declaration of a state of emergency in accordance with [section 2-204](#). This section shall not apply to firearms as regulated by F.S. ch. 790.

(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.

(c) — A state of emergency may be declared because of fire and hazardous materials emergencies, utility emergencies, and weather emergencies when the Town Police Commander, or if unavailable, the next highest-ranking officer in the Police Department chain of command certifies to the Town Manager that an emergency condition exists. The Town Manager may issue a declaration of a state of emergency in accordance with [section 2-404](#).

(d) — The declaration of a state of emergency pursuant to [section 2-404](#) because of fire or hazardous materials emergencies, utility emergencies, and weather emergencies shall authorize, respectively, the issuance of emergency resolutions or orders.

Sec. 2-207. - Fire and hazardous materials emergencies.

(a) — An emergency may be declared because of fire or a hazardous materials incident emergency when the Miami-Dade County Fire Chief or Police Chief, or the designee of the Miami-Dade County Fire Chief or Police Chief certifies to the Town 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 Town Manager may issue a declaration of a state of emergency in accordance with [section 2-204](#).

(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. 2-208. - Utility emergencies.

(a) An emergency may be declared because of utility conditions when the Director of Community Services or the designee of the Director of Community Services or the Chief Operating Officer or the designee of the Chief Operating Officer of the relevant franchise utility certifies to the Town 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 wastewater through or within the water or wastewater utility system serving the Town; 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 franchised 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.

The Town Manager may issue a declaration of a state of emergency in accordance with [section 2-404](#).

(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. 2-209. - 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 Town 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 Town Manager may issue a declaration of a state of emergency in accordance with section 2-204.

(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. 2-210. – Health emergencies.

(a) The National Disaster Medical System Federal Partners Memorandum of Agreement defines a public health emergency as "an emergency need for health care [medical] services to respond to a disaster, significant outbreak of an infectious disease, bioterrorist attack or other significant or catastrophic event."

(b) The declaration of a state of emergency because of health shall authorize the issuance of emergency resolutions or orders and other appropriate resolutions or orders, as may be required, following the findings form as described in Sections 2-204 and 2-205 of this Chapter.

Sec. 2-211. - Certification of emergency conditions.

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

Secs. 2-212—2-219. - Reserved.