

ORDINANCE No. 2017-22

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING CHAPTER 30, "PROPERTY MAINTENANCE," OF THE CITY CODE OF ORDINANCES BY ESTABLISHING EMERGENCY PREPAREDNESS STANDARDS FOR CONDOMINIUM AND HOMEOWNERS ASSOCIATIONS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes, confers on municipalities broad home rule powers to conduct municipal government, perform municipal functions, and render municipal functions and exercise any power for municipal purpose except as otherwise provided by law; and

WHEREAS, the Charter for the City of Doral (the "City") confers on the City Council all legislative powers necessary to provide for the health, education, safety and welfare of its citizenry, except to the extent preempted; and

WHEREAS, the City undertakes considerable efforts to prepare all City-owned properties and rights-of-way from hurricanes and all tropical cyclonic weather and to respond to the effects of those storms immediately following an event; and

WHEREAS, the City's jurisdiction in so far as disaster response excludes a variety of issues involving private properties and roadways in condominium association ("CA") and homeowners associations ("HOA"); and

WHEREAS, the City recognizes that the regulation of CAs and HOAs has been mostly preempted by the State of Florida in regulations codified in Chapters 718 and 720, Florida Statutes, respectively; and

WHEREAS, the purpose of Chapter 718, Florida Statutes, is to create the condominium form of ownership and establish procedures for the creation, sale, and operation of condominiums; and

WHEREAS, the purpose of Chapter 720, Florida Statutes, is to recognize the nonprofit associations that regulate residential communities; and

WHEREAS, in light of the response following Hurricane Irma, the City desires to require CAs and HOAs in the community to be better prepared to respond to tropical cyclonic weather and other disasters; and

WHEREAS, the requirements of this Ordinance are not in conflict with any provision of Chapters 718 and 720, Florida Statutes, and performance of any of the requirements specified herein do not in any way impair compliance with Florida Statutes; and

WHEREAS, the Florida Supreme Court has long held that “[a]n ordinance which supplements a statute's restriction of rights may coexist with that statute, whereas an ordinance which countermands rights provided by statute must fail” (City of Miami Beach v. Rocio Corporation, 404 So. 2d 1066, 1070 (Fla. 3d DCA 1981), petition for review denied, 408 So. 2d 1092 (Fla. 1981)); and

WHEREAS, the Mayor and City Council believe that providing CAs and HOAs to following the requirement specified herein are in the best interest of the City and further improve the health, safety, and welfare of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Code Amended. The Code of Ordinances of the City of Doral are hereby amended as follows:

Chapter 30 – PROPERTY MAINTENANCE

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ARTICLE II. – EMERGENCY PREPAREDNESS

Sec.30-25. – Intent

It is the intent of the City Council of the City of Doral, Florida, to enact by Ordinance, locals laws providing a means by which the City can ensure that condominium associations and home owners associations in the City make appropriate plans for, and are prepared to take appropriate action in respond to, disaster situations, including, without limitation, hurricanes and other tropical cyclonic weather events.

Sec. 30-26. – Definitions

As used in this section, the following terms shall have the meaning provided in this section:

- (1) *Community* means any gated or non-gated, single family or multi-family residential community governed by a condominium or homeowners association;
- (2) *Emergency Response Plan (ER Plan)* means a community’s written program in response to the property damage caused in the respective community by a natural disaster;
- (3) *Natural Disaster* means any event or force of nature that causes property damage and other deleterious consequences, including, without limitation, flood, fire, hurricanes, tornados, and other tropical weather events. The declaration of a natural disaster by the federal, state or county government is not a requirement for this term as applicable to this section; and
- (4) *Private Streets* means streets internal to a community that are not owned or maintained by the City of Doral, Miami-Dade County, or the Florida Department of Transportation and that are owned and maintained solely

by the entity governing the community, such as, without limitation, a condominium association or a homeowners association.

Sec. 30-27. – Emergency Response Plan

- (1) All communities within the City, or representatives thereof, shall prepare, or cause to be prepared, and shall furnish to the City an Emergency Response Plan, with no less than the minimum requirements specified herein. The E.R. Plan shall be updated annually and provided to the City no less than thirty (30) days prior to the start of hurricane season in any given year.
- (2) The E.R. Plan shall provide the name and contact information for on-site representatives of the management company and any security companies serving the community, as well as the officers and members of the board of directors of the community. Proof of property insurance for the community shall also be furnished. Each community is required to update the E.R. Plan within thirty (30) days following a change in the management company, of any officer or director, and/or insurance provider.
- (3) The E.R. Plan must provide protective actions for life safety. Specifically, it must provide a basic site plan, identifying, in part, all community access points and private roads in the corresponding community. The E.R. Plan shall specify the manner the access points and the private roads will be cleared of debris following a natural disaster. This explanation must specify whether the community, by and through employees of its management company, a contractor, and/or Miami-Dade County shall be responsible for clearing and making functional access points to the community and/or clearing, collecting, and disposing debris from the private roads and other community property. The E.R. Plan shall specify when clearing and collection efforts are expected to commence following a natural disaster and the average anticipated amount of time to clear the private roads; it being recognized every natural disaster is unique and the aftermath following any natural disaster will have circumstances that will cause such proffered time frames to vary.
- (4) Each community is free to provide such additional measures and information as each deems necessary to protect the safety and welfare of its unit owners. The foregoing is intended to establish minimum requirements and in no way meant to be exhaustive of the measures that any community might be required to take to prepare and respond to emergency situations. The City bears no responsibility for verifying the appropriateness or completeness of any portion of the E.R. Plan.
- (5)

Sec. 30-28. – Verification of Compliance with Statutory Reserve Requirements

Each community that is a condominium shall be required to verify in the E.R. Plan that it is complying with the fund reserve requirements specified in Section Chapter 718, Florida Statutes. Each community that is a homeowners association shall be required to verify in the E.R. Plan that is complying with the fund reserve requirements specified in Chapter 720 , Florida Statutes, or that such requirements have been duly waived. An affidavit by the President or Chairperson of the Board of Director shall satisfy the requirement of this section.

Sec. 30-29. – Failure to Furnish Emergency Response Plan

The failure of a community to prepare and submit and/or update an emergency response plan in accordance with the section shall be deemed to be in violation of the City Code and shall be enforceable pursuant to Chapter 11 of the City Code of Ordinances.

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Section 3. Implementation. The City Manager, City Clerk, and City Attorney are hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions as may be appropriate by their position to execute the purpose of this Ordinance.

Section 4. Incorporation into the Code. The provisions of this Ordinance, to the extent appropriate, shall become and be made a part of the Code of Ordinances of the City of Doral. The City Clerk is authorized to take all actions necessary to incorporate the provisions of this Ordinance into the Code of Ordinances, including, but not limited to, renumbering or relettering sections and to change and that the word “ordinance” may be changes to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intention.

Section 5. 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 6. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 7. Effective Date. This Ordinance shall become effective immediately upon adoption.

The foregoing Ordinance was offered by Councilmember Mariaca who moved its adoption. The motion was seconded by Vice Mayor Rodriguez upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Ana Maria Rodriguez	Yes
Councilman Pete Cabrera	Yes
Councilwoman Christi Fraga	Yes
Councilwoman Claudia Mariaca	Yes

PASSED AND ADOPTED on FIRST READING this 8 day of November, 2017.

PASSED AND ADOPTED on SECOND READING this 13 day of December, 2017.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CONNIE DIAZ, CMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



WEISS, SEROTA, HELFMAN, COLE & BIERMAN, P.L.
CITY ATTORNEY