

ORDINANCE NO. 2018-001

AN EMERGENCY ORDINANCE OF THE TOWN OF RANCHES, RELATING TO POST-HURRICANE IRMA DISASTER DEBRIS COLLECTION; PROVIDING FOR DECLARATION OF FINDINGS AND INTENT; PROVIDING FOR REMOVAL OF DISASTER DEBRIS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution and Chapter 166 of the Florida Statutes, the Town of Southwest Ranches is authorized to protect the public health, safety, and welfare of its residents and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, on September 4, 2017, Governor Rick Scott, pursuant to Executive Order 17-235, declared a State of Emergency for the State of Florida in the wake of Hurricane Irma; and

WHEREAS, on September 5, 2017, President Trump declared a Federal State of Emergency in the wake of Hurricane Irma; and

WHEREAS, on September 6, 2017, pursuant to the authority vested in him by Section 8-1 of the Town Code of Ordinances, Town of Southwest Ranches Administrator, Andrew Berns issued a proclamation declaring that a state of emergency exists within the Town of Southwest Ranches, in preparation for Hurricane Irma; and

WHEREAS, on September 10 and September 11, 2017, the Town of Southwest Ranches, together with communities throughout the State of Florida, were severely impacted by Hurricane Irma; and

WHEREAS, Hurricane Irma has created widespread disaster debris throughout Southwest Ranches, which poses a significant and immediate threat to health, safety and welfare of Southwest Ranches residents and the public at large; and

WHEREAS, the debris caused by Hurricane Irma are within public and private communities and blocking public roads, private roads that are open to the public, and private roads, which are causing difficulties in providing emergency medical, police, and fire services; and

WHEREAS, debris blocking roads, place the residents of the Town of Southwest Ranches in jeopardy; and

WHEREAS, this is an emergency condition, constituting an immediate threat to the life, health, and safety of the residents of Southwest Ranches and it is necessary to immediately combat this significant threat to the life and safety of our residents and property; and

WHEREAS, it is necessary for the Town to enact this ordinance, providing the authority to clear road debris within private communities and on private roads; and

WHEREAS, the Town deems it necessary to maintain safe and unobstructed roads, throughout the Town, to allow for safe passage; and

WHEREAS, in order to facilitate the timely removal of debris from private roads, streets, and communities during this time of emergency, the Town needs right of entry and indemnification, onto private roads, streets, and communities to clear or collect disaster debris; and

WHEREAS, pursuant to the authority granted by Florida Statute 166.041 and Town of Southwest Ranches Code of Ordinances Section 4.03, Southwest Ranches is authorized to adopt this emergency ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

Section 1: This ordinance shall be known as the Southwest Ranches Post-Hurricane Irma Disaster Debris Recovery Ordinance.

Section 2: The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct, and are hereby incorporated herein and made a part hereof.

Section 3: Declaration of Finding and Intent. Southwest Ranches finds that debris from Hurricane Irma has created an immediate public health and safety threat to its residents. During an emergency, it is necessary for the Town to eliminate immediate threats to the life, health, and safety of residents, as well as ensure that the entire Town has unobstructed roadways allowing first responders to arrive timely and safely to protect residents. In order to respond to these emergency conditions, the Town must expeditiously clear debris from all roads, including roads in private communities. Removal from private roads and rights-of-way and ingress/egress easements shall be limited to necessary actions to permit emergency vehicles to provide necessary services. This is necessary to eliminate an imminent threat to the public health, safety and welfare. The Town Council of the Town of Southwest Ranches hereby authorizes the removal of debris from private roads, rights-of-ways, and ingress/egress easements in private communities to the extent set forth herein. The actions authorized herein do not permit debris removal except from the streets, rights-

of-ways, ingress/egress easements, and only to the extent necessary to clear streets for emergency vehicle travel and delivery of services essential to the public health and safety. No other property will be cleared in a private community. A valid public emergency exists justifying the need for each property owner or association to grant the Town of Southwest Ranches the right of entry onto private roads and streets to clear or collect disaster debris on or adjacent to the private road or street. By an affirmative vote of at least 4/5ths, the Town Council approves the Right of Entry Agreement attached hereto as Exhibit A, which provides indemnification to the Town and our contractors, for each property owner or association to execute, granting to the Town of Southwest Ranches the right of entry onto private roads and streets to clear or collect disaster debris on or adjacent to the private road or street to protect the health and safety of residents and employees. This right of entry shall in no way grant the Town of Southwest Ranches permanent ownership or responsibility to private roadways, private streets, or private communities. In conjunction with the right of entry, each property owner adjacent to a private road, private street, or private community association shall indemnify and hold harmless the Town of Southwest Ranches and their agents, officers, employees, volunteers, contractors, and subcontractors, from any and all claims, losses, penalties, demands, judgments, costs of suit, and attorney fees, whether for personal injury, property damage, direct or consequential damages, or economic loss, arising directly or indirectly on account of or in connection with the work performed by any of the above pertaining to any hazard or disaster mitigation, recovery, or reconstruction management.

Section 4: Severability. If any one or more of the provisions of this Ordinance shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be separate from the remaining provisions, and shall in no way affect the validity of all other provisions of this Ordinance.

Section 5: Conflict. That all Sections or parts of Sections of the Code of Ordinances or parts of Ordinances, and all Resolutions, or parts of Resolution, in conflict are hereby repealed to the extent of such conflict.

Section 6: Effective Date. This Ordinance shall be effective immediately upon its adoption.

Section 7: This Ordinance shall be valid until the State of Emergency affecting the Town of Southwest Ranches has ended, upon which this Ordinance is automatically repealed.

PASSED AND ADOPTED this 12TH day of October, 2017 on a motion

made by *C. Jablonski* and seconded by *Vice Mayor Breitkreuz*.

McKay	<u><i>Yes</i></u>	Ayes	<u><i>4</i></u>
Breitkreuz	<u><i>Yes</i></u>	Nays	<u><i>0</i></u>
Fisikelli	<u><i>Yes</i></u>	Absent	<u><i>1</i></u>
Jablonski	<u><i>Yes</i></u>		
Schroeder	<u><i>Absent</i></u>		

Doug McKay
Doug McKay, Mayor

ATTEST: *Russell Muñiz*
Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:
Keith M. Poliakoff
Keith M. Poliakoff, J.D. Town Attorney

114457371.1

ROE No.	PRIVATE CONTRACTOR/FORCE ACCOUNT DEBRIS REMOVAL Florida 2017 Community name, location or address: Tax ID Block/Lot: Federal/Florida/Tribal Landmark [Y/N]: _____
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RIGHT OF ENTRY ONTO PRIVATE PROPERTY FOR DEBRIS REMOVAL AND/OR DEMOLITION DISASTER ASSISTANCE (FEMA-DR-4337-FL)

Ownership Interest and Grant of Right of Entry "ROE" for Debris Removal or Demolition Activities

The undersigned hereby certifies they/he/she are/is (check):
 The owner(s) with authority to grant access to the property at (address) _____, or
 The authorized agent of the Property Owner.

The Property Owner(s)/agent authorize(s) the Town of Southwest Ranches, the State of Florida, and the United States of America, their respective agents, successors and assigns, contractors and subcontractors (collectively, the "Governments/Contractors") to have the right of access and to enter the property above specified for purposes of performing debris removal as it is a public health and safety threat to the general public resulting from the declared major disaster (FEMA-DR-4337-FL).

Governments/Contractors will perform the following work:
 Remove debris from the Property.
 Monitor debris removal from the Property.

Government Not Obligated; No Expense Except For Insurance Proceeds

The Property Owner/agent understands that this Right-of-Entry does not obligate the Governments/Contractors to perform debris removal. Governments/Contractors will access the property under this ROE if the work has been determined necessary in accordance with Federal, State, or local regulations. The Property Owner(s) will not be charged for the work conducted by Governments/Contractors. However, if the Property Owner receives insurance proceeds or compensation from other sources for debris removal or demolition, the Property Owner's obligation is set out in the section below, entitled "Avoidance of Duplication of Benefits...."

Government Indemnified and Held Harmless

The Property Owner(s)/agent agree(s) to indemnify and hold harmless the Governments/Contractors for any damage of any type whatsoever to the above described property or to personal property and fixtures situated thereon, or for bodily injury or death to persons on the property, and hereby releases, discharges and waives any and all actions, either legal or equitable, which the Property Owner(s) has/have, or ever might or may have, by reason of any action taken by Governments/Contractors to remove debris.

Avoidance of Duplication of Benefits: Reporting Debris Removal Money Received

Property Owner/agent has an obligation to file an insurance claim if coverage is available. Property Owner/agent understands and acknowledges that receipt of compensation or reimbursement for performance of the aforementioned activities from any source, including Small Business Administration, private insurance, an individual and family grant program or any other public or private assistance program could constitute a duplication of benefits prohibited by federal law. If the Property Owner/agent receives any compensation from any source for debris removal on this Property, the

Property Owner/agent will report it to the Town of Southwest Ranches at 13400 Griffin Road, Southwest Ranches, FL 33330, 954-434-0008.

Release of Insurance Information

If insured, the Property Owner/agent authorizes its insurer, (Company) _____, to release information relating to coverage and payments for debris removal activities (Claim # _____, Policy # _____) to the Town identified herein and/or to the State of Florida.

Acknowledgment of Prohibition on Fraud, Intentional Misstatements

The Property Owner/agent understands that an individual who fraudulently or willfully misstates any fact in connection with this agreement may be subject to penalties under state and federal law, including civil penalties, imprisonment for not more than five years, or both, as provided under 18 USC 1001.

Signature(s) and Witnesses

Property Owner(s) or Authorized Agent and Mortgage/Lien Holder(s)

For the considerations and purposes set forth herein, I/we hereby set my/our hand(s) and seal(s) this _____ day of _____, 2017.

Witness 1 _____

Witness 2 _____

Privacy Act Statement: The Property Owner/ Owner's Authorized Agent acknowledge(s) that information submitted will be shared with other government agencies, federal and non-federal, and contractors, their subcontractors and employees but solely for purposes of disaster relief management to meet the objectives of this Right-of-Entry. This form is signed to allow access to perform debris removal and/or demolition operations on the above-mentioned property, to authorize the release of insurance policy/claim information and to notify any lien-holder of demolition.

Property Owner/Authorized Agent
Sign _____

Print Property Owner(s)/Authorized Agent
Current Address and Telephone No.: _____

If Demolition, Lien Holder
Sign _____

Print Mortgage Holder/Authorized Agent Current
Address and Telephone No.: _____

Sign _____

Print: Other Lien Holder/Authorized Agent
Current Address and Telephone No.: _____