

**RESOLUTION NO. 2022-21**

**A RESOLUTION OF THE DEBARY CITY COUNCIL PROVIDING FOR DECLARATION OF STATE OF GENERAL EMERGENCY WITH REGARD TO SUBTROPICAL STORM NICOLE; PROVIDING FOR EMERGENCY AUTHORIZATIONS AND POWERS FOR THE CITY AND CITY MANAGER; PROVIDING FOR DURATION; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of DeBary (“City”) has been informed by its emergency management staff of the imminent threat posed by Subtropical Storm Nicole; and

**WHEREAS**, Subtropical Storm Nicole is expected to develop into a hurricane prior to landfall in or about the Florida peninsula and has the capacity to pose a significant, imminent, and dangerous threat to the health, safety, and welfare of the inhabitants of the City and visitors, including real and personal property located within the City and surrounding local areas; and,

**WHEREAS**, by executing this Resolution, the Mayor, identified as the Emergency Authorization Official pursuant to § 26-51 of the City Code hereby declares a state of emergency in accordance with Chapter 26, Article III of the City Code and Part I of Chapter 252, Florida Statutes; and

**WHEREAS**, it is anticipated that the City Council will duly meet, ratify, and execute this Resolution as soon as practicable.

**NOW, THEREFORE**, pursuant to Chapter 26, Article III of the City Code, and Chapter 252, Florida Statutes, the City Council finds and declares:

1. The above recitals are true and correct and are hereby incorporated into this Resolution.
2. A State of General Emergency hereby exists in the City, effective for seven (7) days beginning at 8:00am\_ this 8<sup>th</sup> day of November 2022, and may be extended, as necessary, in 7-day increments.
3. The City and City Manager are vested with all emergency powers and authority described in Chapter 26, Article III of the City’s Code of Ordinances, Chapter 252, Florida Statutes, and all other applicable provisions of the City Code, Florida Statutes, and other law, including but not limited to the following:
  - a) To implement emergency plans and procedures and take such other prompt and necessary action to save lives and protect property, including but not limited to, the authority to compel and direct timely local evacuation, if necessary.

- b) Pursuant to the established "comprehensive emergency operations plan" (CEOP) of the City, declare that the CEOP is in effect, as appropriate.
  - c) To obligate emergency expenditures for payment from the emergency reserve fund when such action is necessary to preserve public safety, health, and welfare. All such transfers and obligations must be reported to the City council at the first opportunity following such action but no later than 30 days after such occurrence.
  - d) To automatically initiate execution of the CEOP.
  - e) To exercise, on behalf of the City, any of the powers described in § 252.38(3)(a), Florida Statutes.
  - f) To determine a threat to public health and safety that may result from the generation of widespread debris throughout the City, that such debris constitutes a hazardous environment for all modes of movement and transportation of the residents as well as emergency aid and relief services, endangerment to all properties in the City, an environment conducive to breeding disease and vermin, and greatly increased risk of fire, and that it is in the public interest to collect and remove disaster debris from all property whether public lands, public or private roads, and gated communities to eliminate an immediate threat to life, public health and safety to reduce the threat of additional damage to improved property and to promote economic recovery of the community at large.
  - g) To authorize the City or its contracted agent(s) right of access to private roads or gated communities as needed by emergency vehicles such as, but not limited to, police, fire, medical care, debris removal, and sanitation to alleviate immediate threats to public health and safety.
  - h) To suspend the procurement requirements under article IV of Chapter 2 of the City's Code of Ordinances and make emergency purchases as deemed necessary to mitigate and counteract the ill effects of a declared emergency.
  - i) To execute contracts with third parties and other governmental agencies as deemed necessary to mitigate and counteract the ill effects of a declared emergency. Any emergency contracts so executed shall be limited to the purpose of mitigating or otherwise managing the emergency declared and shall not obligate the City to the purchase of products or services beyond the timeframe of such emergency.
4. The City Manager or his/her designee, to the extent permitted by law, is hereby further empowered, authorized, and directed to exercise, on behalf of the City Council and City, such emergency powers necessary to carry out the provisions of Chapter 252, Florida Statutes, and any other powers permitted or allowed pursuant to state law, including, but not limited to, the powers to:


- a) Direct and compel evacuation of all or part of the population from stricken or threatened areas within the City, if such action is deemed necessary to reduce the vulnerability of people in communities of the City to damage, injury, and loss of life and property resulting from the imminent threat;
  - b) Impose a curfew as may be determined necessary, provided that any such curfew allows persons to travel during curfew to their respective places of employment to report for work and to return to their residences after their work has concluded.
  - c) Waive the procedures and formalities otherwise required of the City by law pertaining to:
    - i. Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.
    - ii. Entering into contracts.
    - iii. Incurring obligations.
    - iv. Employment of permanent and temporary workers.
    - v. Utilization of volunteer workers.
    - vi. Rental of equipment.
    - vii. Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.
    - viii. Appropriation and expenditure of public funds.
  - d) Any actions taken by the City Manager or the City pursuant to §§ 252.31-252.90, Florida Statutes, including all orders and rules made pursuant thereto, must be taken or made with due consideration of the orders, rules, actions, recommendations, and requests of federal authorities relevant thereto and, to the extent permitted by law, must be consistent with such orders, rules, actions, recommendations, and requests.
5. If any part or provision of this Resolution is declared or determined invalid or inconsistent with state law by a court of competent jurisdiction, the remaining provisions of this Resolution shall remain in effect to the extent practicable given the removal of the invalid or inconsistent provision.
  6. This Resolution will be transmitted to the Florida Division of Emergency Management upon adoption.
  7. Pursuant to § 252.46(2), Florida Statutes, this Resolution must be filed with the office of the City Clerk within three (3) days of the Resolution's adoption.
  8. Pursuant to § 252.46(3), Florida Statutes, a copy of this Resolution will be made available on a dedicated web page accessible through a conspicuous link on the City's homepage. Such dedicated web page must identify any and all emergency ordinances, declarations, and other orders currently in effect for the City of

DeBary. City staff is further directed to provide the link to such dedicated web page to the Florida Division of Emergency Management.

9. By executing this Resolution, the Mayor hereby declares a state of emergency as the City's Emergency Authorization Official in accordance with Chapter 26, Article III of the City Code and Chapter 252, Florida Statutes, notwithstanding that the City Council might not yet have executed or ratified the Resolution.

ADOPTED THIS  9<sup>th</sup>  DAY OF NOVEMBER 2022.

**CITY COUNCIL  
CITY OF DeBARY, FLORIDA**

  
**Karen Chasz, Mayor  
Emergency Authorization Official**

**Attest:**

  
**Annette Hatch, City Clerk**

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