

ORDINANCE NO. 827

AN ORDINANCE RELATING TO DECLARATION OF A STATE OF LOCAL EMERGENCY IN THE EVENT OF A NATURAL, TECHNOLOGICAL OR MANMADE DISASTER OR THE IMMINENT THREAT THEREOF; PROVIDING THE PURPOSE AND INTENT OF THE ORDINANCE; PROVIDING DESIGNATION OF CERTAIN CITY OFFICIALS WITH AUTHORITY TO DECLARE A STATE OF LOCAL EMERGENCY; PROVIDING DEFINITION OF EMERGENCY; PROVIDING FOR LENGTH OF TIME AUTHORIZED FOR A DECLARED STATE OF LOCAL EMERGENCY AND PROVISIONS FOR EXTENSION AND/OR TERMINATION OF SAME; PROVIDING FOR ACTIVATION OF DISASTER EMERGENCY PLANS; PROVIDING FOR IMPOSITION OF CERTAIN EMERGENCY MEASURES OR REGULATIONS; PROVIDING DISCLAIMER OF LIMITATION OF AUTHORITY; PROVIDING PENALTIES; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Brooksville, Florida is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances; and,

WHEREAS, the City Council has previously adopted Ordinance No. 540 relating state of local emergency; and,

WHEREAS, the City Council of the City of Brooksville, Florida desires to amend its Code of Ordinances, relating to its local state of emergency and repealing Ordinance No. 540 in it's entirety; and,

WHEREAS, With the possibility of the occurrence of natural, manmade, technological or other disasters and or emergencies resulting in destruction of property, and in order to ensure the readiness of the City of Brooksville to adequately respond to such disasters and provide for the protection of the life safety, health, property, welfare or the public peace of the people of the City of Brooksville, it is hereby determined to be in the best interests of the City of Brooksville that the following Ordinance be adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA:

SECTION 1. PURPOSE AND INTENT OF ORDINANCE

It is the intent of the City to designate a City official to declare a state of local emergency in conjunction with Hernando County Emergency Management Comprehensive Emergency Management Plan (CEMP) as currently adopted and updated in accordance with Florida Statutes, Chapter 252, in the event of a natural, technological or manmade disaster or emergency, or the imminent threat thereof, and to authorize certain actions relating thereto when a quorum of the City Council is unable to meet.

SECTION 2. DESIGNATION OF CERTAIN CITY OFFICIALS WITH AUTHORITY TO DECLARE A STATE OF LOCAL EMERGENCY

Pursuant to Chapter 252, Florida Statutes, which authorizes the waiver of procedures and formalities otherwise required of political subdivisions to take whatever prudent action is necessary to ensure the health, safety and welfare of the community in the event of a state of emergency, when a quorum of the city council is unable to meet, the Mayor of the City Council, or the Vice Mayor in his absence, or the Senior Council Member in succession, in the absence of the Mayor and Vice Mayor, is hereby designated and empowered to declare a state of local emergency whenever he or she shall determine that a natural, manmade disaster, technological or emergency has occurred or that the occurrence or threat of one is imminent and requires immediate and expeditious action.

SECTION 3. DEFINITION OF "EMERGENCY"

As defined in Florida Statutes, Chapter 252.34(3), "Emergency" means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

SECTION 4. LENGTH OF TIME AUTHORIZED FOR A DECLARED STATE OF LOCAL EMERGENCY AND PROVISIONS FOR EXTENSION AND/OR TERMINATION OF DECLARED EMERGENCY

A state of local emergency shall be declared by proclamation by the City Official designated in Section 2 herein for a period of time up to seven (7) days, which may be extended as necessary in seven (7) day increments by subsequent proclamation, pursuant to Florida Statutes, Chapter 252.38(3)(a)5. The state of local emergency shall continue until terminated by proclamation by the designated City Official when he finds that the threat or danger no longer exists and/or until an emergency meeting of a quorum of the City Council can take place to terminate the state of local emergency.

SECTION 5. ACTIVATION OF DISASTER EMERGENCY PLANS

A declaration of a state of local emergency shall activate the disaster emergency plans applicable to the City of Brooksville as described in Hernando County's CEMP and shall be the authority for emergency measures such as evacuation orders and declaration of certain areas as being off limits, as well as authorize the use or distribution of any supplies, equipment, materials, and facilities assembled or arranged to be made available pursuant to such plans.

SECTION 6. IMPOSITION OF CERTAIN EMERGENCY MEASURES OR REGULATIONS

Upon the declaration of a state of local emergency pursuant to this Ordinance, emergency measures may be imposed by proclamation by the City official designated in Section 2, or duly approved and adopted by City Council when available pursuant to Brooksville City Charter or Code to protect the life, health, property, welfare, or public peace of the community. The purpose of this Ordinance is to provide authority and enforcement power as adopted and updated in Florida Statutes, Chapter 252.

SECTION 7. DISCLAIMER OF LIMITATION OF AUTHORITY

Nothing in this Ordinance shall be construed to limit the authority of the City Council to declare or terminate a state of local emergency and take any action authorized under Florida Statute 252 when sitting in regular or special session.

SECTION 8. PENALTIES

Any person, firm or corporation who refuses to comply with or violates any section of this Ordinance, or the emergency measures or regulations which may be made effective pursuant to this Ordinance, shall be punished according to law and upon conviction for such offense, shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the County Jail, or both. Each day of continued non-compliance or violation shall constitute a separate offense.

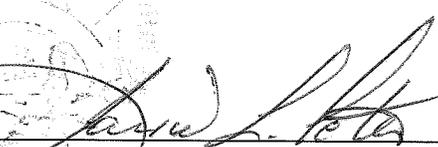
Nothing herein contained shall prevent the City from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this Ordinance or the emergency measures or regulations which may be made effective pursuant to this Ordinance. Such other lawful action shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

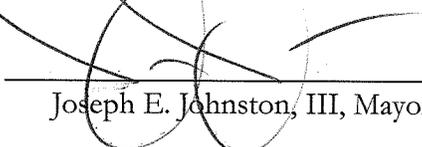
SECTION 9. CONFLICT AND SEVERABILITY

In the event this Ordinance conflicts with any other Ordinance of the City of Brooksville or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION 10. EFFECTIVE DATE

This Ordinance shall take effect immediately upon adoption.

Attest: 
Janice L. Peters, CMC, City Clerk

CITY OF BROOKSVILLE
By: 
Joseph E. Johnston, III, Mayor

PASSED on First Reading May 21, 2012
NOTICE Published on May 25, 2012
PASSED on Second & Final Reading June 4, 2012

APPROVED AS TO FORM FOR THE RELIANCE
OF THE CITY OF BROOKSVILLE ONLY:


Thomas S. Hogan, The Hogan Law Firm, LLC
City Attorney

VOTE OF COUNCIL:
Bernardini AYE
Bradburn AYE
Burnett AYE
Hohn AYE
Johnston AYE