

ORDINANCE 1625

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES CHAPTER 29 RELATED TO EMERGENCY MANAGEMENT; AMENDING DEFINITIONS; AMENDING DECLARATIONS OF EMERGENCIES; AMENDING THE DURATION OF EMERGENCY ORDERS; INCORPORATING THE CITY'S COMPREHENSIVE EMERGENCY MANAGEMENT PLAN; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the City of Panama City Beach ("City") is a municipality granted home rule authority pursuant to Article VIII, Section 2 of the Constitution of the State of Florida and Section 166.021, Florida Statutes, constitutionally and statutorily guaranteeing it the right to exercise its governmental, corporate, and proprietary powers for municipal purposes, including to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, the City is further empowered pursuant to sections 252.38 and 252.46, Florida Statutes, to declare emergencies and authorize emergency orders as necessary for emergency management; and

WHEREAS, the City Council desires to codify who holds emergency powers, the duration of emergencies, and the detailed management of emergencies and disasters, to respond more quickly and effectively to future emergencies.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. From and after the effective date of this Ordinance, Chapter 29 of the City's Code of Ordinances is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

Chapter 29: Emergency Management

ARTICLE I – IN GENERAL

Section 29-1. Reserved

Section 29-2. Definitions

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Civil Emergency* means the existence or imminent threat of an act of violence or a flagrant and substantial defiance of or resistance to a lawful exercise of public authority and that, on account

thereof, there is reason to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to property, all of which constitute an imminent threat to public peace or order and to the general welfare of the City.

(b) *Curfew* means a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the City, except the persons officially designated to perform duties by local emergency order, resolution or ordinance.

(c) *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.

(c) *Emergency Management* means the preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters. Specific emergency management responsibilities include, but are not limited to:

1. Reduction of vulnerability of people and subparts of this community to damage, injury, and loss of life and property resulting from natural, technological, or manmade emergencies or hostile military or paramilitary action.
2. Preparation for prompt and efficient response and recovery to protect lives and property affected by emergencies.
3. Response to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency.
4. Recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.
5. Provision of an emergency management system embodying all aspects of pre-emergency preparedness and post-emergency response, recovery, and mitigation.
6. Assistance in anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

Section 29-3 through 29-39. Reserved.

ARTICLE II - ~~CIVIL~~ EMERGENCIES

Section 29-40. Declaration of *Civil Emergency*

Whenever the City Manager determines that there exists a *Civil Emergency* ~~or during a declared state or county emergency pursuant to the provisions of Chapters 252 or 381, Florida Statutes~~, the City Manager may declare that a state of emergency exists within the City's corporate boundaries.

Section 29-41. Declaration of *Emergency* in General

Whenever the City Manager determines that there exists an *Emergency*, or during a declared state or county emergency pursuant to the provisions of Chapters 252 or 381, Florida

Statutes, the City Manager may declare that a state of emergency exists within the City's corporate boundaries.

Section 29-412. Discretionary Emergency Measures

(a) Whenever the City Manager declares that a state of emergency exists, pursuant to sections 29-40 ~~or 29-41~~, the City Manager may order and promulgate, by issuance of a written emergency order, any, or all of the following *Emergency Management* measures, in whole or in part, with such limitations and conditions as ~~the City Manager~~ **he or she** may deem appropriate, including but not limited to:

1. Such powers and authorities vested in municipalities to promulgate such emergency measures as authorized under Chapters 252, 381 and 870, Florida Statutes.
2. The establishment of *Curfews* in all or part of the City. The order may exempt from some or all of the curfew restrictions classes of people whose exemption ~~the City Manager finds~~ **is** necessary for the preservation of the public health, safety and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.
3. The prohibition of the sale, distribution, or service of any alcoholic or intoxicating beverage, with or without the payment or a consideration therefore.
4. The prohibition of the possession or consumption of alcoholic or intoxicating beverages other than on one's own premises.
5. The closing of any area of public or private assemblage. The order shall allow the owner of real property access and may grant additional exemptions for those the City Manager finds necessary for the preservation of the public health, safety and welfare.
6. The prohibition of the rental or operation of any low-speed vehicle, golf cart, autocycle, or any other class or kind of traffic found to be incompatible with the normal and safe movement of traffic on any or all street(s) within the territorial jurisdiction of the City.
7. The termination of utility services at any real property address within the City's utility franchise service area.
8. The suspension, revocation, modification, or denial of a special event permit sought or issued under Chapter 4 of the City's Code of Ordinances.
9. The authorization of the use of City property for the lawful storage, detention, or impoundment of persons or property, including but not limited to motor vehicles.
10. The authorization to use City personnel to enter upon private property and provide emergency nuisance abatement where any violation of the City Code or condition existing on real property presents a serious threat to the public health, safety, and welfare in accordance with sections 15-17 and 25-31 of this Code, including but not limited to the provision of private security to protect private property or for City personnel to otherwise provide emergency assistance to private property or businesses critically, adversely affected by the declared emergency.
11. The authorization to close any public beach access or portion of the sandy gulf beach.

12. The authorization to request federal, state, regional and county emergency assistance or mutual aid, and the power to render mutual aid to other governmental entities as City resources allow.

13. To impose and implement any other conditions narrowly tailored towards *Emergency Management* of the declared *Civil Emergency* or *Emergency*.

Section 29-423. Advanced Emergency Prevention Measures

(a) Whenever the City Manager determines, based upon the written request of the Chief of Police and a review of available credible intelligence, that there exists a reasonable likelihood that a *Civil Emergency* will exist in the City within the approaching twelve (12) hours, the City Manager shall be authorized to issue an administrative order directing any or all of the following advanced preventative measures, in whole or in part, with such limitations and conditions as the City Manager may deem appropriate, including but not limited to:

1. The prohibition of the sale, distribution, or service of any alcoholic or intoxicating beverage, with or without the payment or a consideration therefore, between the hours of 2:00 a.m. and 7:00 a.m. on the same day.

2. The measures set forth in section 29-41(a)(6)(8)(9) and (11).

(b) Any administrative order promulgated by this Section 29-423 shall be limited in its duration to twenty-four (24) hours and may be extended by the City Manager for two (2) additional twenty-four (24) hour periods but shall not exceed a maximum duration of seventy-two (72) hours unless extended by a duly enacted resolution of the City Council.

Section 29-434. Filing and Publication

Any state of emergency, emergency order, or advanced preventative administrative order declared or ordered by virtue of the terms of sections 29-40 through 29-423 shall, as promptly as practicable, be filed in the office of the City Clerk and delivered to appropriate news media for publication and to local radio and television stations for broadcast, as well as posted on the City's website and broadcast on any publicly available emergency notification system.

Section 29-445. Duration and Scope of Emergency Order.

A state of emergency or emergency order established under this Article:

1. **Civil Emergency** - Shall terminate at the end of a period of seventy-two (72) consecutive hours thereafter unless, prior to the end of such seventy-two (72) hour period, the City Manager or City Council shall have terminated such state of emergency. **The Civil Emergency may be terminated, modified, or extended beyond the seventy-two (72) hour time limit by duly enacted ordinance or resolution of the City Council.**

2. **Emergency In General** – Shall terminate seven (7) days after issuance. **The Emergency may be terminated, modified, or extended beyond the seven (7) day time limit by a majority vote of the City Council by duly enacted ordinance or resolution. Any order issued in response to a non-weather related Emergency that limits the rights or liberties of individuals or businesses shall not extend beyond a total duration of forty two (42) days.**

23. May be limited to a specific geographic area necessary to accomplish the goal of *Emergency Management*.

3. ~~May be terminated, modified, or extended beyond the seventy-two (72) hour time limit by duly enacted ordinance or resolution of the City Council.~~

4. Which restricts or closes the operation of a business shall contain the specific reasons for such restriction and shall be reassessed regularly.

5. Any Curfew shall allow persons to travel to and from their residence and place of employment.

Section 29-46 – Comprehensive Emergency Management Plan

The City has adopted a Comprehensive Emergency Management Plan (“CEMP”) to establish a framework, guidelines, and a management structure for the City to handle emergencies and disasters. The City CEMP is guided by Florida Statute Chapter 252 and is intended to coordinate with Bay County’s CEMP, the State of Florida’s Emergency Response Plans, and the National Response Framework. To the extent not inconsistent with City Code, the CEMP is hereby incorporated herein.

Section 29-457. Penalties and Enforcement

(a) Any person who violates any condition set forth in an order of the City Manager or otherwise disrupts or obstructs *Emergency Management* activities shall be subject to penalties as authorized by section 1-12 of the City’s Code of Ordinances and Chapters 252 and 870, Florida Statutes.

(b) Civil fines. Notwithstanding subsection (a) herein, the following civil fines shall be imposed upon a person or business establishment in violation of any curfew or other condition created, established, ordered, adopted or promulgated pursuant to this article, or Chapter 252, Florida Statutes.

1. First violation: \$500.00.

2. Second (or subsequent) violation within the preceding 12 months: \$1,000.00.

(c) Enhanced penalties. Notwithstanding subsection (a) herein, and in addition to those civil fines identified in subsection (b) herein, the following enhanced penalties shall be imposed upon a business establishment operating in violation of any *Curfew* created, established, ordered, adopted or promulgated pursuant to this article or Chapter 252, Florida Statutes:

1. The offending business establishment must immediately cease all business operations and activities; and

2. The offending business establishment shall be prohibited from commencing any business operations or activities until the appropriate civil fine, as set forth in subsection (b) herein, has been received by the City; and

3. The offending business establishment has remitted an executed attestation of compliance demonstrating that such establishment has reviewed those emergency order(s) and measures promulgated pursuant to the declared state of emergency, and which attestation shall further specify that the business establishment has taken all required measures to prevent a future recurrence of such curfew violation.

(d) Criminal Penalties. Any person who willfully or knowingly violates any condition established by an emergency or administrative order adopted or promulgated pursuant to Section 29-41 is guilty of a misdemeanor of the second degree.

(e) The Civil Penalties established in this Article and incorporated into specific provisions of this Chapter 29 are always cumulative and in addition to any other civil or criminal penalties available for a violation of the City's Code of Ordinances, including the general penalty and terms set forth in Section 1-12, and also cumulative and in addition to any requirements, proscriptions and civil or criminal penalties under state law.

(f) Civil penalties issued and assessed for violations of this Chapter may be administered through the City's Hearing Officer Code Enforcement System pursuant to Chapter 25 as it may be amended from time to time.

(g) Any business or person found to be in repeat violation of this Chapter shall be subject to immediate suspension of utility service upon the order of the City Manager.

SECTION 2. REPEALER. All ordinances or parts of resolutions or ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. CODIFICATION. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. SEVERABILITY. If any clause or portion of this ordinance is held invalid or unenforceable, the remainder of this ordinance shall continue in full force and effect.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage.

PASSED, APPROVED AND ADOPTED at the special meeting of the City Council of the City of Panama City Beach, Florida, this 8th day of August, 2023.


CITY OF PANAMA CITY BEACH

By: Mark Sheldon
Mark Sheldon, Mayor

ATTEST:

Lynne Fasone
Lynne Fasone, City Clerk

EXAMINED AND APPROVED by me this 8th day of August 2023.

By: 
Mark Sheldon, Mayor

Posted on **pcbfl.gov** on the 17th day of July, 2023.

Posted on the **Bay County Public Notices website** on the 29th day of July, 2023.