

**CITY OF WESTON, FLORIDA  
ORDINANCE NO. 2016-06**

AN ORDINANCE OF THE CITY OF WESTON, FLORIDA, AMENDING CHAPTER 61, "DISASTER ACCESS AND DEBRIS REMOVAL" OF THE CITY CODE TO CLARIFY THE CITY'S RESPONSIBILITY FOR REMOVING DISASTER DEBRIS FROM PRIVATE PROPERTY DURING EMERGENCIES; PROVIDING CRITERIA FOR DETERMINING A HEALTH AND SAFETY THREAT ON PRIVATE PROPERTY WARRANTING THE CITY'S REMOVAL OF DISASTER DEBRIS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, First, the City adopted Chapter 61 "Disaster Access and Debris Removal" of the City Code to provide for an efficient system for collection and removal of Disaster Debris and to eliminate threats to health, safety and welfare created by Disaster Debris; and

WHEREAS, Second, Section 61.05 of the City Code currently provides that Residential Property Owners are responsible for the collection and removal of Disaster Debris from their property; and

WHEREAS, Third, in order for the City to receive reimbursement from the Federal Government for the City's removal of Disaster Debris from private property, the Federal Emergency Management Agency ("FEMA") requires the City to demonstrate that (a) the City was legally responsible for the work, (b) the work was necessary to eliminate an immediate threat to the community at large, and (c) the Federal Government was held harmless and indemnified from claims arising from the work performed; and

WHEREAS, Fourth, the vast majority of the City's residential streets are privately owned Rights-Of-Way; and

WHEREAS, Fifth, it is the intent of the City Commission to amend the City Code to clarify the City's responsibility for removing Disaster Debris from private property within the City and to provide criteria for determining a health and safety threat on private property warranting the City's removal of Disaster Debris from Private Rights-Of-Way; and

WHEREAS, Sixth, the City Commission finds that this legislation is in the best interest of the health, safety and welfare of the residents of the City of Weston.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Weston, Florida:

**Section 1.** The foregoing Whereas clauses are ratified and incorporated as the legislative intent and factual findings underlying this Ordinance.

**Section 2. Amendment to Chapter 61.**

Chapter 61, "Disaster Access and Debris Removal," of the Code of Ordinances of the City of Weston, is amended to read as follows:

Coding: underlined words are additions to existing text, ~~struck-through~~ words are deletions from existing text, shaded text reflects changes made from First Reading

1 CHAPTER 61. DISASTER ACCESS AND DEBRIS REMOVAL.  
2

3 § 61.01 PURPOSE.  
4

5 The City needs an efficient and effective system for disposing of Disaster Debris. The Disaster  
6 Access and Debris Removal Ordinance is designed to advise property Owners of their duties and  
7 responsibilities with respect to Disaster Debris, to provide for an efficient system for collection and  
8 removal of Disaster Debris, and to eliminate threats to health, safety and welfare created by  
9 Disaster Debris, and to establish a process by which the City may evaluate and, if necessary,  
10 remove debris from Private Rights-Of-Way within the City in the event of an immediate threat to  
11 life, public health, safety and property.  
12

13 § 61.02 FINDINGS OF FACT.  
14

15 The City Commission finds that Disaster Debris can pose a serious and immediate threat to life,  
16 health, safety and welfare, and poses an immediate threat of significant damage to improved  
17 property.  
18

19 § 61.03 ACCESS FOR EMERGENCY RESPONSE AND DISASTER DEBRIS REMOVAL.  
20

21 61.03(A) **Clearance of Disaster Debris by City.** The City, through its contract agents, provides  
22 basic life safety services to the public. In order to facilitate Emergency response to Disasters that  
23 have caused Disaster Debris to be produced throughout the City, the City will clear Disaster Debris  
24 from Public and Private Rights-Of-Way throughout the City.  
25

26 61.03(B) **Access.** Upon declaration of a state of emergency affecting the City or the declaration  
27 of a state of local emergency by the City, and until the state of emergency and/or state of local  
28 emergency has been lifted or otherwise ceased, communities with Private Rights-Of-Way, whether  
29 gated or ungated, shall allow unlimited access through all community entrances to the City and its  
30 agents for response to emergencies and circumstances that pose serious and immediate threats to  
31 the life, health and/or safety of the public.  
32

33 61.03(C) **Facilitation of access.** To facilitate unlimited access throughout communities with  
34 Private Rights-Of-Way:  
35

36 61.03(C)(1) Community entrances with gatehouses that are staffed shall provide access to the  
37 City's agents and vehicles upon display of proper identification;  
38

39 61.03(C)(2) Community entrances with gatehouses that are staffed less than 24 hours a day shall  
40 keep gates open when the gatehouses are not staffed; and  
41

42 61.03(C)(3) Community entrances without staffed gatehouses shall keep gates open 24 hours a  
43 day.  
44

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1 **§ 61.04 COLLECTION AND REMOVAL OF DISASTER DEBRIS, GENERALLY.**

2  
3 61.04(A) ***Serious and immediate threat.*** The City will only remove Disaster Debris if the City  
4 Manager determines, pursuant to § 61.07, that the presence of Disaster Debris throughout the City  
5 is so widespread or of such a severe nature as to pose a serious and immediate threat to life, health  
6 and/or safety.

7  
8 61.04(B) ***Removal only from Public and Private Rights-Of-Way.*** The City will only remove  
9 Disaster Debris piles from Public and Private Rights-Of-Way.

10  
11 61.04(C) ***Prioritization.*** The City will only remove Disaster Debris piles that have been  
12 collected and located as required by § 61.05. The City may prioritize the removal of different types  
13 or quantities of Disaster Debris.

14  
15 61.04(D) ***Compliance with laws and City Code.*** All actions of property Owners, or their agents,  
16 to collect, reduce, remove or otherwise dispose of Disaster Debris shall comply with all provisions  
17 of Federal and State law, and with the City Code.

18  
19 61.04(E) ***Removal of only Disaster Debris.*** Burning of Disaster Debris is prohibited at all times.  
20 The City will not remove Large Stumps or Limbs or any Debris that is not a direct result of the  
21 Disaster, including Debris generated by Land Clearing operations, house cleaning efforts or other  
22 attempts to have the City remove Debris that is not Disaster Debris.

23  
24 **§ 61.05 DISASTER DEBRIS FROM RESIDENTIAL PROPERTY.**

25  
26 61.05(A) ***Responsibility.*** Residential Property Owners are responsible for the collection and  
27 removal of Disaster Debris from their property, except to the extent the City is responsible for  
28 removal of Disaster Debris from Private Rights-Of-Way as provided in § 61.07 of the City Code.

29  
30 61.05(B) ***Piling requirement.*** As provided in § 61.04 and § 61.07, the City may remove  
31 Disaster Debris collected from Residential Property. Residential Property Owners desiring the City  
32 to remove Disaster Debris shall collect and locate in piles all Disaster Debris as required by this  
33 Section before the City's Last Pass for removal of Disaster Debris. Disaster Debris piles put out for  
34 removal after the City makes its Last Pass will not be removed by the City.

35  
36 61.05(C) ***Segregation requirement.*** Residential Property Owners must segregate Structural  
37 Debris piles from Vegetative Debris piles, and these piles must be segregated from Household  
38 Waste. Household Waste shall be bagged and placed in Garbage cans. Structural Debris and  
39 Vegetative Debris shall not be bagged, except that loose Vegetative Debris may be placed in large  
40 plastic bags.

41  
42 61.05(D) ***Placement of piles.*** Residential Property Owners shall place Disaster Debris piles:

43  
44 61.05(D)(1) In front of their residence in the Swale area immediately adjacent to the edge of the  
45 public or private Roadway; and

46  
47 61.05(D)(2) In such a manner as to allow ingress and egress to all Residential Properties.

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1  
2 61.05(E) **Combination of piles.** Residential Property Owners may combine their several piles of  
3 segregated Disaster Debris into larger piles to accomplish this requirement.  
4

5 61.05(F) **Damage to Sidewalks or mailboxes.** The City and its agents shall not be responsible  
6 for damage to Sidewalks or mailboxes when Disaster Debris is placed on or adjacent thereto.  
7

8 61.05(G) **City determination.** If the City determines that:  
9

10 61.05(G)(1) Residential Property Owner's Structural Debris, Vegetative Debris and/or  
11 Household Waste is commingled, or has not been collected in accordance with § 61.05, the  
12 Residential Property Owner shall have 48 hours to properly segregate the Disaster Debris. If the  
13 Residential Property Owner fails to properly segregate his or her Disaster Debris within 48 hours,  
14 then the Residential Property Owner is required to remove and dispose of the Disaster Debris at his  
15 or her expense;  
16

17 61.05(G)(2) Any Disaster Debris from Nonresidential Property, including community property,  
18 has been commingled with the Disaster Debris of a Residential Property Owner, then the City will  
19 not remove the Disaster Debris and the Residential Property Owner is required to remove the  
20 Disaster Debris piles at his or her expense; or  
21

22 61.05(G)(3) Any Disaster Debris has been moved or transported by a motorized machine, then  
23 the City will not remove the Disaster Debris and the Residential Property Owner is required to  
24 remove the Disaster Debris at his or her expense.  
25

## 26 § 61.06 DISASTER DEBRIS FROM NONRESIDENTIAL PROPERTY. 27

28 61.06(A) **Commingling.** The City will not remove Disaster Debris that has come from or been  
29 commingled with Disaster Debris from:  
30

31 61.06(A)(1) Nonresidential Property;  
32

33 61.06(A)(2) Landscaped Medians or cul-de-sacs in communities with Private Rights-Of-Way; or  
34

35 61.06(A)(3) Privately owned parks or other privately owned properties that are not residential.  
36

37 61.06(B) **Disposal of all Disaster Debris.** Nonresidential Property Owners, including entities  
38 owning community property, shall collect, reduce, remove and otherwise dispose of all Disaster  
39 Debris on their property within 60 days of the end of the disaster.  
40

41 61.06(C) **Prohibition of commingling.** Nonresidential Property Owners, including entities  
42 owning community property, shall not:  
43

44 61.06(C)(1) Move Disaster Debris from their property to Residential Property; or  
45

46 61.06(C)(2) Collect their Disaster Debris and commingle it with a Residential Property Owner's  
47 Disaster Debris piles.

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1  
2 61.06(D) **Tub grinding operations.** Tub grinding operations or any other operation to reduce  
3 Disaster Debris from Nonresidential Property must be conducted at least 200 feet away from  
4 Residential Property.  
5

6 **§ 61.07 DETERMINATION OF IMMEDIATE THREAT TO LIFE, HEALTH OR SAFETY.**  
7

8 61.07(A) **Determination.** The City Manager shall determine whether the presence of Disaster  
9 Debris is so widespread or of such a severe nature as to pose a serious and immediate threat to life,  
10 health and/or safety of the public as provided in this Section.  
11

12 61.07(B) **Assessment.** In the event that a disaster has caused or is causing the presence of  
13 Disaster Debris in the City, or any part thereof, the City Manager shall determine the scope of the  
14 disaster, the scope of the Disaster Debris spread, and the nature of the Disaster Debris. After  
15 compiling this information, the City Manager shall assess the seriousness and immediacy of threats  
16 to life, health and/or safety posed by Disaster Debris present throughout the City.  
17

18 61.07(C) **Elimination of immediate threat.** It is in the public interest to remove Disaster Debris  
19 where City action is necessary to eliminate an immediate threat to life and/or public health and/or  
20 public safety.  
21

22 61.07(D) **Public interest.** The City Manager shall determine, based upon his or her assessment  
23 of the seriousness and immediacy of threats to life, health and/or safety posed by Disaster Debris,  
24 whether it is in the public interest to remove Disaster Debris anywhere in the City.  
25

26 61.07(D)(1) The City Manager shall consider the presence and/or imminent development of any  
27 of the following dangers or aggravating factors in assessing whether the removal of Disaster Debris  
28 from public property is in the public interest:  
29

30 61.07(D)(1)(a) Downed or disabled power lines or other Utility connections;  
31

32 61.07(D)(1)(b) Glass, metal or other sharp Debris;  
33

34 61.07(D)(1)(c) Biological or chemical waste and/or contaminants;  
35

36 61.07(D)(1)(d) Risk of fire;  
37

38 61.07(D)(1)(e) Risk of infestation by vermin;  
39

40 61.07(D)(1)(f) Risk of disease spread or illness;  
41

42 61.07(D)(1)(g) Risk of preventing or impairing Emergency response;  
43

44 61.07(D)(1)(h) Risk of the collapse of Structures;  
45

46 61.07(D)(1)(i) Risk of Disaster Debris becoming wind-blown projectiles;  
47

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1 61.07(D)(1)(j) Risk of attractive nuisance; and ~~or~~

2  
3 61.07(D)(1)(k) Impairment of drainage by Disaster Debris, and risks associated therewith.

4  
5 61.07(D)(2) The City Manager shall also consider any other danger or aggravating factor he or  
6 she finds applicable to assessing whether the removal of Disaster Debris is in the public interest.  
7

8 61.07(E) **Removal from Private Rights-of-Way.** If the Property Owner has executed an  
9 agreement with the City in accordance with § 61.08 of the City Code, the City shall remove  
10 Disaster Debris from Private Rights-Of-Way adjacent to Residential Property when the Disaster  
11 Debris is determined by the City Manager, in the City Manager's sole discretion in accordance with  
12 this Section, to pose an immediate threat to the health, safety and welfare of the public in the area  
13 or an immediate threat of significant damage to improved property within the City. In order to  
14 determine that there is such an immediate threat sufficient to warrant removal of Disaster Debris  
15 from Private Rights-Of-Way adjacent to Residential Property within the City, the City Manager shall  
16 first consider the factors in this subsection and make a written finding as to whether the presence  
17 and/or imminent development of any of the dangers or aggravating factors below exists:

18  
19 61.07(E)(1) There is a significant likelihood that rescue vehicles will be significantly hindered  
20 from rendering emergency services to property should the debris be allowed to remain in place  
21 absent City removal;

22  
23 61.07(E)(2) The type of Disaster Debris is such that it may reasonably cause disease, illness, or  
24 sickness which could injure or adversely affect the health, safety, or general welfare of those  
25 residing and working in the area if it is allowed to remain;

26  
27 61.07(E)(3) The clearing is necessary to effectuate orderly and expeditious restoration of  
28 citywide utility services including, but not limited to, power, water, sewer, and telephone;

29  
30 61.07 (E)(4) The Disaster Debris is determined to be dangerous or hazardous to persons or  
31 property;

32  
33 61.07(E)(5) The Disaster Debris prevents garbage collection thereby creating a public health  
34 hazard;

35  
36 61.07(E)(6) The Disaster Debris contains contaminants which have a reasonable likelihood of  
37 leaching into the soil and/or aquifer of the City;

38  
39 61.07(E)(7) The Disaster Debris has a substantial negative impact in preventing or adversely  
40 affecting emergency repairs to buildings and/or property;

41  
42 61.07(E)(8) The Disaster Debris presents a reasonable danger of being transported by wind and/or  
43 water into the surrounding areas of the City and thereby increasing the cost of recovery and  
44 removal;

45  
46 61.07(E)(9) The Disaster Debris poses a significant likelihood of producing mold which would  
47 be injurious to public health;

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1  
2 61.07(E)(10) The presence of the Disaster Debris significantly adversely impacts the City's  
3 recovery efforts;

4  
5 61.07(E)(11) The Disaster Debris significantly interferes with drainage or water runoff, so as to  
6 be a significant hazard in the event of significant rainfall;

7  
8 61.07(E)(12) The sheer volume of the Disaster Debris is such that it is impractical and  
9 unreasonable to remove in an orderly and efficient manner absent action by the City;

10  
11 61.07(E)(13) The type, extent and nature of the Disaster Debris is such that it would cause much  
12 greater damage if the debris was not removed immediately; or

13  
14 61.07(E)(14) If the clearance of the Disaster Debris will aid the City's recovery operations or aid  
15 the health, safety, or welfare of the residents of the City.

16  
17 61.07(EF) *Promulgation of rules and forms.* The City Manager shall promulgate any rules and  
18 forms necessary to detail determinations made pursuant to this Section.

19  
20  
21 **§ 61.08 ~~FEDERAL GOVERNMENT INDEMNIFICATION, DEFENSE AND HOLD HARMLESS.~~**

22  
23 ~~To the extent that~~ Prior to the City, or the City's authorized agent, entering Private Rights-Of-Way  
24 to clear and/or remove Disaster Debris, the Owner of the Private Right-Of-Way shall execute the  
25 City's standard form Agreement for Disaster Debris Removal agreeing to indemnify, defend and  
26 hold the Federal government and the City, and its their agencies, employees, officers and agents,  
27 harmless for claims arising from the City's removal of Disaster Debris. The Mayor and the City  
28 Manager are authorized to execute the City's standard form Agreement for Disaster Debris Removal  
29 on behalf of the City.

30  
31 **Section 3. Codification.**

32  
33 It is the intention of the City Commission that the provisions of this Ordinance become and  
34 be made part of the City Code, and that the Sections of this Ordinance and Code may be  
35 renumbered or relettered and the word "ordinance" may be changed to "section" or such other  
36 appropriate word or phrase to accomplish such intentions.

37  
38 **Section 4. Severability.**

39  
40 Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance be  
41 declared by a court of competent jurisdiction to be invalid, such decision shall not affect the  
42 validity of this Ordinance as a whole or any portion thereof, other than the part so declared to be  
43 invalid.

44  
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1 **Section 5. Conflict.**

2  
3 That all Sections or parts of Sections of the Code of Ordinances, all Ordinances or parts of  
4 Ordinances, and all Resolutions, or parts of Resolutions, in conflict with this ordinance are repealed  
5 to the extent of such conflict.  
6

7 **Section 6. Effective Date.**

8  
9 This Ordinance shall become effective upon passage and adoption.

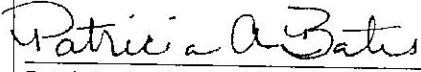
10  
11 PASSED ON FIRST READING March 7, 2016.

12  
13 PASSED AND ADOPTED ON SECOND READING April 4, 2016.  
14

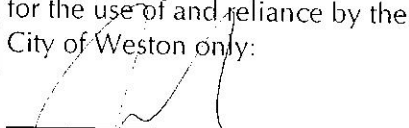
15  
16 CITY COMMISSION  
17 CITY OF WESTON, FLORIDA

18  
19  
20 By   
21 Daniel J. Stermer, Mayor

22 ATTEST:

23   
24 Patricia A. Bates, City Clerk  
25

26  
27 Approved as to form and legality  
28 for the use of and reliance by the  
29 City of Weston only:

30   
31 Jamie Alan Cole, City Attorney  
32

Roll Call:

Commissioner Norton Yes  
Commissioner Feuer Yes  
Commissioner Kallman Yes  
Commissioner Gomez Yes  
Mayor Stermer Yes

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