

1 Introduced by the Council President at the request of the Mayor:
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4 **ORDINANCE 2015- 522**

5 AN ORDINANCE REGARDING CHAPTER 674 (DISASTER
6 PREPAREDNESS AND CIVIL EMERGENCY); AMENDING
7 PART 7 (DEBRIS REMOVAL FROM PRIVATE STREETS
8 AND OTHER PRIVATE PROPERTY), *ORDINANCE CODE*,
9 TO PROVIDE FOR TECHNICAL CHANGES TO CHAPTER
10 674, PART 7, AND TO CREATE A NEW SUBSECTION
11 674.706(B) (EMERGENCY ROADWAY CLEARANCE),
12 *ORDINANCE CODE*, REQUIRING PRIVATE COMMUNITIES
13 WITH ENTRANCE GATES TO KEEP THEIR GATES OPEN
14 DURING EMERGENCIES; PROVIDING AN EFFECTIVE
15 DATE.
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17 **BE IT ORDAINED** by the Council of the City of Jacksonville:

18 **Section 1. Amending Part 7 (Debris Removal from Private**
19 **Streets and Other Private Property), Chapter 674 (Disaster**
20 **Preparedness and Civil Emergency), *Ordinance Code*.** Part 7 (Debris
21 Removal from Private Streets and Other Private Property), Chapter
22 674 (Disaster Preparedness and Civil Emergency), *Ordinance Code*, is
23 hereby amended to read as follows:

24 **Chapter 674. Disaster Preparedness and Civil Emergency**

25 **Part 7. Debris Removal from Private Streets**

26 **and Other Private Property**

27 * * *

28 **Sec. 674.702. Definitions.**

29 As used in ~~the~~this Part, the following terms, phrases and words
30 shall have the following meanings, unless the context clearly
31 otherwise requires:

1 ~~Debris means~~ shall include, but is not limited to, disaster-
2 generated displaced, broken or discarded building and construction
3 materials, garbage, vegetative matter and spoiled or ruined
4 household goods or materials.

5 *Private property* means all property that is not owned or
6 controlled by a governmental entity- including private communities
7 as well as the Pprivate streets, ~~means any street~~ roads, and
8 roadways contained therein that ~~has~~ have not been dedicated to
9 public use or ~~has~~ have not been accepted for maintenance by the city
10 or other governmental entity, including streets in gated
11 communities.

12 **Sec. 674.703. Removal of debris.**

13 The city has the authority to enter onto and may remove debris
14 from private ~~streets or other private~~ property when such debris is
15 determined to pose an immediate threat to ~~the~~ life, public health
16 and, safety, and to the welfare of the community, so that it is in
17 the public interest for the city to remove such debris. The Mayor
18 or ~~his or her~~ the Mayor's designee shall determine whether there is
19 an immediate threat to ~~the~~ life, public health, safety, and
20 community welfare sufficient to warrant removal of said debris on
21 private property in accordance with one or more of the following
22 criteria:

23 (a) There is a significant likelihood that rescue vehicles will
24 be significantly hindered from rendering emergency services to
25 residential and commercial property should the debris be
26 allowed to remain in place absent city removal.

27 (b) The type of debris ~~is such that it~~ may reasonably cause
28 disease, illness, or sickness ~~which~~ that could injure or
29 adversely affect the health, safety, or general welfare of
30 those residing and working in the area if it is allowed to
31 remain.

1 (c)The clearing is necessary to effectuate orderly and
2 expeditious restoration of city-wide utility services
3 including, but not limited to, power, water, sewer, and
4 telephone.

5 (d)The debris is determined by the Chief Director of the
6 Municipal Code Compliance DivisionDepartment of Public Works
7 or his or her the Director's designee to require removal to be
8 dangerouseliminate immediate threats or of
9 hazardoussignificant damage to improved public or private
10 property.

11 (e)The debris prevents garbage collection, thereby creating a
12 public health hazard.

13 (f)The debris contains contaminants ~~which~~ that have a
14 reasonable likelihood of leeching into the soil ~~and/or aquifer~~
15 ~~of the city~~groundwater.

16 (g)The debris has a substantial negative impact in preventing
17 or adversely affecting emergency repairs to buildings ~~and/or~~
18 property.

19 (h)The debris presents a reasonable danger of being
20 transported by wind ~~and/or~~ water into the surrounding areas of
21 the city, ~~and thereby~~ increasing the cost of recovery and
22 removal.

23 (i)If left over time, tThe debris poses a significant
24 likelihood of, ~~if left over time,~~ producing mold ~~which~~ that
25 would be injurious to public health.

26 (j)The presence of the debris significantly adversely impacts
27 the city's recovery efforts.

28 (k)The debris significantly interferes with drainage or water
29 runoff, ~~so as to be~~ creating a significant hazard in the event
30 of significant rainfall.

31 (l)The sheer volume of the debris is such that it is

1 impractical and unreasonable to remove it in an orderly and
2 efficient manner ~~absent~~without action by the city.

3 (m)The type, extent and nature of the debris are such that it
4 would cause much greater damage if the debris was not removed
5 immediately.

6 (n)The clearing of the debris is necessary to ensure the
7 economic recovery of the affected community to the benefit of
8 the community at large.

9 **Sec. 674.704. Waiver; federal reimbursement.**

10 With regard to the eligibility for federal funding, the
11 Federal Emergency Management Agency may waive the requirement for
12 the city to establish the criteria listed in Section 674.703 as a
13 condition precedent to city action depending on the severity of the
14 situation.

15 The city acknowledges that commercial property debris removal
16 is generally ineligible for reimbursement under the Public
17 Assistance Program unless determined to be in the public interest
18 and subject to the other private property provisions as defined in
19 the Federal Emergency Management Agency's (FEMA) Disaster
20 Assistance Policy for Debris Removal from Private Property, as
21 amended from time to time, and that reimbursement for non-
22 commercial private property debris removal is discretionary with
23 FEMA.

24 **Sec. 674.705. Indemnification and hold harmless.**

25 (a)In consideration for and as a condition of removing debris
26 from private property, the city may require the owner of such
27 private property to indemnify and hold harmless the city, the
28 State of Florida and the United States, and their officers,
29 agents, employees and contractors from any claims arising
30 from removal of debris from private property.

31 (b)As a part of any request for federal funding for debris

1 removal from private property, the city agrees to indemnify
2 and hold harmless, to the ~~maximum extent permitted by~~
3 ~~law~~ extent allowed by section 768.28, Florida Statutes, the
4 United States, its officers, agents, employees and contractors
5 from any claims arising from the city's negligence in the
6 removal of debris from private property. Nothing in this Part
7 7 shall be construed as a waiver of the city's sovereign
8 immunity beyond that allowed by state law and the Florida
9 Constitution.

10 **Sec. 674.706. Emergency roadway clearance.**

11 (a) Nothing herein shall limit the city, in a first
12 response within the first seventy (70) hours after the
13 declaration of a disaster emergency, from clearing and pushing
14 debris from all streets, both public and private, as necessary
15 to ensure access ~~by~~ necessary for the movement of emergency
16 vehicles, including police, fire, rescue and public utilities.

17 (b) When a hurricane warning is issued or a disaster emergency
18 is declared, all private communities with entrance gates shall
19 open the gates and keep them open until otherwise determined
20 by the Mayor or the Mayor's designee, to allow for access in
21 the case of an emergency.

22 **Sec. 674.707. No requirement to remove debris from private**
23 **property.**

24 ~~This part~~ Nothing in this Part 7 shall not deemed to require or
25 ~~legally obligate~~ be construed to require the city to remove debris
26 ~~from private streets or property other private property,~~ the
27 ~~decision to remove~~ except where the severity of the situation is of
28 such magnitude or the debris being within the discretion of the is
29 so widespread that it is determined by the Mayor or the Mayor's
30 designee, in their sole discretion, up onto be a finding that such
31 removal is significant, immediate threat to life, health and

1 safety, the welfare of the city, and in the overriding public
2 interest of the city to remove debris from such areas as set forth
3 in ~~section 674.70~~this Part 7.

4 **Section 2. Effective Date.** This Ordinance shall become
5 effective upon signature by the Mayor or upon becoming effective
6 without the Mayor's signature.

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8 Form Approved:

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10 /s/ Sandra Stockwell

11 Office of General Counsel

12 Legislation Prepared By: Sandra Stockwell

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