

RESOLUTION 22-155

WHEREAS, the Board of County Commissioners has enacted Chapter 94, Article VII of the Brevard County Code of Ordinances declaring the collection and removal of disaster debris from all properties, whether public lands, public or private roads, or within gated communities in the interest of elimination of threat to life, public health, and safety of the residents of Brevard County and authorizing right of entry into private communities as well as private streets, roads, and roadways for storm-generated debris removal, also allowing extension of debris removal services to incorporated areas of Brevard County through interlocal agreements; and

WHEREAS, the Governor of the State of Florida issued Executive Order Number 22-253 on November 7, 2022, declaring a State of Emergency in numerous counties in the State of Florida, including Brevard; and

WHEREAS, on November 8, 2022, the Brevard County Board of County Commissioners declared a State of Local Emergency for all territory within the legal boundaries of Brevard County, including all unincorporated and incorporated areas through Emergency Proclamation Tropical Storm Nicole 2022 - #1 as authorized by Florida Law; and

WHEREAS, on November 10, 2022, Brevard County encountered tropical storm conditions from Tropical Storm Nicole and a threat continues to exist to the lives and property of the people of Brevard County due to damage caused by Tropical Storm Nicole including excessive debris on public right of ways and private roads; and

WHEREAS, Tropical Storm Nicole caused extensive damage to the unincorporated area and within all cities and municipalities contained within the geographic area of Brevard County; and

WHEREAS, the Board of County Commissioners declares the large amounts of disaster-related debris located on public right-of-ways and certain private road right of ways poses an immediate threat to life, public health and safety, welfare of the community and that it is in the public interest for the County to remove such debris, including within gated communities in unincorporated and incorporated Brevard County without delay; and

NOW, THEREFORE, IT IS RESOLVED THIS 15th day of November, 2022, that the Board of County Commissioners of Brevard County, pursuant to its authority under State and Local law including Chapter 94, Article VII of the Brevard County Code of Ordinances, determines and finds disaster generated debris in unincorporated and incorporated Brevard County meet the criteria of Section 94.332 (a)(3), (a)(4), (a)(8), (a)(9), (a)(12), (a)(13), and (a)(15) and pose an immediate threat to the life, public health and safety, welfare, and economic recovery of the community and that it is in the public interest to have such debris removed from certain private road right of ways in order to eliminate immediate threats to life, public health and safety, welfare, significant damage to improved property, and ensure the economic recovery of the affected community to

benefit the community-at-large and that the highest priority shall be initially given to immediate threats to life, public health, and safety.

The Board of County Commissioners further finds that the disaster generated debris is so widespread that the removal is in the public interest and not merely benefiting an individual or a limited group of individuals within the community.

BE IT FURTHER RESOLVED that the Board of County Commissioners of Brevard County does hereby:

1. Request the Federal Emergency Management Agency (FEMA) to approve the removal of debris from certain private road right of ways within unincorporated and incorporated Brevard County, pursuant to the terms and conditions of the Stafford Act, 42 U.S.C. 5121 et seq., FEMA Regulations as published at 44 CFR 206.222 - 206.224, and the Public Assistance Program and Policy Guide FP 104-009-2.
2. Recognize and respect all laws and regulations regarding historic preservation and environmental protection.
3. Acknowledge that no reconstruction debris, vehicles, vessels, or other non-related storm debris will be removed under this request.
4. Agree that it shall indemnify and hold harmless the Federal Government and its respective employees, agents, contractors, and subcontractors from any claims arising from debris removal.
5. Acknowledge that, in accordance with section 305 of the Stafford Act (42 U.S.C. § 5148), the Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of the Act.

RESOLVED AND ADOPTED this 15th day of November, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF BREVARD
COUNTY, FLORIDA



Rachell M. Sadoff, Clerk



Kristine Zonka
Chair, Brevard County Commission