

**EMERGENCY ORDINANCE NO. 2023-11
TOWN OF HILLIARD, FLORIDA**

AN EMERGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HILLIARD, FLORIDA, DECLARING A STATE OF EMERGENCY WITHIN THE TOWN OF HILLIARD IN ACCORDANCE WITH THE DECLARATION OF EMERGENCY BY THE GOVERNOR; ADOPTING EMERGENCY REGULATIONS TO ADDRESS PREPARATION, MANAGEMENT, AND MITIGATION OF THE THREAT FROM HURRICANE IDALIA; PROVIDING FOR NON-CODIFICATION, SEVERABILITY, AN EFFECTIVE DATE, AND AN EXPIRATION DATE.

WHEREAS, in only a matter of days, a tropical system now named Idalia developed in the Caribbean which has rapidly grown from a storm to a depression to a tropical storm and now hurricane that is moving north in the Gulf of Mexico; and

WHEREAS, on August 28, 2023, Governor Ron DeSantis of the State of Florida issued Executive Order No. 23-172 (amending Executive Order No. 23-171) declaring that Nassau County is in a state of emergency; and

WHEREAS, a strong threat of hurricane force winds exists that could do significant damage to the Town of Hilliard, its residents and property; and

WHEREAS, the Town Council further recognizes that there is a continuing risk of dangerous storm surge, heavy rainfall, flash flooding, hazardous conditions, and isolated tornadic activity as a result of Idalia; and

WHEREAS, in accordance with § 252.38, Florida Statutes, Executive Order No. 23-171 authorizes the Town to waive the procedures and formalities otherwise required of the Town by law pertaining to (1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community; (2) Following local procurement and contracting policies; (3) Entering into contracts (however, the Town is cautioned against entering into time and materials contracts without ceiling as defined in 2 CFR 200.318(j) or cost plus percentage contracts as defined by 2 CFR 200.323(d)); (4) Incurring obligations; (5) Employment of permanent and temporary workers; (6) Utilization of volunteer workers; (7) Rental of equipment; (8) Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and (9) Appropriation and expenditure of public funds; and

WHEREAS, § 252.38(3), Florida Statutes, authorizes the Town of Hilliard to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, § 166.041(3)(b), Florida Statutes, permits the Town to, by a two-thirds (2/3) vote of the Town Council, enact an emergency ordinance without complying with the noticing and hearing requirements of § 166.041(3)(a), Florida Statutes; and

WHEREAS, Article IV, § 4.13 of the Town’s Charter provides the Town Council, also by a two-thirds (2/3) vote, to enact ordinances dealing with emergencies at the meeting in which such ordinances are introduced; and

WHEREAS, § 2-7 of the Town Code confirms the Town’s authority to make emergency procurements of commodities or services when there exists a clear and present threat to public health, property, welfare, safety, or other substantial loss to the Town; and

WHEREAS, the Nassau County Board of County Commissioners declared a state of emergency for the entire county on August 28, 2023 in Resolution 23-151; and

WHEREAS the conditions caused by Hurricane Idalia are likely to require the combined forces of a mutual aid; and

WHEREAS, the Town finds that this Ordinance is in the interests of the public health, safety, and welfare and indeed that there exists a clear and present threat to public health, property, welfare, or safety to the Town.

NOW, THEREFORE, BE IT ENACTED BY THE TOWN OF HILLIARD, FLORIDA:

SECTION 1. Recitals. The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. Declaration of Emergency. The Town Council of the Town of Hilliard finds, due to those reasons enumerated in the Recitals above, that a State of Emergency is hereby declared to exist within the Town of Hilliard immediately upon the effective date of this ordinance. The Town Council therefore makes this formal declaration of a State of Emergency, which shall continue in accordance to the terms set forth herein, unless otherwise earlier terminated by the Town.

SECTION 3. Emergency Powers.

1. In accordance with applicable statutory, executive, and common law authority, the Town Council hereby elects to suspend the effect of any statute, ordinance, procedure, rule or order, to the extent necessary to procure any and all necessary supplies, commodities, services, temporary premises, and other resources, including, but not limited to, any and all statutes, rules, ordinances, or orders affecting budgeting, leasing, printing, purchasing, travel, and the condition of employment and compensation of employees, provided that any such statute, ordinance, rule, or order is suspended only to the extent necessary to ensure timely performance of response to and mitigation of Hurricane Idalia. To this end, the Town Council opts to waive those procedures and formalities otherwise required of the Town as authorized by the Governor’s Executive Order # 23-172, which order is incorporated herein by reference, and other statutes described above.

2. The Town shall have the right to exercise any of the powers specifically provided to local governments pursuant to § 252.38, Fla. Stat., and authorizes and directs the Mayor and Town Departments to execute those activities deemed necessary to respond to and mitigate the effects and conditions attributable to Hurricane Idalia and any other related adverse health conditions concomitantly impacting the Town. For the purpose of carrying out Hurricane Idalia mitigation, the Mayor, Department Heads, and Town Attorney are directed and encouraged to seek assistance from any and all applicable federal, state, and local agencies that may be capable of providing medical services, compensation, or reimbursement to the Town.

3. During this declared state of emergency, all procedural and notice time periods affecting the normal functions of the Town, including those set forth in ordinances and rules of the Town, to the extent such requirements cannot be complied with due to the emergency, shall be temporarily suspended during the emergency. Such functions include, but are not limited to, permitting, development applications, code enforcement matters, and other municipal review and approval procedures.

4. The Town Council delegates the authority to renew this Ordinance pursuant to Section 7 of this Ordinance, to the Mayor, John Beasley, who must do so in writing. Nothing, however, shall impede the authority of the Town Council to override such a renewal, take back renewal authority, or to veto any decision made by the Mayor with this power.

SECTION 4. Non-Codification. Given the temporary nature and effect of this Ordinance, it is the intent of the Town Council that this Ordinance will not be codified.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

SECTION 7. Effective Date. This Ordinance shall become effective immediately and expire seven (7) days from this date. It may be renewed as provided in law in seven (7) day increments, unless earlier terminated by the Town Council.

ADOPTED this 29th day of August, 2023 by the Town Council for the Town of Hilliard, Florida.

TOWN OF HILLIARD, FL

By:



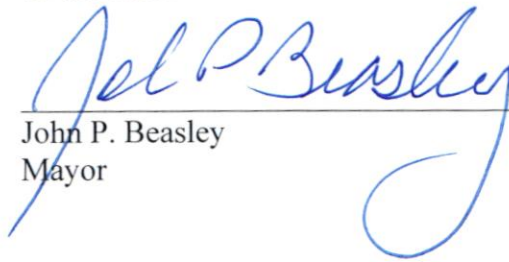
Kenneth A. Sims
Council President

Attest:



Lisa Purvis
Town Clerk

Approved:



John P. Beasley
Mayor