

ORDINANCE 1586

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES TO ESTABLISH NEW CHAPTER 29 RELATED TO EMERGENCY MANAGEMENT; PROVIDING DEFINITIONS; PROVIDING FOR DECLARATIONS OF CIVIL EMERGENCY BY THE CITY MANAGER; AUTHORIZING DISCRETIONARY MEASURES TO ADDRESS THE CIVIL EMERGENCY; AUTHORIZING ADVANCED EMERGENCY PREVENTION MEASURES; PROVIDING FOR THE FILING, PUBLICATION, DURATION AND SCOPE OF EMERGENCY ORDERS; PROVIDING PENALTIES AND ENFORCEMENT; 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, 252.46, 381.00315, and section 870.042 Florida Statutes, to make such emergency orders as are necessary for emergency management purposes; and

WHEREAS, the City is home to the world's most beautiful beaches and serves as one of the nation's premier tourist destinations to over 4 million visitors per year while also serving as the permanent home for over 18,000 residents with only 18.6 square miles of land within its corporate boundaries; and

WHEREAS, in recent years the City has seen an unusually large influx of visitors during the Spring Break and summer seasons which has posed significant challenges including, but not limited to, extreme traffic and congestion, and severe impacts to the City's Police, Fire, Utilities, and Code Enforcement services; and

WHEREAS, in 2021, the City was occasionally visited by unruly crowds exhibiting flagrant defiance of the lawful exercise of public authority congregating through spontaneous events promoted on social media which resulted in substantially elevated levels of crime in the City as well as placed an overwhelming burden on the community's law enforcement resources; and

WHEREAS, during the weekend of March 24-26, the City was visited by massive unruly crowds beyond the capacity of the City and its law enforcement partners resulting in one shooting, multiple fights, thefts, over 161 arrests, and 75 illegal firearms seized across the community; and

WHEREAS, despite the vast and highly visible police officer presence in the City, criminal visitors and their illegal behavior continued undeterred, as a shooting on March 27 took place within feet of a uniformed police officer; and

WHEREAS, as a result, the City Council hereby finds that the events of March 24-26 constituted a civil emergency for which the City desires to better plan for the efficient and effective management of future emergencies; and

WHEREAS, the City has broad authority pursuant to its inherent police powers the proper exercise of which includes emergency management, emergency response, and the imposition of emergency measures which might curtail the activities and movement of persons who would otherwise enjoy freedom from restriction; and

WHEREAS, the City Council hereby finds that the emergency and proactive measures implemented herein are necessary to allow for the City Manager, the Chief of Police, and the City Council to effectively and decisively manage civil emergencies in the compelling interest of the safety, health, and welfare of the public; and

WHEREAS, the City Council finds that the authority granted herein allows for tailored and reasoned action ultimately designed to prevent, respond, and ultimately curb civil unrest while also protecting the freedoms of the millions of peaceable residents and visitors to our City.

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 created to read as follows:

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 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 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. Discretionary Emergency Measures

(a) Whenever the City Manager declares that a state of emergency exists, pursuant to section 29-40, 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 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 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*.

Section 29-42. 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 29-42 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 29-43. 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 29-42 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 29-44. Duration and Scope of Emergency Order.

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

1. Shall terminate at the end of a period of 72 consecutive hours thereafter unless, prior to the end of such 72-hour period, the City Manager or City Council shall have terminated such state of emergency.
2. 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 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 29-45. 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 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 regular meeting of the City Council of the City of Panama City Beach, Florida, this 14th day of April, 2022.

CITY OF PANAMA CITY BEACH

By: 
Mark Sheldon, Mayor

ATTEST:


Lynne Fasone, City Clerk

EXAMINED AND APPROVED by me this 14th day of April, 2022.

By: 
Mark Sheldon, Mayor

Published in the **News Herald** on the 4th day of April, 2022.

Posted on **pcbfl.gov** on the 31st day of March, 2022.