

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**

ORDINANCE NO. _____

AN ORDINANCE OF MARTIN COUNTY, FLORIDA AMENDING SECTION 51.4, COUNTY EMERGENCY POWERS, ARTICLE 1, IN GENERAL, CHAPTER 51, DISASTER AND EMERGENCY MANAGEMENT, GENERAL ORDINANCES, MARTIN COUNTY CODE; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY, AND APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE, AN EFFECTIVE DATE AND CODIFICATION.

WHEREAS, the Board of County Commissioners of Martin County, Florida, is authorized by provisions in Chapter 125, Florida Statutes, to provide for the health, safety and general welfare of the residents of Martin County; and

WHEREAS, on July 1, 2021, changes were made to *Florida Statutes* § 252.38; and

WHEREAS, based on the revisions to *Florida Statutes* § 252.38, Section 51.4, County emergency powers, Article 1, In General, Chapter 51, Disaster and Emergency Management, needs to be revised for consistency with Florida law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:

PART 1: AMENDMENT OF SECTION 51.4, COUNTY EMERGENCY POWERS., ARTICLE 1, IN GENERAL, CHAPTER 51, DISASTER AND EMERGENCY MANAGEMENT, GENERAL ORDINANCES, MARTIN COUNTY CODE.

Section 51.4, County emergency powers is hereby amended as follows:

Sec. 51.4. County emergency powers.

51.4.A. *Declaration of emergency.* If the County Administrator, after consultation with the Director of the Emergency Management Agency ("Director"), determines that a local emergency exists in the County, then in conformance with applicable resolutions, ordinances and laws, the County Administrator may declare that a local emergency exists. The declaration of a local emergency invokes the emergency powers and authority necessary to fulfill the general powers and duties as prescribed in this chapter. The judgment of the County Administrator shall be the sole criteria necessary to invoke local emergency powers provided in this chapter and other appropriate regulations. The state of local emergency shall remain in effect until the board or the County Administrator determines otherwise. The duration of each state of emergency declared locally shall be limited to seven days; it may be extended, as necessary, in increments of up to seven days.

51.4.B. *Board powers.* The board may convene to perform its legislative duties as the situation demands, and shall receive reports relative to emergency and disaster preparedness activities. The board shall have the power and authority to waive the procedures and formalities otherwise required by law pertaining to:

1. The performance of public work and taking whatever prudent action is necessary to ensure the health, safety and welfare of the community.
2. Entering into contracts.
3. Incurring of obligations.
4. Employment of permanent and temporary workers.
5. Utilization of volunteer workers.
6. Rental of equipment.
7. Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.
8. Appropriation and expenditure of public funds.
9. Determination that a threat to public health and safety may result from the generation of widespread debris throughout the County, using any of the following criteria:
 - a. That such debris constitutes a hazardous environment for modes of movement and transportation of the residents as well as emergency aid and relief services;
 - b. That such debris may endanger properties in the County;
 - c. That such debris creates an environment conducive to breeding disease and vermin;
 - d. That such debris creates a greatly increased risk of fire;
 - e. That it is in the public interest to collect and remove disaster debris from property whether public or private lands, public or private roads, or within gated communities; to eliminate any immediate threat to life, public health and safety;
 - f. To reduce the threat of additional damage to improved property; and
 - g. To promote economic recovery of the community at large.
10. Authorization of the County or its contracted agents for the right of access to private property and roads or gated communities as needed by emergency vehicles such as, but not limited to, police, fire, medical care, debris removal, and sanitation to alleviate immediate threats to public health and safety and to provide emergency repairs to vital infrastructure assets.
11. Authorization of the removal of debris and wreckage resulting from a major disaster from property whether public or private lands, public or private roads, or within gated communities for safe and sanitary living or functioning conditions.

12. Authorization of the removal of derelict vessels pursuant to current statutes of the State of Florida and in conjunction with the Florida Fish and Wildlife Conservation Commission.
 13. Authorization of the removal of abandoned vehicles pursuant to current statutes of the State of Florida and in conjunction with law enforcement of the County and State.
- 51.4.C. *Orders and rules.* During any period when an emergency or disaster threatens or when the County has been struck by an emergency or disaster, within the definitions of this chapter or F.S. § 252.34; with the concurrence of the Director, the County Administrator shall issue such orders or rules as are deemed necessary to protect life and property and preserve critical resources. Any such orders or rules shall have full force and effect of law when filed in the office of the Clerk of the Board.
1. Weather-Related Response. ~~Weather-related response~~ The directives shall remain in effect until the board or the County Administrator determines otherwise. Such directives may include, but shall not be limited to, the following:
 - ~~a.1.~~ Directives prohibiting or restricting the movement of vehicles in order to facilitate the work of emergency management forces, or to facilitate the mass movement of persons from critical areas within the County.
 - ~~b.2.~~ Directives pertaining to the movement of persons from and in areas deemed to be hazardous or vulnerable to an emergency or threat of an emergency.
 - ~~c.3.~~ Such other directives necessary to preserve public peace, health and safety.
 2. Non-Weather-Related Response. Any non-weather-related response emergency order or ordinance issued or enacted that limits the rights or liberties of individuals or businesses with Martin County shall automatically expire 7 days after issuance but may be extended by a majority vote of the board in 7-day increments for a total duration of not more than 42 days.
- 51.4.C.1. *Violations of orders and rules.*
1. In addition to the remedies provided in F.S. § 252.50, violations of any order or rule promulgated pursuant to this section shall be a noncriminal infraction and shall be enforced with a citation by County law enforcement agencies.
 2. The penalty for a violation of an order issued pursuant to this section is:
 - a. First offense: A fine of \$50.00.
 - b. Second offense: A fine of \$100.00.
 - c. Third offense and each subsequent offense: A fine of \$250.00.
 3. Nothing herein shall limit the County's right to seek injunctive or other equitable relief to ensure compliance with any order made pursuant to this part.
 4. The County Administrator shall determine the scope and duration of any measures pursuant to this section, but in no event shall the scope and duration of any measure exceed the duration of the applicable emergency declaration or the duration permitted under Florida law. In exercising the powers under this section, the County

Administrator should, to the fullest extent practicable under the circumstances, coordinate and consult with the Director of Emergency Management, the board, federal, state and other local government entities, and no power under this section shall be exercised if it would frustrate the emergency response of any federal or state entity.

51.4.D. *Mutual aid.* With the concurrence of the Fire Rescue Chief and without depleting local resources, the Director shall order disaster preparedness forces to the aid of other communities when required in accordance with State and County mutual aid agreements and may request the State, or a political subdivision of the State, to send aid to the County in case of an emergency when conditions in the County are beyond the capabilities of the Emergency Management Agency.

51.4.E. *County forces.* The Director may coordinate emergency services of any County department, division or employees. If regular County forces are determined inadequate, the Director may require the services of such other personnel that are available, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to the privileges and immunities as are provided by State law, County ordinances and policies for regular County employees and other registered and identified emergency management workers and, upon demand, may receive appropriate compensation for their emergency employment.

PART 2: CONFLICTING PROVISIONS.

Special acts of the Florida Legislature, County ordinances and County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

PART 3: SEVERABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void, by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstances.

PART 4: APPLICABILITY.

This ordinance shall be applicable throughout Martin County's jurisdiction.

PART 5: FILING WITH DEPARTMENT OF STATE.

The Clerk shall be and is hereby directed forthwith to scan this Ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of State via electronic transmission.

PART 6: EFFECTIVE DATE.

This ordinance shall take effect immediately upon filing with the Office of Secretary of State.

PART 7: CODIFICATION.

Provisions of this ordinance shall be incorporated in the County Code, except parts 2 to 7 shall not be codified. The word "ordinance" may be changed to "section," "article" or other word, and the sections of this ordinance may be renumbered or re-lettered.

DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY THIS 17th DAY OF MAY 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

CAROLYN TIMMANN, CLERK OF THE
CIRCUIT COURT AND COMPTROLLER

DOUG SMITH, CHAIRMAN

APPROVED AS TO FORM & LEGAL
SUFFICIENCY:

SARAH W. WOODS, COUNTY ATTORNEY

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