



Legislation Details (With Text)

**File #:** 19-1020  
**Type:** Public Hearing                      **Status:** Passed  
**In control:** Board of County Commissioners  
**On agenda:** 10/22/2019                      **Final action:** 10/22/2019  
**Title:** PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE REGARDING PUBLIC LANDS  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. Ord Amend Ch 139 100219.pdf

Date	Ver.	Action By	Action	Result
10/22/2019	1	Board of County Commissioners	approved	Pass

**PLACEMENT:** Public Hearings

**TITLE:**

**PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE REGARDING PUBLIC LANDS**

**EXECUTIVE SUMMARY:**

This is a public hearing to consider adoption of an Ordinance amending Chapter 139, Public Lands, to: provide an exception for plat dedications; revise the requirements for easements on County property; prohibit obstructions of County and Community Redevelopment Agency property; and regulate parking on County and Redevelopment Agency property.

**DEPARTMENT:** County Attorney

**PREPARED BY:** **Name:** Elizabeth V. Lenihan  
**Title:** Assistant County Attorney

**REQUESTED BY:**

**PRESET:**

**PROCEDURES:** None

**BACKGROUND/RELATED STRATEGIC GOAL:**

Chapter 139, General Ordinances, Martin County Code (the Code), regulates lands in public ownership not including roads and rights-of-way, which are covered in Chapter 155 of the Code. The proposed changes are outlined below.

Article 2. Dedications

Article 2 of Chapter 139 is related to dedication of public lands. The provisions of Article 2 require dedications to the County be accepted and approved by Resolution of the Board of County Commissioners prior to being recorded or becoming effective. Section 139.34 is being amended to provide for an exception to the requirement for acceptance and approval by resolution when the public lands are dedicated by a plat that is approved by the Board of County Commissioners. In such cases, the Board's approval of the plat will serve as the Board's acceptance and approval of the dedication.

### Article 3. Easements

Article 3 is comprised solely of Section 139.50, which sets out standards, considerations, and procedures for granting of easements on, over, under, across and through County property to private utility providers. This Section is being amended to provide greater flexibility to the Board and remove the publication requirement. Publication of the Board's intent to grant an easement is not otherwise legally required.

### Article 4. Obstructions

Staff has been continually challenged on how to deal with obstructions or encroachments on the County's property. In many cases, the adjacent property owner is unaware of the obstruction or encroachment and in many of the same cases, the obstruction or encroachment of County property does not affect how the County's business is performed. There are cases, however, when the County staff have need of the property to perform County functions, such as drainage. Other times, a neighbor or interested third party may advise the County staff of an obstruction or encroachment. In these cases, staff has sent letters to the property owner abutting the County property requesting the removal of the obstruction or encroachment. Sometimes the request is honored, but many times it is not. The Code does not address unpermitted or unauthorized encroachments or obstructions on County property.

Staff is proposing a new Article 4 Obstructions that will prohibit the obstruction or encroachment of any property owned by the County or the Community Redevelopment Agency or encumbered by an easement to the County. The new Article will provide for a way for the County's Code Enforcement procedures be used to seek the removal of the obstruction or encroachment. If a violation has been identified, the violator will be given the opportunity to: prove the obstruction or encroachment is not a result of its doing; remove the obstruction or encroachment.

### Article 5. Parking

Staff has also had continuous challenges with parking on the County's property. There are frequently vehicles parked on County property overnight, sometimes with people in them and sometimes as commercial vehicle storage. There are also businesses using County property as their staff parking, so patrons have more available parking. Staff is proposing a new Article 5 Parking that will adopt parking restrictions for all County and Community Redevelopment Agency owned property that is similar to the parking restrictions currently in place at County parks.

### **ISSUES:**

None.

### **LEGAL SUFFICIENCY REVIEW:**

This is a legislative matter. Legislative decisions are those in which the local government formulates policy rather than applying specific rules to a particular situation. A local government's approval or denial of an issue in its legislative capacity is typically subject to a fairly debatable standard of review. Fairly debatable means that the government's action must be upheld if reasonable minds could differ as to the propriety of the decision reached. Decisions subject to the fairly debatable standard of review need only be rationally related to a legitimate public purpose, such as the health, safety, and welfare of the public, to be valid. Given this broad discretion, only decisions that arbitrary and capricious or illegal are subject to serious legal challenge.

**RECOMMENDED ACTION:**

**RECOMMENDATION**

Move that the Board adopt the Ordinance as presented.

**ALTERNATIVE RECOMMENDATIONS**

Provide staff direction.

**FISCAL IMPACT:**

**RECOMMENDATION**

None

Funding Source	County Funds	Non-County Funds
<b>Subtotal</b>		
<b>Project Total</b>		

**ALTERNATIVE RECOMMENDATIONS**

None

**DOCUMENT(S) REQUIRING ACTION:**

- Budget Transfer / Amendment
- Chair Letter
- Contract / Agreement
- Grant / Application
- Notice
- Ordinance
- Resolution
- Other:

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