



## Agenda Item Summary

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**File ID:** 22-0837

**PH-1**

**Meeting Date:** 5/17/2022

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**PLACEMENT:** Public Hearings

**TITLE:**

**PUBLIC HEARING TO CONSIDER ADOPTION OF AN ORDINANCE AMENDING SECTION 51.4., COUNTY EMERGENCY POWERS, ARTICLE 1, IN GENERAL, CHAPTER 51, DISASTER AND EMERGENCY MANAGEMENT**

**EXECUTIVE SUMMARY:**

Florida Statutes § 252.38 delineates a county's emergency management powers and authority. Section 252.38 was amended to limit the duration of a non-weather-related emergency orders issued by counties. The revisions to Florida Statutes § 252.38 became effective on July 1, 2021. The provisions contained in Section 51.4, County Emergency Powers, Article 1, Chapter 51, General Ordinances, Martin County Code are not consistent with the current statute.

**DEPARTMENT:** County Attorney

**PREPARED BY:** **Name:** Elysse A. Elder  
**Title:** Senior Assistant County Attorney

**REQUESTED BY:**

**PRESET:**

**PROCEDURES:** None

**BACKGROUND/RELATED STRATEGIC GOAL:**

Florida Statutes § 252.38 delineates the County's emergency management powers and authority. Pursuant to the statute, counties are authorized to issue emergency orders during declared states of emergency. On July 1, 2021, limitations on the duration of non-weather-related emergency orders became effective. Specifically, an order or ordinance issued or enacted by a political subdivision in response to an emergency that limits the rights or liberties of individuals or businesses within the political subdivision expire 7 days after issuance and may only be extended by a majority of the vote of the Board. The statute specifically provides that this does not apply to orders issued in response to weather-related emergencies. The current provisions of Section 51.4., County Emergency Powers, Article 1, Chapter 51, General Ordinances, Martin County Code are not consistent with the current law. The proposed amendment to Section 51.4 revises the County's existing emergency powers for consistency with Florida Statutes § 252.38(4).

**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 which amends Section 51.4, County Emergency Powers, Article 1, Chapter 51, General Ordinances, Martin County Code.

**ALTERNATIVE RECOMMENDATIONS**

None

**FISCAL IMPACT:**

**RECOMMENDATION**

None

**ALTERNATIVE RECOMMENDATIONS**

None

**DOCUMENT(S) REQUIRING ACTION:**

- |  |                                       |   |
|--|---------------------------------------|---|
| <input type="checkbox"/> Budget Transfer / Amendment | <input type="checkbox"/> Chair Letter | <input type="checkbox"/> Contract / Agreement |
| <input type="checkbox"/> Grant / Application         | <input type="checkbox"/> Notice       | <input checked="" type="checkbox"/> Ordinance |
| <input type="checkbox"/> Other:                      | <input type="checkbox"/> Resolution   |   |

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