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**AGENDA ITEM  
ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS**

*Deadline for Submission - Wednesday 9 a.m. – Thirteen Days Prior to BCC Meeting*

**1/5/2021**

**BCC MEETING DATE**

**TO:** Hunter S. Conrad, County Administrator **DATE:** December 30, 2020

**FROM:** Rebecca Lavie, Senior Assistant County Attorney **PHONE:** 904 209-0805

**SUBJECT OR TITLE:** Discussion of St. Johns County Emergency Management Ordinance

**AGENDA TYPE:** Business Item, Ordinance

**BACKGROUND INFORMATION:**

The current version of the St. Johns County Emergency Management Ordinance was enacted in 2019. Based on the County's experiences with the COVID-19 state of emergency, it has been determined that it is advisable to update the mechanism by which local states of emergency are extended. This item is being presented to the Board for discussion. At the Board's discretion, it may choose to treat this presentation as a first reading and direct that it be advertised and brought back for a second reading.

**1. IS FUNDING REQUIRED?**   No   **2. IF YES, INDICATE IF BUDGETED.**   No    
**IF FUNDING IS REQUIRED, MANDATORY OMB REVIEW IS REQUIRED:**  
**INDICATE FUNDING SOURCE:**

**SUGGESTED MOTION/RECOMMENDATION/ACTION:**

No Board action is required. The Board may direct that the item be advertised and brought back for a second reading at which time the item could be voted upon.

**For Administration Use Only:**  
**Legal:** RL 12/30/2020 **OMB:** ARM 1/4/2021 **Admin:** Joy Andrews 1/4/2021

ORDINANCE NO. 2021-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY CREATING THE ST. JOHNS COUNTY EMERGENCY MANAGEMENT ORDINANCE; MAKING FINDINGS OF FACT; PROVIDING SCOPE; PROVIDING DEFINITIONS; DESIGNATING A LOCAL EMERGENCY MANAGEMENT AGENCY; PROVIDING FOR THE DECLARATION OF LOCAL STATES OF EMERGENCY; PROVIDING FOR EMERGENCY POWERS; PROVIDING FOR THE REMOVAL OF DISASTER-GENERATED DEBRIS; PROVIDING FOR CONSTRUCTION; PROVIDING PENALTIES; REPEALING ST. JOHNS COUNTY ORDINANCE 2019-40; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY:

**Section 1. Short Title.**

This ordinance shall be known as the St. Johns County Emergency Management Ordinance.

**Section 2. Findings of Fact.**

**A.** The Board finds that the County is vulnerable to a wide range of emergencies, including natural, technological, and manmade disasters, all of which threaten the life, health, and safety of the public; damage and destroy property; disrupt services and everyday business and recreational activities; and impede economic growth and development.

**B.** It is the Board's intent to reduce the vulnerability of the people and property of the County; to prepare for efficient evacuation and shelter of threatened or affected persons; to provide for the rapid and orderly provision of relief to persons and for the restoration of services; and to provide for the coordination of activities relating to emergency preparedness, response, recovery, and mitigation between local, state, and federal governments and with the private sector.

**C.** The Board is authorized to enact this ordinance pursuant to Article VIII, Section 1(f) of the Florida Constitution, Section 125.01, Florida Statutes, Chapter 252, Part I, Florida Statutes, and Executive Order 80-29.

**Section 3. Scope.**

This ordinance shall be effective throughout both the incorporated and unincorporated areas of St. Johns County.

#### **Section 4. Definitions.**

**A.** *Average retail price* means the greater of (i) the price at which similar merchandise, goods, or services were being sold at retail during the 30-day period immediately preceding the declaration of a state of local emergency or (ii) the price that is not larger than the average percentage over wholesale cost that existed during the 30-day period immediately preceding the declaration of a state of local emergency.

**B.** *Board* means the St. Johns County Board of County Commissioners.

**C.** *County* means St. Johns County, Florida.

**D.** *County-owned property* means any building or property owned, leased, operated, managed, or controlled by the St. Johns County Board of County Commissioners or one of its agencies, divisions, units, or entities, including all buildings, structures, conveyances, parks, beach parks, public natural areas, public recreation areas, trails, playgrounds, streets, sidewalks, rights-of-way, libraries, docks, pavilions, parking lots, vacant lots, fenced land, posted land, easements, and other properties generally used by the public.

**D.** *County work forces* means officers, employees, and agents of the County, including, but not limited to, contractors retained by the County to push, remove, store, or dispose of disaster-generated debris or to otherwise act in response to the implementation of the County's disaster-generated debris removal plan.

**E.** *Director* means the St. Johns County Director of Emergency Management.

**F.** *Disaster* means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by the County, the Governor, or the President of the United States. Disasters shall be identified by the severity of resulting damage as follows:

1. *Catastrophic disaster* means a disaster that will require massive state and federal military assistance, including immediate military involvement.
2. *Major disaster* means a disaster that will likely exceed the County's capabilities and require a broad range of state and federal assistance.
3. *Minor disaster* means a disaster that is likely to be within the response capabilities of the County and to result in only a minimal need for state or federal assistance.

**G.** *Disaster-generated debris, or debris,* means any material deposited on County-owned property or rights-of-way, or on private roads, as a direct result of a major disaster or catastrophic disaster, including, but not limited to:

1. Vegetative debris, which means debris consisting of whole trees, tree stumps, tree branches, tree trunks, and other leafy material;

2. Hazardous limbs and hazardous trees, which means limbs or trees damaged in a major disaster or a catastrophic disaster that are in danger of falling on primary ingress or egress routes or on County right-of-way;
3. Construction and demolition debris as defined in Section 403.703, Florida Statutes;
4. Household hazardous waste, such as household cleaning supplies, insecticides, herbicides, and other products or materials containing volatile chemicals that ignite, react, or explode under certain circumstances, or that are corrosive or toxic;
5. Electronic waste, such as computer monitors, televisions, and other such electronics that contain hazardous materials;
6. White goods, which means large electrical goods used domestically, including, but not limited to, air conditioners, heaters, refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances; and
7. Putrescent debris, which means debris that will decompose or rot, such as animal carcasses and other fleshy organic material.

The terms *disaster-generated debris* or *debris* do not include:

8. Debris from vacant lots, forests, heavily wooded areas, unimproved property, and unused areas;
9. Debris on agricultural lands used for crops or livestock;
10. Concrete slabs, or foundations-on-grade; or
11. Construction and demolition debris consisting of materials used in the reconstruction of disaster-damaged improved property.

**H.** *Division* means the St. Johns County Division of Emergency Management.

**I.** *Emergency* means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

**J.** *Emergency management* means the preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters, including, but not limited to:

1. Reduction of vulnerability of people and communities 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; and
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.

**K.** *Hazardous limb* means a broken tree limb greater than 2 inches in diameter measured at the point of break, which is still hanging in a tree and threatening a public use area.

**L.** *Hazardous tree* means a tree greater than 6 inches in diameter (measured at diameter breast height), which meets any of the following criteria:

1. More than 50 percent of the crown is damaged or destroyed;
2. The trunk is split or broken branches expose the heartwood; or
3. The tree is leaning or bending at an angle greater than 30 degrees ; or
4. The tree has been uprooted and partially fallen in a public use area.

**M.** *Manmade emergency* means an emergency caused by an action against persons or society, including, but not limited to, enemy attack, sabotage, terrorism, civil unrest, or other action impairing the orderly administration of government.

**N.** *Natural emergency* means an emergency caused by a natural event, including, but not limited to, a hurricane, tornado, storm, flood, severe wave action, drought, or earthquake.

**O.** *Plan* means the County's Comprehensive Emergency Management Plan adopted pursuant to Section 252.38, Florida Statutes.

**P.** *Private road* means any improved street or road located within a right-of-way or access easement owned by any entity other than the County, the State of Florida, or another local government, including, but

not limited to, roads owned and maintained by homeowners associations, whether gated or ungated, and roads for which no individual or entity has claimed or exercised maintenance responsibility. The term also includes the land lying within the 3-foot roadside shoulder area on both sides of the travel lanes.

**Q.** *Public road* means any street or road located within a right-of-way owned by the County, the Florida Department of Transportation, or another local governmental entity. The term includes the county-owned land on both sides of the street or road up to the boundary of the adjoining property.

**R.** *Technological emergency* means an emergency caused by a technological failure or accident, including, but not limited to, an explosion, transportation accident, radiological accident, or chemical or other hazardous material incident.

#### **Section 4. Designation of Local Emergency Management Agency.**

**A.** Pursuant to the requirements of Section 252.38, Florida Statutes, the Division is designated as the local emergency management agency for the County. The Division shall perform emergency management functions as provided in Chapter 252, Part I, Florida Statutes.

**B.** For the purposes of Section 252.38(1)(b), Florida Statutes, the Director is designated as the County's emergency management agency director. The Director shall have all powers and responsibilities set forth in Section 252.38(1)(b), Florida Statutes, as well as such other powers and responsibilities established by the County Administrator.

#### **Section 5. State of Local Emergency.**

**A.** The Board may issue a proclamation declaring a state of local emergency when it determines that (1) a disaster or emergency has occurred that affects the County, either directly or because of an interlocal agreement to which the County is a party; (2) the occurrence or threat of such disaster or emergency is imminent and requires immediate and expeditious action; or (3) an extension of an existing state of local emergency is necessary and appropriate to enable the County to receive state or federal assistance or aid. When a quorum of the Board is unable to meet, the proclamation may be issued by the Chair of the Board. In the absence of the Chair, the proclamation may be issued by the Vice Chair. In the absence of both the Chair and the Vice Chair, the proclamation may be issued by the County Administrator, or, in the absence of the County Administrator, the Director.

**B.** A state of local emergency shall be declared by proclamation as described in subsection A above. Pursuant to Section 252.38(3)(a)5, Florida Statutes, a state of local emergency shall be limited to 7 days in duration. The state of local emergency may be extended as necessary in 7-day increments either (1) by the Board at a regularly scheduled or special meeting, or (2) by the Chair, or, in the absence of the Chair, the County Administrator, or his or her designee. The state of emergency shall be terminated upon failure to extend the state of emergency as provided above or when the Board determines that the conditions giving rise to the state of local emergency no longer exist. ~~The state of local emergency may be extended in the same manner as provided for the declaration of a state of local emergency in subsection A above, as necessary, in 7-day increments. The state of emergency shall be terminated at such time that the Board or appropriate~~

~~County official fails to extend the state of local emergency or that the Board determines that the conditions giving rise to the state of local emergency no longer exist.~~

**C.** A proclamation declaring a state of local emergency shall state the nature of the emergency and, if applicable, the areas of the County affected by the proclamation and shall authorize the County Administrator, or his or her designee, to take all appropriate emergency measures to protect human life and property without further Board action as provided in Section 6 below.

## **Section 6. Emergency Powers.**

**A.** Pursuant to Section 252.46, Florida Statutes, once a state of local emergency has been declared in accordance with the provisions of Section 5 above, the County Administrator shall have the authority to issue emergency orders and rules without further Board action. Such orders and rules shall be effective throughout St. Johns County unless otherwise specified in the order. Such orders and rules shall remain in effect throughout the duration of the state of local emergency unless sooner terminated by the County Administrator or his or her designee.

**B.** Appropriate emergency measures include, but are not limited to, the use or distribution of any supplies, equipment, materials, and facilities that are assembled or arranged to be made available for emergency use pursuant to the Plan. Such measures also include, but are not limited to, the following:

1. All emergency management powers identified in Section 252.38(3), Florida Statutes;
2. Suspension or limitation of the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, or combustibles;
3. Establishing curfews, including, but not limited to, the prohibition of or restrictions on pedestrian and vehicular movement, standing, or parking, provided that the provision of designated essential services such as fire, police, emergency medical services and hospital services, the transportation of patients, utility emergency repairs, emergency relief calls by physicians, and other appropriate emergency relief activities may be exempted from such curfews or restrictions;
4. Utilization of all available resources of County government as reasonably necessary to cope with the emergency, including emergency expenditures;
5. Declaration of certain areas as off limits;
6. Evacuation of all or part of the population from any stricken or threatened part of the County;
7. Suspension of County services, including, but not limited to, utility services, within any stricken or threatened part of the County;
8. Providing for the availability and use of temporary housing and emergency warehousing of materials;

9. Establishing emergency operating centers and shelters in addition to or in place of those provided for in the Plan;
10. Declaration that during the emergency it shall be unlawful and an offense against the County for any person, firm, or entity to use fresh water supplied by any water system in the County for any purpose other than cooking, drinking, or bathing;
11. Declaration that during the emergency it shall be unlawful and an offense against the County for any person, firm, corporation, or entity operating within the County to charge more than the average retail price for any merchandise, goods, or services sold during the emergency;
12. Confiscation of services, merchandise, equipment, vehicles, or property needed to alleviate the emergency with or without compensation;
13. Issuance of a formal request for state and federal assistance or emergency-related mutual aid assistance as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue, and traffic control; and
14. Waiver of the procedures and formalities otherwise required of the County by law or by County ordinances, policies, rules, or regulations pertaining to:
  - a. Performance of public work and the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
  - b. Entering into contracts;
  - c. Incurring obligations;
  - d. Employment of permanent and temporary workers;
  - e. Utilization of volunteer workers;
  - f. Rental of equipment;
  - g. Acquisition and distribution, with or without compensation, of supplies, equipment, and facilities; and
  - h. Expenditure of public funds.

C. With respect to any services, merchandise, equipment, vehicles, or property confiscated pursuant to this section, compensation shall be made to the extent and in the manner provided by Section 252.43, Florida Statutes.

**Section 7. Removal of Disaster-Generated Debris.**



**A.** The County Administrator, or his or her designee, shall have the authority, subject to the limitations of this section, to remove disaster-generated debris located within the County on County-owned property, County-owned roads, and private roads after the declaration of any state of emergency pursuant to this ordinance. The removal of such disaster-generated debris is authorized only after a major disaster or catastrophic disaster and upon the determination by the County Administrator, or his or her designee, that such removal is reasonably necessary to eliminate immediate threats to life, public health, and safety; to eliminate immediate threats of significant damage to improved County-owned property; or to ensure economic recovery of the affected community to the benefit of the community at large.

1. An immediate threat to life, public health, and safety shall be deemed to exist if any of the following conditions is present:
  - a. There is a significant likelihood that rescue vehicles will be significantly hindered from rendering emergency services if the disaster-generated debris is allowed to remain in place;
  - b. The type of disaster-generated debris is such that it may reasonably cause disease, illness, or sickness which could injure or adversely affect the health, safety, or general welfare of those residing and working in the area if allowed to remain;
  - c. The removal of the disaster-generated debris is necessary to effectuate orderly and expeditious restoration of County-wide utility services including, but not limited to, power, water, sewer, and communication services;
  - d. The disaster-generated debris is determined by the County building official, public works director, or public health official to be dangerous or hazardous;
  - e. The disaster-generated debris prevents solid waste collection, thereby creating a public health and safety hazard;
  - f. The disaster-generated debris contains contaminants which have a reasonable likelihood of leeching into the soil or aquifer of the County;
  - g. The disaster-generated debris has a substantial negative impact upon public health and safety by preventing or adversely affecting emergency repairs to buildings or property;
  - h. The disaster-generated debris presents a reasonable danger of being transported by wind or water to neighboring properties, thereby increasing the cost of recovery and removal;
  - i. The disaster-generated debris is significantly likely to produce mold or may otherwise cause disease, illness, or sickness which could injure or adversely affect the health, safety, or general welfare of the public;



County rights-of-way and private roads, or on private property, which placement does not meet pre-disaster collection service standards and is found not to be in compliance with this ordinance or with any other County ordinance or regulation.

4. The removal of disaster-generated debris consisting of either hazardous trees or hazardous limbs on County-owned property and County rights-of-way is authorized only upon the satisfaction of each of the following conditions:
    - a. The damage to the hazardous tree or hazardous limb was the result of the disaster; and
    - b. The hazardous tree or hazardous limb is in danger of falling on a structure or other improvement, on a primary ingress or egress route, or on a County right-of-way.
- C. Removal of disaster-generated debris from private roads.
1. The authority of County work forces to enter upon a private road for utilization in the disaster-generated debris removal management plan shall be as provided in Chapter 252, Florida Statutes, and shall in no way be deemed to be a trespass.
  2. The removal by County work forces of disaster-generated debris from private roads shall be performed only upon the satisfaction of each of the following conditions:
    - a. The disaster-generated debris removal plan has been implemented in accordance with this section;
    - b. A determination has been made by the County building official, public works director, or public health official that such removal is reasonably necessary to eliminate threats to life, public health, safety, or to ensure economic recovery of the affected community to the benefit of the community at large; provided, however, that the highest priority shall initially be given to responding to immediate threats to life, public health, and safety; and
    - c. Any disaster-generated debris removed from private property has been placed in or adjacent to the private road in accordance with the requirements of this section unless such requirements have been waived by the County Administrator or his or her designee.
  3. The removal of disaster-generated debris consisting of either hazardous trees or hazardous limbs overhanging or otherwise endangering a private road shall be the responsibility of the adjacent private property owners. County work forces shall not be authorized to remove or to otherwise act upon such disaster-generated debris unless it is necessary to eliminate an immediate threat to the safety of County work forces.
  4. With regard to the implementation of its disaster-generated debris removal management plan, and subject to the restrictions and requirements of Section 768.28, Florida Statutes,

the County shall indemnify and hold the federal government, and its agencies and employees, harmless from any claims arising from or based upon the exercise or performance of, or the failure to exercise or perform, a discretionary function or duty on the part of any federal agency or any employee of the federal government in carrying out the provisions of the Stafford Act.

**D.** Responsibility of private property owners.

1. The owners of private property, or those individuals otherwise in possession of private property, shall be responsible for assuring that the placement of any disaster-generated debris in County rights-of-way or on private roads for removal by County work forces satisfies each of the following conditions:
  - a. The disaster-generated debris shall be neatly stacked, piled, or placed with its leading edge lying within the 3-foot roadside shoulder area on either side of the travel lanes of the road;
  - b. The disaster-generated debris shall be separated into stacks or piles of the following types of debris:
    - i. Putrescent debris and mixed common household items;
    - ii. Vegetative debris;
    - iii. Construction and demolition debris;
    - iv. White goods; and
    - v. Hazardous household waste and electronic waste.
  - c. The disaster-generated debris shall be placed so that it does not block the roadway, traffic signs and signals, or stormwater structures.
  - d. The disaster-generated debris shall be placed so that it is not under any power lines, not on top of any water meters, and not within 3 feet of any power poles, fire hydrants, vehicles, mailboxes, or fences.
2. Any damage to personal property by County work forces resulting from the placement of disaster-generated debris in a manner inconsistent with this section shall be the responsibility of the private property owner, or individual otherwise in possession of private property, who misplaced such debris.
3. Any owner of private property, or any individual otherwise in possession of private property, who stacks, piles, or otherwise places anything for removal on County rights-of-way or on private roads that is deemed not to be disaster-generated debris shall be responsible for removing such unauthorized debris within 24 hours after notification of

such removal requirement by a member of the County work forces. Any such owner or individual who fails to timely comply with such removal requirement shall be responsible for any costs associated with the removal of such debris by County work forces.

#### **Section 8. Construction and Authorization.**

Nothing in this ordinance shall be construed to limit the authority of the Board to (i) declare or terminate a state of emergency; (ii) rescind or cancel one or more emergency measures taken pursuant to this ordinance; (iii) implement one or more emergency measures authorized in this ordinance; or (iv) take any action authorized by law. The authority of the Board to take all such actions is hereby authorized and confirmed.

#### **Section 9. Penalties.**

**A.** Any person, firm, corporation, or entity who refuses to comply with, or who violates, any provision of this ordinance, or the emergency measures which may be made effective pursuant to this ordinance, shall be prosecuted in the same manner as misdemeanors are prosecuted and shall, upon conviction, be punished by a fine not to exceed five hundred dollars, imprisonment not to exceed 60 days in the County jail, or by both such fine and imprisonment. Each day of continued noncompliance or violation shall constitute a separate offense.

**B.** In addition to the penalties set forth in subsection A above, any licensee or permittee of St. Johns County found guilty of violating any provision of this ordinance, or the emergency measures which may be made effective pursuant to this ordinance, may have his or her license or permit suspended or revoked by the Board.

**C.** In addition to the penalties set forth in subsections A and B above, the County utility department is authorized to shut off the water supply to any person, firm, corporation, or entity who is found to have violated Section 6.B.10 above.

**D.** The penalties and remedies provided for in this section are not mutually exclusive, but supplemental to one another and in addition to any other remedy authorized by law or equity. The County may pursue any, all, or any combination of such penalties and remedies when enforcing the provisions of this ordinance or any emergency order, emergency rule, or other emergency measure which may be made effective pursuant to this ordinance. Nothing in this ordinance shall prevent the County from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any failure or refusal to comply with, or any violation of, this ordinance or any emergency order, emergency rule, or other emergency measure which may be made effective pursuant to this ordinance. Such other lawful action shall include, but not be limited to, an equitable action for injunctive relief or an action at law for damages.

#### **Section 10. Repeal.**

St. Johns County Ordinance 2019-40 is hereby repealed. The Clerk of Court is instructed to remove Ordinance 2019-40 from the County Code. Nothing in this Ordinance shall affect the validity or enforceability

of (1) any actions taken by the County under the authority of Ordinance 2019-40 or (2) any emergency order issued pursuant to St. Johns County Ordinance 2019-40.

**Section 11. Severability.**

If any portion of this ordinance, or the application thereof, is declared invalid, void, or otherwise unenforceable by a court of competent jurisdiction, such portion or application shall be severable and shall not affect the validity of the remainder of this ordinance.

**Section 12. Effective Date.**

This ordinance shall be effective upon its enactment by the Board of County Commissioners.

**PASSED AND ENACTED BY THE BOARD OF ST. JOHNS COUNTY THIS \_\_\_\_ DAY  
OF \_\_\_\_\_, 2021.**

**BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA**

By: \_\_\_\_\_  
Jeremiah R. Blocker, Chair

**ATTEST: BRANDON J. PATTY, CLERK OF  
THE CIRCUIT COURT & COMPTROLLER**

By: \_\_\_\_\_  
Deputy Clerk