




Office of
**INDIAN RIVER COUNTY
ATTORNEY**

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MEMORANDUM

TO: Board of County Commissioners

FROM: Dylan Reingold, County Attorney 

DATE: February 28, 2018

SUBJECT: City of Sebastian Fire Marshal Ordinance

BACKGROUND.

Pursuant to section 208.09 of the Indian River County Ordinance Code (the "Code"), the Indian River County Fire Marshal's Office is operated under the supervision of the Fire Chief of the Indian River County Fire Division, under the direction of the Director of the Indian River County Department of Emergency Services. Additionally, the fire chief is responsible for designating a fire marshal who is responsible for the administration and enforcement of applicable provisions of the Code, the State Fire Prevention and Control Chapter (Chapter 633, Florida Statutes) and Chapter 69A-60, Florida Administrative Code. The fire marshal, or his or her designee, is responsible for issuing permits, certificates, notices, approvals and/or orders pertaining to life safety, fire control and fire hazards.

Additionally, under section 208.11 of the Code, annual fire safety inspections are required to be conducted by qualified inspectors of all buildings specified in the Florida Fire Prevention Code under the emergency services district jurisdiction.

The City of Sebastian (the "City") City Council (the "Council") is considering an ordinance that would establish an independent City Fire Marshall's Office that would have all of the same responsibilities as that of the Indian River County Fire Marshal's Office. The ordinance is scheduled for a public hearing before the Council on March 14, 2018. The proposed ordinance states that it supersedes those portions of the Code to the extent stated in the ordinance.

The City is part of the Indian River County Emergency Services District and Chapter 208 of the Code governs the Indian River County Emergency Services District. It appears that the City is attempting to keep one foot in the Indian River County Emergency Services District and receive the benefits of fire protection, rescue services, basic and advanced life support services and other emergency services, while at the same time seeking independence from the Indian River County Emergency Services District with respect to the Fire Marshal's Office administration and enforcement powers.

This appears to be inconsistent with Florida law. Section 633.118, Florida Statutes, limits the types of entities that are authorized to enforce Chapter 633, Florida Statutes and the rules promulgated by the State Fire Marshal. Those include 1) the chiefs of county, municipal, and special-district fire service providers; 2) other fire service provider personnel designated by their respective chiefs; and 3) personnel designated by local governments having no organized fire service providers. Since the Indian River County Emergency Services District operates as an organized fire service provider within the City, the City does not have the authority to exercise such powers.

The Indian River County Emergency Services District staff does not support this fracturing of the Indian River County Emergency Services District. The Indian River County Emergency Services District has a holistic view of emergencies, with both prevention and response critical aspects of the services provided. Therefore, the Indian River County Emergency Services District recommends that the Indian River County Board of County Commissioners as the Board of Commissioners of the Indian River County Emergency Services District oppose the enactment of this ordinance.

On February 27, 2018, County Administrator Jason Brown, Emergency Services Director John King and Assistant Chief Tad Stone and I met with the City Manager Joe Griffin, City Attorney James Stokes and City Building Official Wayne Eseltine to discuss the issue. No agreement was reached on the matter.

FUNDING.

There is no funding associated with this agenda item.

RECOMMENDATION.

The County Attorney's Office recommends that the Indian River County Board of County Commissioners direct County staff to oppose the City Council ordinance establishing an independent City Fire Marshall's Office.