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Reply to: *Lakewood Ranch*

## MEMORANDUM

**DATE:** December 5, 2017  
**TO:** Ed Lavallee, City Manager  
**FROM:** Kelly M. Fernandez, Assistant City Attorney  
**SUBJECT:** City Emergency Management Authority

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The purpose of this memorandum is to provide a summary of the City's emergency management authority in relation to that of the state and Sarasota County. Section 252.38, Florida Statutes, attached for your reference, delineates the respective emergency management powers of counties and municipalities. In sum, Florida has established an emergency management system whereby the Florida Division of Emergency Management is the statewide coordinator of emergency responses with every county falling under its jurisdiction and each municipality in a county being required to act in a manner consistent with the county. The stated purpose of this system is to provide effective and orderly governmental control and coordination of emergency operations. §252.38(1)(a), F.S. Each county is required to establish an emergency management agency and an emergency management plan and program that are coordinated and consistent with the state comprehensive emergency management plan and program. Municipalities do not need to create their own emergency management programs as they can choose to be covered solely by the county emergency management agency. §252.38(2), F.S. If a municipality does elect to create municipal emergency management programs, those programs must be coordinated with the county emergency management agency. Likewise, any municipal emergency management plan must be consistent with and subject to the applicable county emergency management plan.

That counties have been designated by the state as the primary local authority over emergency management is further highlighted by the requirement in Section 252.38(1)(c)&(d) that the county must serve as the liaison for and coordinator of a municipality's request for state and federal

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assistance during post-disaster emergency operations and that the county is in charge of coordinating the district school board's assistance in emergency management (e.g., for use of its facilities, staff and vehicles). While Section 252.38(3) does provide a laundry list of emergency management powers to both counties and cities, none of these powers allow a municipality to act in a manner inconsistent with the programs and plan of its county.

Rule 27P-6.0023, Florida Administrative Code, provides the requirements and approval process for County Comprehensive Emergency Management Plans ("CEMPs"). County CEMPs must include an evacuation component, a shelter component and a post-disaster and recovery component and consist of provisions addressing aspects of preparedness, response, recovery and mitigation. County CEMPs must cover county agencies and resources and should cover applicable municipal agencies and resources. The CEMPs must also interface with plans of contiguous jurisdictions, municipalities and the state CEMPs. Pursuant to Rule 27P-6.006, Florida Administrative Code, County CEMPs are to be reviewed and approved by the Florida Division of Emergency Management at least every four years. Municipal CEMPs are reviewed by the county emergency management agency for compliance with Chapter 27P-6, F.A.C. *See* Fla. Admin. Code R. 27P-6.010.

Based on the foregoing, all emergency management programs and plans of the City of Venice must be both consistent with the emergency management programs and plans of Sarasota County and in compliance with the requirements of Section 252.38, Florida Statutes and Chapter 27P-6, Florida Administrative Code. To the extent the City believes the County does not or will not adequately address an emergency management issue affecting the City, consultation with the Florida Division of Emergency Management and involvement with its required periodic review of the County's CEMP would be an appropriate avenue for addressing that concern. Finally, I have attached a page from the 2016 Statewide Emergency Shelter Plan (available online) that reflects Sarasota County as having a current and projected deficit in general population and special needs shelter capacity.