

LEE COUNTY

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LEE COUNTY
MOLLIE A. MCINNIS
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FILED Oct 22, 2008
AT 02:27:39 pm
BOOK 00003
START PAGE 0003
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INSTRUMENT # 08001

AN ORDINANCE TO PROVIDE FOR EMERGENCY MANAGEMENT IN THE UNINCORPORATED AREAS OF LEE COUNTY

WHEREAS, the Board of Commissioners is responsible to take those measures at the county level to minimize the adverse effect of any type disaster; and

WHEREAS, the Board of Commissioners is authorized to establish and maintain an emergency management agency; and

WHEREAS, the Board of Commissioners appoints the coordinator of the agency who has the responsibility for the organization, administration, and operation of the county program subject to the direction and guidance of the Board of Commissioners;

NOW, THEREFORE Be It Ordained by the Board of Commissioners of the County of Lee as follows:

PART 1: STATE OF EMERGENCY

Section 1. Territorial Applicability

This Ordinance is applicable to any part of Lee County which is not within the corporate limits of any city or town.

Section 2. Public Proclamation of Emergency

(A) A state of emergency shall be deemed to exist when ever during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.

(B) In the event of any existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the county or any part thereof, or threatening damages to or destruction of property, the Chairperson of the Board of Commissioners is hereby authorized and empowered under G.S. 14-288.13 and 166A-8 to issue a public proclamation declaring to all persons the existence of such a state of emergency, and, in order to more effectively protect the lives and property of people within the county, to place in effect any or all of the restrictions hereinafter authorized.

(C) The Chairperson is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restriction to any area specifically designated or described within the county and to specific hours of the day or night; and to

exempt from all or any part of such restriction, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters and public employees, rescue squad members, First Responders as defined by the medical director for the Emergency Medical Services provided for Lee County and/or the North Carolina State Office of Emergency Medical Services, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operating for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of people within the county.

Section 3. PROCLAMATION IMPOSING PROHIBITIONS AND RESTRICTIONS

(A) The Chairperson of the Board of Commissioners by proclamation may impose the prohibitions and restrictions specified in Section 4 through Section 9 of this subchapter in the manner described in those sections. The Chairperson may impose as many of those specified prohibitions and restrictions as he finds necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The Chairperson shall recite his findings in the proclamation.

(B) The proclamation shall be in writing. The Chairperson shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the County Courthouse. The Chairperson shall send reports of the substance of the proclamation to the mass communications media which serves the affected area. The Chairperson shall retain a text of the proclamation and furnish upon request certified copies of it.

Section 4. EVACUATION

(A) The Chairperson may direct and compel the evacuation of all or part of the population of the county, to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress of a disaster area, the movement of persons within the area, and the occupancy of premises therein. Details of the evacuation may be set forth or amended in a subsequent proclamation which shall be well publicized.

Section 5. CURFEW

(A) The proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area or areas and the period during each 24-hour day to which the curfew applies. The Chairperson may exempt from some or all of the curfew restrictions class of people whose exemption the Chairperson finds necessary or the preservation of the public health, safety, and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(B) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the Chairperson by proclamation removes the curfew.

Section 6. RESTRICTIONS ON ALCOHOLIC BEVERAGES

The proclamation may prohibit the possession or consumption of any alcoholic beverage; including beer, wine, and spirituous liquor other than on one's own premises, and may prohibit transfer, transportation, sale or purchases of any alcoholic beverage within the area of the county described in the proclamation. The prohibition, if imposed, may apply to transfers of alcoholic beverages by employees of Alcoholic Beverage Control stores as well as by anyone else within the geographical area described.

Section 7. RESTRICTIONS ON DANGEROUS WEAPONS AND SUBSTANCES

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS WEAPON OR SUBSTANCE

(1) Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device as defined in G.S. 14-288.8 (c) (5), gasoline, or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property.

(2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so used.

(3) Any part or ingredient in any instrument or substance included above when the circumstances indicate a probability that such a part or ingredient will be so used.

(B) The proclamation may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance. The Chairperson may exempt from some or all of the restrictions classes of people whose possession, transfer, or transportation or certain dangerous weapons or substances is necessary to the preservation of the public's health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(C) If imposed, the restrictions shall apply throughout the jurisdiction of the county or such part thereof as designated in the proclamation.

Section 8. RESTRICTIONS ON ACCESS TO AREAS

(A) The proclamation may prohibit obtaining access or attempting to obtain access to any areas, designated in the manner described in this section, in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.

(B) Areas to which access is denied or restricted shall be designated by the Sheriff and his subordinates or other law enforcement officers when directed in the proclamation to do so by the Chairperson. When acting under his authority, the Sheriff and his subordinates may restrict or deny access to any area, street, highway or location within the unincorporated area of the County if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

Section 9. OTHER RESTRICTIONS AND PROHIBITIONS

The proclamation may prohibit or restrict:

- (A) Movements of people in public places;
- (B) The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate; and
- (C) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.

Section 10. TERMINATION OF EMERGENCY; REMOVAL OF RESTRICTIONS OR PROHIBITIONS

The Chairperson shall by proclamation terminate the entire declaration of emergency or remove any of the prohibitions and restrictions when the emergency no longer requires them, or when directed to do so by the Board of Commissioners.

Section 11. SUPERCEDING AND AMENDATORY PROCLAMATIONS

The Chairperson in his/her discretion may invoke the restrictions authorized by this subchapter in separate proclamations, and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in Section 3.

Section 12. TERMINATION OF PROCLAMATION

Any proclamation issued under this ordinance shall expire five days after its last imposition unless sooner terminated in writing under the same procedures set forth in Section 3.

Section 13. DISABILITY OF CHAIRPERSON

In case of the absence or disability, or inability to communicate with the Chairperson, the Vice-Chairperson of the Board of Commissioners, or such other Commissioner as may be designated by the Board of Commissioners, shall have and exercise all of the powers herein given the Chairperson. If neither the Chairperson nor Vice-Chairperson may be contacted, then the line of succession shall be by the first letter of the last name of the remaining Commissioners in alphabetical descending order for the purpose of this ordinance only. If no Commissioner is reachable, then authority for powers herein is delegated to the County Manager.

PART 2. EMERGENCY MANAGEMENT AGENCY

SECTION 14. SHORT TITLE

This subchapter shall be known and may be cited and referred to as the "Emergency Management Ordinance for the County of Lee".

SECTION 15. INTENT AND PURPOSE

(A) It is the intent and purpose of this subchapter to establish an office that will insure the complete and efficient utilization of all of the county's resources to combat disaster resulting from enemy or terrorist actions or other disasters as defined herein.

(B) The Office of Emergency Management will be the coordinating agency for all activity in connection with emergency management/homeland security. It will be the instrument through which the Board of Commissioners may exercise the authority and discharge the responsibilities vested in them during emergencies.

(C) This subchapter will not relieve any county department of the moral responsibilities or authority given to it by local ordinances, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.

SECTION 16. DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ATTACK. Direct or indirect assault against the county, its government, its environs, or of the nation, by the forces of a hostile nation or the agents thereof, including assault by bombing, conventional or nuclear, chemical or biological warfare, terrorism or sabotage.

COORDINATOR. The Coordinator of the Emergency Management Agency, appointed as prescribed in this subchapter, and may also be identified as a "Director".

COMMUNITY EMERGENCY RESPONSE TEAM. Volunteer organization of trained citizens that care for their families and neighbors before, during, and after emergencies that have successfully completed a CERT course officially recognized by the Emergency Management Organization and serve on an Emergency Management recognized CERT team. May serve as volunteer support for the Emergency Management Organization upon approval from the Emergency Management Coordinator.

DISASTER. Includes but is not limited to actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic, accident, chemical spill or other impending or actual calamity endangering or threatening to endanger health, life or property of constituted government.

EMERGENCY MANAGEMENT. The basic government functions of maintaining the public peace, health and safety before, during and after an emergency. This term shall include plans and preparations for protection and relief, recovery and rehabilitation from effects of an attack by the forces of enemy nations or the agents thereof, individuals or groups of individuals who intend to act negatively against persons or property of County residents to coerce or influence social or political objectives, or a disaster as defined therein. This term also incorporates the duties and responsibilities of a local Homeland Security entity as part of a protect and prevent mission for terrorist activity. It shall not, however, include any activity that is the primary responsibility of the military forces of the United States.

EMERGENCY MANAGEMENT FORCES. The employees, equipment and facilities of all county departments, boards, councils, institutions and commissions; and in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.

EMERGENCY MANAGEMENT VOLUNTEER. Any person duly registered, identified and appointed by the Coordinator of the Emergency Management Agency and assigned to participate in the emergency management activity, including Community Emergency Response Team volunteers.

INCIDENT COMMAND SYSTEM. The standardized, on-scene, all-hazard incident management concept as established and implemented as part of the National Incident Management System (NIMS) established by the United States Government. ICS is based upon a flexible, scalable response organization providing a common framework within which people can work together effectively.

REGULATIONS. Includes plans, programs and other emergency procedures deemed essential to emergency management.

VOLUNTEER. Contributing a service, equipment or facilities to the Emergency Management Agency without remuneration.

SECTION 17. ORGANIZATION AND APPOINTMENTS

(A) The organization shall consist of the following:

(1) An agency of emergency management/homeland security of the county government under the direction of the Board of Commissioners with routine management provided by the County Manager. The agency head of the Emergency Management Agency shall be known as the Director and serve as Coordinator, and such assistants and other employees as are deemed necessary for the proper functioning of the agency will be appointed to implement the responsibilities under the definition of this ordinance.

(2) The employees and resources of all county departments, boards, institutions, and councils shall participate in the emergency management activities through the direction of the Office of Emergency Management. Duties assigned to county departments shall be the same as or similar to the normal duties of the department, where possible.

(3) Volunteer personnel and agencies offering service to, and accepted by the county.

(B) The Board of Commissioners, through the County Manager, shall appoint a Coordinator of the Emergency Management Agency/Homeland Security who shall be a person well versed and trained in planning operations involving the activities of many different agencies which will operate to protect the public health, safety and welfare in the event of danger from enemy, terrorist action, or disaster as defined in this subchapter.

(C) The Coordinator shall designate and appoint deputy coordinators to assume the emergency duties of the coordinator in the event of his absence or inability to act.

SECTION 18. DUTIES AND RESPONSIBILITIES OF THE COORDINATOR

(A) The coordinator shall be responsible to the Board of Commissioners in regard to all phases of emergency management/homeland security activity. The Coordinator shall be responsible for the planning, coordination and operation of the emergency management activities in the county. The Coordinator shall maintain liaison with the state and federal authorities and the authorities of nearby political subdivisions so as to insure the most effective operation and implementation of the emergency management plans.

(B) The Coordinator's duties shall include, but not be limited to the following:

(1) Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the county for emergency management purposes.

(2) Development and coordination of plans for the immediate use of all facilities, equipment, manpower and other resources of the county for the purpose of minimizing or preventing damage to persons and property; and protecting the restoring to usefulness governmental services and public utilities necessary for the public health, safety, and welfare.

(3) Negotiating and concluding agreements with owners or persons in control of buildings or other real property, emergency supplies and commodities, equipment and mechanized vehicles, and employers of personnel with specialized training and skills for emergency management purposes.

(4) Through public informational programs, educating the populace as to actions necessary and required for the protection of their persons and property in case of enemy attack, terrorism, or disaster as defined herein, either impending or present.

(5) Conducting public practice alerts and exercises to insure the efficient operation of the emergency management forces and to familiarize residents with emergency management regulations, procedures and operations.

(6) Compel and coordinating the activity of all other public and private agencies engaged in any emergency management activities within the County and its municipalities.

SECTION 19. EMERGENCY MANAGEMENT PLANS

(A) Comprehensive emergency management plans shall be adopted and maintained by resolution of the Board of Commissioners. In the preparations of these as it pertains to county organization, it is intended that the services, equipment and facilities and personnel of existing departments and agencies shall be utilized to the fullest extent. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by these plans to maintain their portions of the plans in a current state of readiness at all times. These plans shall have the effect of law whenever a disaster, as defined in this subchapter, has been proclaimed.

(B) The Coordinator shall prescribe in the emergency plans those positions within the disaster organization, in addition to his own, for which lines of succession are necessary. In each instance, the responsible person will designate and keep on file with the Coordinator a current list of three persons as successors to his position. The list will be in order of succession and will as nearly as possible designate persons best capable of carrying out all assigned duties and functions. The successor listed shall be considered having the same authorities as the responsible person when serving in the applicable role.

(C) Each service chief and department head assigned responsibility in the plans shall be responsible for carrying out all duties and functions assigned therein. Duties will include the organization and training of assigned employees and where needed volunteers. Each chief shall formulate the standing operating procedure to implement the plans for his service.

(D) Amendments to these plans shall be submitted to the Coordinator. If approved, the Coordinator will then submit the amendments to the Board of Commissioners with his recommendation for their approval. Such amendments shall take effect 30 days from the date of approval.

(E) When a required competency or skill for a disaster function is not available within government, the Coordinator is authorized to seek assistance from person(s) outside of government. The assignment of duties, when of a supervisory nature, shall also include the granting of authority for the persons so assigned to carry out such duties prior to, during, and after the occurrence of a disaster. Such services from persons outside of government may be accepted by local government on a volunteer basis. Such citizens shall be enrolled as emergency management volunteers.

(F) The Emergency Management Coordinator shall have the authority to establish Community Emergency Response Teams (CERT), and Amateur Radio Emergency Services (ARES) teams, establish training and certification requirements for members, determine the operating parameters of the members, and authorize members to operate outside of their assigned areas for the purposes of providing support to the Emergency Management Organization. The Emergency Management Coordinator or designee may appoint coordinator(s) for proper organization and administration of this program.

(G) All emergency management plans and operations shall comply with the National Incident Management System as implemented by the appropriate body of the United States Government and all emergency management forces shall utilize the NIMS compliant Incident Command System when engaging in activities as prescribed by this ordinance.

SECTION 20. NO MUNICIPAL OR PRIVATE LIABILITY

(A) This subchapter is an exercise by the county of its governmental functions for the protection of the public peace, health, and safety, and neither the county nor agents and representatives of same, or any individual, receiver, firm, partnership, corporation, association, or trustee, or any of the agents thereof in good faith carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this subchapter shall be liable for any damage sustained to persons or property as the result of said activity.

(B) Any persons owning or controlling real estate or other premises who voluntarily and with compensation grants the county the right to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice disaster situation shall not be civilly liable for the death of, or injury to, any persons on or about such real estate or premises under such license, privilege or other permission; or for loss of, or damage to, the property of such person.

SECTION 21. CONFLICTING RULES AND REGULATIONS

At all times when the orders, rules and regulations made and promulgated pursuant to this subchapter shall be in effect, they shall supercede all existing ordinances, orders, rules and regulations insofar as the later may be inconsistent therewith.

SECTION 22. VIOLATIONS

It shall be a misdemeanor for any person to violate any of the provisions of this subchapter or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the emergency management organization as herein defined in the enforcement of the provisions of this subchapter or any plan issued thereunder.

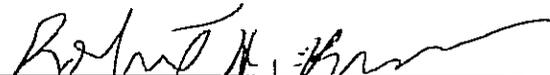
SECTION 23. PENALTY

Any person violating any prohibition or restriction imposed by a proclamation authorized by this chapter shall be guilty of a Class 3 misdemeanor.

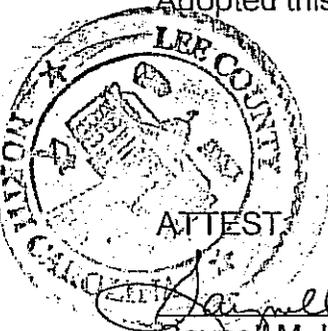
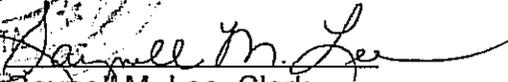
SECTION 24. CONFLICT OF LAWS

If any portion of this ordinance or the enforcement thereof is found to be preempted by state or federal law, such preemption shall not operate to invalidate the rest of the ordinance and the same shall remain in full force and effect. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Adopted this 6th day of October 2008.



Robert H. Brown, Chairman
Lee County Board of Commissioners


ATTEST:

Gaynell M. Lee, Clerk