

**TRANSYLVANIA COUNTY
EMERGENCY MANAGEMENT ORDINANCE**

Sec. 6-1. Purpose.

The purposes of this Chapter are to set forth the authority and responsibility of Transylvania County in prevention of, preparation for, response to and recovery from natural or man-made disasters or hostile military or paramilitary action and to:

- (1) Reduce vulnerability of people and property of Transylvania County to damage, injury, and loss of life and property;
- (2) Prepare for prompt and efficient rescue, care and treatment of threatened or affected persons;
- (3) Provide for the rapid and orderly rehabilitation of persons and restoration of property; and
- (4) Provide for cooperation and coordination of activities relating to emergency and disaster mitigation, preparedness, response and recovery among County agencies and officials of this State and with similar agencies and officials and with other private and quasi-official organizations.

Sec. 6-2. Definitions.

The following words and phrases as used in this Chapter shall have the following meanings:

- (1) "Disaster." - An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military or paramilitary cause.
- (2) "Emergency Management." - Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type disaster, which include the never-ending preparedness cycle of prevention, mitigation, warning, movement, shelter, emergency assistance and recovery.
- (3) "Emergency Management Agency." - A State or local governmental agency charged with coordination of all emergency management activities for its jurisdiction.
- (4) "Emergency Operations Plan." - A document created to address disaster management and emergency plans when hazards threaten any jurisdiction.
- (5) "Political Subdivision." - Counties and incorporated cities, towns and villages. (1951, c. 1016, s. 2; 1953, c. 1099, s. 1; 1955, c. 387, s. 1; 1975, c. 734, ss. 4-6, 14; 1977, c. 848, s. 2; 1979, 2nd Sess., c. 1310, s. 2.)
- (6) "State of Emergency" - The condition that exists whenever, during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, public safety authorities are unable to maintain public order or afford adequate protection for lives or property, or whenever the occurrence of any such condition is imminent. (1969, c. 869, s.1; 1975, c. 718, s.5.)

Sec. 6-3. Territorial applicability.

This article shall not apply within the corporate limits of any municipality, or within any area of the county over which the municipality has jurisdiction to enact general police-power ordinances, unless the municipality, by resolution, consents to its application or the mayor of the municipality has requested its application.

(Ord. Of 9-11-89, § 15)

Sec. 6-4. Restrictions authorized.

(a) A state of emergency shall be deemed to exist 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 an 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 Sections 14-228.13 and 166A-8 [of the North Carolina General Statutes] 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 restrictions 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 restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firemen and other public employees, rescue squad members, 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 operated 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.

(Ord. Of 9-11-89, § 1)

Sec. 6-5. Proclamation imposing prohibitions and restrictions.

(a) The chairperson of the board of commissioners by proclamation may impose the prohibitions and restrictions specified in sections 6-6 through 6-8 in the manner described in those sections. The chairperson may impose as many of those specified prohibitions and restrictions as he/she finds are necessary to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The chairperson shall recite his/her 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.
(Ord. Of 9-11-89, § 2)

Sec. 6-6. Evacuation.

The chairperson may direct and compel the evacuation of all or part of the population of the county, [and has the power] to prescribe routes, modes of transportation, and destinations 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.

(Ord. Of 9-11-89, § 3)

Sec. 6-7. 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 twenty-four-hour day to which the curfew applies. The chairperson may exempt from some or all of the curfew restrictions classes of people whose exemption the chairperson finds necessary for 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.

(Ord. Of 9-11-89, § 4)

Sec. 6-8. Same-Access to area.

(a) The proclamation may prohibit obtaining access or attempting to obtain access to any area, 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) Area to which access is denied or restricted shall be designated by the sheriff and his subordinates or other law enforcement officer when directed in the proclamation to do so by the chairperson. When acting under this authority, the sheriff and his subordinates may restrict or deny access to any area, street, highway or location within 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.

(Ord. Of 9-11-89, § 7)

Sec. 6-9. Removal of prohibitions and restrictions.

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.

(Ord. Of 9-11-89, § 9)

Sec. 6-10. Superseding and amendatory proclamations.

The chairperson in his/her discretion may invoke the restrictions authorized by this article in separate proclamations, and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in section 6-5.

(Ord. Of 9-11-89, § 10)

Sec. 6-11. Termination of proclamation.

Any proclamation issued under this article shall expire five (5) days after its last imposition unless sooner terminated in writing under the same procedures set forth in section 6-9 for proclamations.

(Ord. Of 9-11-89, § 11)

Sec. 6-12. Absence or disability of chairperson.

In case of the absence or disability of the chairperson, the vice-chairperson of the board of commissioners, or such other person as may be designated by the board, shall exercise the powers herein given the chairperson.

(Ord. Of 9-11-89, § 12)

Sec. 6-13. Emergency Management Coordinators- Appointment

The county board of commissioners shall appoint coordinators to serve on the emergency management team who shall be individuals 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 action or disaster as defined in this article.

Sec. 6-14. Emergency Management Team's Responsibilities.

The emergency management team shall be responsible to the county board of commissioners, through the County Manager, in regard to all phases of emergency management activity. The team shall be responsible for the planning, coordination and operation of the emergency management activities in the county. The team shall maintain liaison with the state and federal authorities and the authorities of nearby political subdivisions so as to insure the most effective operation of the emergency management plans. The team 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 and 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 building or other property for the use of such building or other property for emergency management purposes and designating suitable buildings as public shelters.
- (4) Educating residents as to actions necessary and required to protect themselves and their property in case of enemy attack or disaster/emergency as defined herein, either impending or present.
- (5) Conducting public practice alerts to insure the efficient operation of the emergency management forces and to familiarize residents with emergency management regulations, procedures and operations.
- (6) Coordinating the activity of all other public and private agencies engaged in any emergency management activity.

(Ord. No. 213-92, § 5, 4-13-92)

Sec. 6-15. Emergency Operations Plan.

(a) Comprehensive emergency management, or the Emergency Operations Plan, shall be adopted and maintained by resolution of the county board of commissioners. In the preparations of these plans as it pertains to county organization, it is intended that the services, equipment and facilities and personnel of all 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 and 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/emergency, as defined in this article, has been proclaimed.

(b) The emergency management team shall prescribe in the Emergency Operations Plan those positions within the disaster organization, in addition to its own, for which lines of succession are necessary. In each instance, the responsible person will designate and keep on file with the team a current list of three (3) persons as successors to his position. The list will be in order of succession and will nearly as possible designate persons best capable of carrying out all assigned duties and functions.

(c) Amendments to the Emergency Operations Plan shall be submitted by the Emergency Management Team to the County Manager. The County Manager shall submit the amendments to the county board of commissioners with his recommendations.

(d) When a required competency or skill for a disaster function is not available within government, the team is authorized to seek assistance from Transylvania County Local Emergency Planning Committee (LEPC) and persons 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.

(Ord. No. 213-92, § 6, 4-13-92)

Sec. 6-16. No local government or private liability.

(a) This article 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 article, shall be liable for any damage sustained to persons or property as the result of said activity.

(b) Any person owning or controlling real estate or other premises who voluntarily, and without 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.

Sec. 6-17. Violations.

Any person violating any prohibition or restriction imposed by a proclamation authorized by this article shall be guilty of a Class 3 misdemeanor, as provided by G.S. 14-4.

(Ord. Of 9-11-89, § 14)

Cross Reference - General penalties, §§ 1-8, 1-9.

Sec. 6-18. Repeal of Conflicting Ordinances


All ordinances in conflict with the provisions of this ordinance are hereby repealed.

Sec. 6-19. Validity

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, clauses, or phrases be declared invalid.

Sec. 6-20. Effective Date of Ordinance

This ordinance shall take effect on the 13th day of December, 1999.


Chairman, County Board of Commissioners