

CHAPTER 6 – EMERGENCY MANAGEMENT

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§ 6.01 Intent and Purpose

(a) The purpose of this Chapter is to set forth the authority and responsibility of the Board of County Commissioners, County Manager, Emergency Management Director, and Emergency Management Agency in the prevention of, preparation for, response to, and recovery from natural or human-made disasters or hostile military or paramilitary action and to:

- (1) Reduce the vulnerability of people and property of the 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 agencies and officials of this County and with similar agencies and officials of other Counties,

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Municipalities, State, State, and federal governments, with interstate organizations and with other private and quasi-official organizations.

(b) This article will not relieve any county department of the legal responsibilities or authority given to it in the County Charter or by local chapters, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.

(c) To the extent not specifically enumerated herein, all authorities and powers conferred on the County pursuant to Chapter 166A and Chapter 14 of the North Carolina General Statutes, and all similar provisions of state and federal law, are incorporated herein by reference.

§ 6.02 Transylvania County Emergency Management Agency

In accordance with N.C. General Statute § 166A-19.15, the County's governing body is responsible for all emergency management activities within its borders, including activities of the municipalities within the County. The Transylvania County Emergency Management Agency ("the Agency") is hereby established and is designated as the County agency responsible for all emergency management activities with and on behalf of the County. The Agency shall be the agency through which the Transylvania County Board of Commissioners exercises the authority and discharges the responsibilities vested in it during disasters and states of emergency. The Agency shall also be the coordinating agency for all activity connected with emergency management, including activities within municipalities.

§ 6.03 Definitions

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) **Attack** means direct or indirect assault against the County, its government, its environs, or of the nation, by forces of a hostile nation or the agents thereof, including assault by bombing, conventional or nuclear; chemical or biological warfare; terrorism; or sabotage.
- (2) **County Chairperson** means the Chairperson of the Transylvania County Board of Commissioners.
- (3) **Director** means the coordinator of the county emergency management agency, or such person as is appointed by the governing body.
- (4) **Disaster** means 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, including but not limited to actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic, accident, chemical spill or other impending or real calamity endangering or threatening to endanger health, life, or property of constituted government.
- (5) **Emergency Management** means the essential government functions of maintaining the public peace, health, and safety during an emergency. This term includes prevention against and plans and preparations for protection and relief and recovery from effects of an attack by the forces of an enemy nation or the agents thereof or a disaster as defined in

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this section. It shall not, however, include any activity that is the primary responsibility of the military forces of the United States.

- (6) **Emergency Management Personnel** means all employees of Transylvania County and municipal governments within Transylvania County, their departments, boards, institutions, and councils, agents, representatives, contractors, and subcontractors who are participating in emergency management activities.
- (7) **Local Emergency Planning Committee** is a committee formed by the County Commissioners to facilitate emergency management coordination and cooperation of all political jurisdictions and agencies, both public and private, within Transylvania County.
- (8) **Regulations** mean plans, programs, and other emergency procedures deemed essential to emergency management.
- (9) **State of Emergency (or State of Disaster)** means 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, and which constitutes a significant threat to public health, safety, and welfare whether actual or imminent.
- (10) **Volunteer** means contributing a service, equipment, or facilities to the emergency management agency without remuneration.

§ 6.04 Organization and Appointments

The emergency management organization shall consist of the following:

- (1) An agency of emergency management under the direction of the County Manager or their designee. The head of the county emergency management agency shall be known as the Director, and such assistants and other employees as are deemed necessary for the proper functioning of the agency will be appointed.
- (2) The employees and resources of all county departments, boards, institutions, and councils shall participate in emergency management activities. Duties assigned to county departments shall be the same as or like the regular duties of the department, where possible.
- (3) Volunteer personnel and agencies offering service to and accepted by the county.
- (4) The Director of the county emergency management agency, who shall be a person well versed and trained in operations involving the activities of many different agencies, will operate to protect the public health, safety, and welfare if danger occurs from enemy action or disaster as defined in this article.
- (5) The Director shall designate and appoint a Deputy Director and assistant coordinators to assume the emergency duties of the Director in his/her absence or inability to act.

§ 6.05 Duties and Responsibilities

The Chairperson of the Board of County Commissioners shall have the authority to independently exercise the following duties and responsibilities after reasonable attempts to convene a meeting of the full Board of County Commissioners have proven unsuccessful.

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- (1) Exercise general direction and control of the County emergency management program and shall be responsible for carrying out the provisions within this local chapter, Chapter 166A of the North Carolina General Statutes, and all other applicable local, state, and federal laws.
- (2) Serve as an active member of the Local Emergency Planning Committee and agrees to assure collaborative membership amongst other applicable agencies.
- (3) Make, amend, or rescind the necessary orders, rules, proclamations, and regulations within the limits of the authority conferred upon him/her herein, with due consideration of the laws and policies of the state and federal government.
- (4) Delegate any authority vested in him/her under this chapter and to provide for the sub-delegation of any such authority.
- (5) Cooperate and coordinate with the Governor and the heads of the departments and agencies of the state and federal government, and with other appropriate state officers and agencies, and with the officers and agencies of other local units of government in matters pertaining to the emergency management of the County.
- (6) Utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the County and the political subdivisions thereof. The officers and personnel of all such departments, offices, and agencies are required to cooperate with and extend such services and facilities to the Chairperson upon request. This authority shall extend to a state of disaster, imminent threat of disaster, or emergency management planning and training purposes.
- (7) Sell, lend, lease, give, transfer, or deliver materials or perform services for disaster purposes on such terms and conditions as may be prescribed by any existing law.
- (8) Use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the effects of a disaster, and to reallocate such other funds as may reasonably be available within the appropriations of the various departments when the severity and magnitude of such disaster so require and the contingency and emergency funds are insufficient or inappropriate.

The County Manager shall have the following duties and responsibilities:

- (1) Be responsible to the Board of County Commissioners for emergency management activities.
- (2) Activate County plans applicable to the areas in question and to authorize and direct the deployment of other County resources, supplies, employees, and equipment as necessary pursuant to this Chapter or any other provision of law.
- (3) Implement this chapter.
- (4) Exercise additional authority, duties, and responsibilities as may be prescribed by the Board of County Commissioners.

These duties may be sub-delegated to the Assistant County Manager and/or the Director of the Emergency Management Agency as appropriate.

The Director of Emergency Management shall have the following duties and responsibilities:

- (1) Be responsible to the County Manager or their designee regarding all phases of emergency management activity.

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- (2) Maintain liaison with the state and federal authorities and the authorities of other political subdivisions to ensure the most effective operation of the emergency management plans.
- (3) Coordinate the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the county for emergency management purposes.
- (4) Develop and coordinate plans for the immediate use of all facilities, equipment, workforce, and other resources of the county to minimize or prevent damage to persons and property; and protecting and restoring to governmental usefulness services and public utilities necessary for the public health, safety, and welfare.
- (5) Negotiate and conclude agreements with owners or persons in control of buildings or other property for the use of such premises or other property for emergency management purposes and designating suitable buildings as public shelters.
- (6) Through public informational programs, educate the populace as to actions necessary and required for the protection of their persons and property in a disaster, either impending or present.
- (7) Maintain a County Emergency Operations Plan approved by the Board of County Commissioners, as well as comply with State and federal emergency management requirements.
- (8) Conduct training and exercises to ensure the efficient operation of the emergency management forces and to familiarize residents with emergency management regulations, procedures, and operations.
- (9) Coordinate the activity of all other public and private agencies engaged in any emergency management activities by serving as the active Chairperson of the Local Emergency Planning Committee.

These duties may be sub-delegated to the Deputy Director and/or the assistant coordinators as appropriate.

§ 6.06 County Emergency Management Plans

- (1) Comprehensive emergency management plans shall be adopted and maintained by resolution of the Board of County Commissioners. In the preparation of these plans as they pertain to county organization, it is intended that the services, equipment, and facilities and personnel of all existing departments and agencies shall fully be utilized. 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, as defined in this Chapter, has been proclaimed.
- (2) The Director shall prescribe in the emergency plans those positions within the disaster organization, in addition to his/her own, for which lines of succession are necessary. In each instances, the responsible person will designate and keep on file with the Director a current list of three persons as successors to his/her position. The list will be in the order of succession and will nearly as possible designate persons best capable of carrying out all assigned duties and functions.
- (3) Each department/agency head assigned responsibility in the plans shall be responsible for carrying out all duties and functions assigned therein. Duties will include the organization

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- and training of assigned employees and, where needed, volunteers. Each head shall formulate the standing operating procedure to implement the plans for his/her service.
- (4) Amendments to these plans shall be submitted to the director. If approved, the director will then provide the amendments to the Board of County Commissions with his/her recommendation for its approval.
 - (5) When a required competency or skill or a disaster function is not available within the government, the Director is authorized to seek assistance from persons outside of the government. The assignment of duties, when of a supervisory nature, shall also include the delegation of authority for the persons so assigned to carry out such duties before, 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.
 - (6) The Director is authorized to enter into mutual aid agreements with other counties, municipalities, and other public or private agencies to provide supplies, equipment, personnel, and/or services. Such agreements will be coordinated with the County Manager or their designee to assure other directives, compensation, and laws are complied with therein.

§ 6.07 Declaration of County Emergency

- (1) Pursuant to N.C. General Statute § 166A and Article 36A of Chapter 14, the existence of a state of emergency may be proclaimed, after reasonable steps to give notice of its terms to those likely to be affected, by the County Chairperson or by a resolution of the Board of County Commissioners in an emergency meeting if a disaster threatens or exists.
- (2) If a County state of emergency is proclaimed, the County Manager or Emergency Management Director shall provide the Board of County Commissioners with a preliminary damage assessment as soon as the assessment is available. Municipalities within the County may proclaim individual disasters by the respective governing body pursuant to N.C. General Statute § 166A.
- (3) A proclamation or resolution declaring or terminating a County state of emergency shall be disseminated promptly to the attention of the general public and all other entities therein.
- (4) In addition to any other powers conferred upon the County Manager by local law, during a state of emergency, the County Manager shall have the following powers, with authority to sub-delegate all or part of these powers to the Assistant County Manager and/or Emergency Management Director:
 - (a) To utilize all available County resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of County agencies or units thereof to perform or facilitate emergency services.
 - (b) To take such action and give such directions to law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this chapter and with the orders, rules, and regulations made pursuant thereto.

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- (c) To take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing assistance from the federal government when that assistance is required to protect the public health, welfare, and safety.
 - (d) To relieve any public official having administrative responsibilities under this chapter of such responsibilities for willful failure to obey an order, rule, or regulation adopted pursuant to this Chapter.
 - (e) To direct and compel the evacuation of all or part of the population from any stricken or threatened area within the County; to prescribe routes, modes of transportation, and destinations in connection with evacuation; and to control ingress and egress of disaster area, movement of persons within the area, and the occupancy of premises therein.
 - (f) To establish a system of economic controls over all resources, materials, and services to include food, clothing, shelter, fuel, rents, and wages, including the administration and enforcement of any rationing, price freezing, or similar State and/or federal order or regulation.
 - (g) To regulate and control the flow of vehicular and pedestrian traffic; the congregation of persons in public places or buildings; lights and noises of all kinds; and the maintenance, extension, and operation of public utility and transportation services and facilities.
 - (h) To waive a provision of any regulation or chapter of a County agency or a political subdivision that restricts the immediate relief of human suffering.
 - (i) To perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety, and protection of the civilian population.
 - (j) To procure, by purchase, condemnation, seizure, or by other means to construct, lease, transport, store, maintain, renovate, or distribute materials and facilities for emergency management without regard to the limitation of any existing law.
- (5) A state of emergency declared pursuant to this Chapter and all prohibitions and restrictions imposed as a result of the declaration shall be established by written proclamation duly executed by the Chairman or the Chairman's designee and shall remain in effect until such time as the proclamation is amended or rescinded in the same manner. The proclamation shall include a listing of all restrictions and prohibitions imposed and, where applicable, the date and time on which such restrictions and prohibitions become effective.
- (6) At such time as a state of emergency is declared, the Emergency Management Plan, all standard operating procedures adopted pursuant to the Plan, and all applicable mutual aid agreements and other similar agreements and compacts shall be activated.
- (7) Any proclamation declaring the existence of a state of emergency, and all restrictions and prohibitions imposed as a result of the declaration, shall apply to the emergency areas of Transylvania County in which the County may enact general police-power ordinances, unless otherwise specified in the proclamation. A municipality's governing body or mayor may consent to the application of the County's state of emergency to their jurisdiction pursuant to N.C. General Statute § 166A-19.22(b)(2).

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§ 6.08 Hazardous Materials and Substances

(A) Definitions

The following words, phrases, and terms when used in this Section shall have the meanings ascribed to them in this Section and applicable regulations of the U.S. Environmental Protection Agency and the North Carolina Department of Environment, Health, and Natural Resources, except where the context clearly indicates a different meaning.

- (1) **Hazardous Material** is any substance which, when discharged in any quantity, may present an imminent and substantial danger to the public health or welfare or the environment.
- (2) **Having Control Over** shall mean, but not limited to, any person using, transferring, storing, or transporting a hazardous material immediately prior to release of such hazardous material onto the land, into the air, or the waters of the County.
- (3) **Hazardous Material Response** is the sending of fire department/emergency management or its agent(s), personnel, or equipment to abate, control, or remedy the spread of hazardous materials that endanger the health or safety of persons or the environment.
- (4) **Person** includes individuals, firms, partnerships, associations, institutions, corporations, local governments, and governmental agencies.

(B) Purpose and Activity

- (1) The Transylvania County Emergency Management Director or their designee shall have the authority to summarily abate, remedy, or control the spread of hazardous materials that are emitted into the environment in such a manner as to endanger the health or safety of the general public or the environment.
- (2) The Transylvania County Emergency Management Director or their designee shall have the authority to enter public or private property, with or without the owner's consent, to respond to such hazardous materials emergencies.
- (3) The Transylvania County Emergency Management Director or their designee shall determine the type, amount, and quantity of equipment and personnel required to adequately abate, remedy, or control the spread of all hazardous materials which are emitted into the environment.

(C) Responsibility

The property owner and/or the person exercising control over the hazardous materials that create the hazardous materials emergency shall be held financially liable for the response, abatement, control, and remedial costs incurred by Transylvania County or its agent(s) during the emergency. The property owner and/or the person exercising control over such hazardous material shall assist Transylvania County or its agent(s) in abatement, removal, control, and remedial measures associated with the hazardous material emergency. Assistance shall consist of any or all of the following:

- (1) Comply with the direction of the Transylvania County Emergency Management Director or their designee;
- (2) Supply emergency response plan information for the site; and
- (3) Supply emergency response equipment, personnel, and materials available on the site.

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(D) Payment of Costs

- (1) Upon completion of responses to a hazardous material emergency by Transylvania County or its agent(s) under the provisions of this Section, the County shall thereupon mail or deliver to the owner of and/or the person having control over the hazardous materials that created the emergency a bill covering the costs of response, including but not limited to abatement, remediation, control, and removal.
- (2) As provided for in N.C. General Statute § 153A-140, the amount of the bill shall be paid by the person in default, and, if not paid, shall be a lien upon such property, land, or premises where the hazardous materials emergency arose, and if not paid within thirty (30) days, shall be collected in the same manner as provided for the collection of delinquent or unpaid taxes.

§ 6.9 **Liability and Immunity**

- (1) This Chapter 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 agent(s) and representatives of the County or any individual, receiver, firm, partnership, corporation, association, or trustee or any of the agent(s) thereof in good faith carrying out, complying with, or attempting to comply with any order, rule, proclamation, or regulation promulgated pursuant to this Chapter shall be liable for any damage sustained to persons or property as the result of such activity.
- (2) 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 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 injury to or death of 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.
- (3) All functions hereunder and all other activities relating to emergency management are hereby declared to be governmental functions. Neither the State or County nor any political subdivision thereof, nor, except in cases of willful misconduct, gross negligence, or bad faith, any emergency management worker complying with or reasonably attempting to comply with this Chapter or any order, rule, proclamation, or regulation promulgated pursuant to the provisions of this Chapter or pursuant to any chapter relating to any emergency management measures enacted by any political subdivision of the State shall be liable for the injury to or death of persons, or for damage to property as a result of any such activity.

§ 6.10 **Severability**

Should any provision of this Chapter or the application thereof to any person or circumstances be declared invalid for any reason, such declaration shall not affect the validity of any other provisions of this Chapter; it being the legislative intent that the provisions of this Chapter shall be severable and remain valid notwithstanding such declaration.

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§ 6.11 Violations

Unless otherwise provided by law, it shall be a Class 2 misdemeanor for any person to violate any of the provisions of this Chapter, proclamations, or plans issued pursuant to the authority contained in this Chapter, or to willfully obstruct, hinder, or delay any member of the emergency management organization in the enforcement of this Chapter or any proclamations or plans issued pursuant to this Chapter.

§ 6.12 Conflicting Chapters, Orders, Rules, and Regulations Suspended

At all times when the orders, rules, and regulations made and promulgated pursuant to this Chapter shall be in effect, they shall supersede all existing chapters, orders, rules, and regulations insofar as the latter may be inconsistent therewith.

§ 6.13-25 Reserved

§ 6.26 County Commissioners Adoption

Upon motion made by Commissioner Page Lemel and seconded by Commissioner Will Cathey, the above Ordinance was unanimously adopted this 31st day of March 2020.



Mike Hawkins, Chairman, Transylvania County Board of Commissioners