

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO: 16-09

IN THE MATTER OF AMENDING LANE
CODE CHAPTER 20 TO CREATE A
SYSTEM FOR EXERCISING
EMERGENCY POWERS DURING A
DISASTER

WHEREAS, the Board of Commissioners has previously adopted the Lane County Emergency Operations Plan to provide a framework to guide departments, agencies and organizations for carrying out actions in response to a disaster; and,

WHEREAS, the Board of Commissioners has adopted a Strategic Plan that identifies three priorities for Lane County for the years 2014-2017: (1) Safe and Healthy County, (2) Vibrant Communities, and (3) Infrastructure; and,

WHEREAS, the Lane County Strategic Plan states the Priority 1, Objective 1, is to ensure safety throughout Lane County; and,

WHEREAS, it is the intent of this Ordinance to provide the necessary organization, powers, and authority to allow the timely and effective use of all available County resources to prepare for, respond to and recover from disasters, whether natural or human caused, likely to affect the health, security, safety, or property of the inhabitants of the County; and,

WHEREAS, the Board of Commissioners recognize that during an emergency ordinary and usual communication may be disrupted; and,

WHEREAS, the Board of Commissioners recognize that the County may need to make decisions related to the use of county resources in response to an emergency on very short notice; and,

WHEREAS, the Board of Commissioners recognize that the use of County resources may exceed the amount authorized by the Lane Code for Department Directors and the Lane County Administrator; and,

WHEREAS, the Board of Commissioners desires to have a process in place for exercising emergency powers and authorizing the use of County resources to respond to a disaster before an emergency meeting of the Board of Commissioners could be held; and,

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDAINS** as follows:

Chapter 20 of Lane Code is hereby amended by removing and inserting the following sections:

REMOVE THESE SECTIONS

NONE

INSERT THESE SECTIONS.

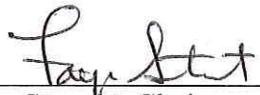
20.005 – 20.060

These sections are attached hereto and incorporated herein by this reference. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion constitutes a separate, distinct and independent provision, and such holding does not affect the validity of the remaining portions hereof.

Nothing herein is intended to, nor acts to amend, replace, or otherwise conflict with any other ordinances of Lane County or any other Code or statutory provisions unless expressly so stated.

The office of Lane County Legal Counsel is authorized to codify this Ordinance and to make any technical changes, not affecting its substance, as are reasonably necessary to accomplish codification.

ENACTED this 6th day of ^{December} ~~October~~ 2016.



Faye Stewart, Chair
Lane County Board of Commissioner



Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date

12/6/16

LANE COUNTY OFFICE OF LEGAL COUNSEL



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EXERCISING EMERGENCY POWERS DURING A DISASTER

20.005	General.
20.010	Definitions and Rules of Construction.
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Chapter 20

EXERCISING EMERGENCY POWERS DURING A DISASTER**20.005 General.**

This chapter sets forth the process for exercising emergency powers and authorizing the use of County resources to respond to a disaster before an emergency meeting of the Board of Commissioners can be held.

20.010 Definitions and Rules of Construction.

The following definitions and rules of construction shall be observed unless inconsistent with the intent of the Board or the context clearly requires otherwise.

Disaster. Generally, a human created or natural event or circumstance that disrupts society by threatening widespread loss of life, injury to person, property, human suffering or financial loss and exceeds the ability of the affected community or society to cope by relying solely on its own resources.

Civil Disaster. Conditions of social unrest including, but not limited to riot, civil disturbance, unlawful assembly, bombings, shootings, hostage taking or other acts of terrorism, or sabotage.

Natural Disaster. The occurrence of widespread or severe damage, injury, or loss of life or property resulting from disasters that occur naturally including but not limited to flood, fire, tornado, earthquake, severe weather, landslide, severe wind, hurricane, drought, volcano, snow, ice, windstorm, or tsunami.

Technological Disaster. Any disaster conditions associated with technological advances including but not limited to hazardous materials spills, transportation accidents, structural failure of bridges, dams, power plants and pipelines.

Biological and Chemical Disasters. Any condition resulting from acts of terrorism involving bacterial pathogens, nerve gas or a lethal plant toxin (e.g., anthrax, ricin, etc.)

Emergency. Pursuant to ORS 401.025 (1)(2016) as used in that chapter, "Emergency means a human created or natural event or circumstance that causes or threatens widespread loss of life, injury to person or property, human suffering or financial loss..."

20.015 Authorization to Issue a Declaration of Disaster.

(1) An emergency meeting may be called by the County Administrator or any individual Board member when in their judgment a meeting of the Lane County Board of Commissioners is necessary to address issues related to a disaster.

(2) Notice of the emergency meeting will be provided as required by Oregon law and shall be made using cell phones, text and land lines, if possible, or any other means reasonably likely to notify Board members of the meeting. Board members will provide the Board Coordinator with secondary telephone numbers that can be used to attempt contact with them.

(3) The meeting will not take place until a quorum of Board members has acknowledged receipt of the notice and their availability to attend the meeting.

(4) Board members shall be permitted to participate by any method possible that is consistent with Oregon law, including but not limited to, in person, telephone, text or Skype.

A quorum of the Board may declare a local disaster if the Board finds that the County or any part thereof is suffering from or is in imminent danger of suffering from a disaster.

20.020 Filing of Declaration.

(1) Any declaration of a disaster by the Board shall be promptly sent to Oregon Office of Emergency Management in writing and include:

(a) A certification signed by the county governing body that all local resources have been expended; and,

(b) A preliminary assessment of property damage or loss, injuries and deaths.

(2) The public shall be notified through general publicity of said declaration.

20.025 Term of Declaration.

Pursuant to ORS 401.309(1) (2016) a declaration of a local emergency or disaster shall be in effect as determined by the Board for the period of time during which conditions giving rise to the declaration exist or are likely to remain in existence.

20.030 Succession of Authority.

If a quorum of the Board is unavailable, the Lane County Sheriff shall have the same authority as is granted the Board hereunder followed by the Chief Deputy if available and, if not, then the Police Services Captain and, if not, then the Emergency Manager.

20.035 Powers.

(1) Upon the issuance of a disaster declaration, the Board delegates to the County Administrator:

(a) Pursuant to ORS 294.481(1)(b) (2016) authority to appropriate funds for estimated expenditures out of any source of available funds, including unappropriated fund balances and; in excess of any limitations or procedures contained in the Lane Code, Lane Manual or Lane County Administrative Procedures Manual for a period of 72 hours until a regular, special or emergency meeting of the Lane County Board of Commissioners can be convened.

(b) The Lane County Administrator will arrange an emergency meeting of the Lane County Board of Commissioners as soon as reasonably possible under the circumstances following the procedures in LC 20.015.

(c) The County Administrator shall brief the Board on all resources expended under the authority of this chapter of Lane Code at the emergency meeting, or other meeting of the Board, whichever occurs first.

(2) Upon the issuance of a disaster declaration and after consultation with the Sheriff and other emergency response agencies, the Board may exercise the following powers as follows:

(a) Issue an order establishing a curfew during day or night hours and affecting designated categories of persons based on the needs of the circumstances.

(b) Pursuant to ORS 401.309(4) (2016) authorize the Sheriff or other public safety official to order mandatory evacuations of residents and other individuals after a County disaster is declared and only when necessary for public safety or when necessary for the efficient conduct of activities that minimize or mitigate the effects of the disaster. Further, the authorized official may prescribe routes, modes of transportation and destination in connection with any evacuation.

(c) Issue an order controlling, restricting, allocating or regulating the use, sale, production or distribution of food, water, fuel, clothing, and other commodities, materials, goods, services and resources when necessary for the efficient conservation and allocation of limited resources and supplies during disaster conditions.

(d) Issue an order requiring the closing of County government services deemed nonessential.

(e) When necessary for protecting, life, property or conserving the peace, issue an order suspending or limiting the sale, distribution, dispensing, or transportation of alcoholic beverages, explosives and/or combustible products and requiring the closing of those businesses or parts of businesses insofar as the sale, distribution, dispensing or transportation of these items are concerned.

(f) Issue an order prohibiting the sale or distribution within the County of any products which could be employed in a manner that would constitute a danger to public health or safety.

(g) Issue an order closing the access to any buildings, streets, alleys, sidewalks or other public or private places when necessary for protecting life, property or conserving the peace.

(h) Establish and control routes of transportation ingress or egress.

(i) Control ingress and egress from a disaster area.

(j) Subject to requirements for compensation, commandeer or utilize private property if necessary to cope with disaster conditions.

(k) Pursuant to LM 20.320 and ORS 279B.080 (2016) appropriate and expend funds, authorize the obtaining and acquisition of property, equipment, services, supplies and materials without the strict compliance with procurement regulations or procedures.

(l) Transfer the direction, personnel or functions of non-elected County departments and agencies for the purposes of performing or facilitating disaster services.

(m) Utilize all available resources of the County as may be reasonably necessary to cope with the disaster whether in preparation for impending conditions, response to or recovery from a disaster.

(n) Suspend or modify the provisions of any ordinance if strict compliance thereof would in any way prevent, hinder or delay necessary action in coping with any emergency or disaster.

(o) Pursuant to ORS 294.481 (2016) accept services, donations, grants and loans, equipment, supplies and materials whether from private, nonprofit or governmental sources for purposes of meeting the needs or lessening the suffering of impacted populations.

(p) Temporarily suspend, limit, cancel, postpone, convene, schedule, or continue all meetings of the Board, and any County committee, commission, board, authority or other non-elected County body as deemed appropriate by the Board.

(q) Make application for local, state, or federal assistance.

(r) Terminate or suspend any process, operation, machine, device or event that is or may negatively impact the health, safety and welfare of persons or property within the County.

(s) Delegate authority to such County officials as the Board determines reasonably necessary or expedient.

(t) Close or cancel the use of any County owned or operated building or other public facility.

(u) Exercise such powers and functions in light of the exigencies of disaster including the waiving of compliance with any time consuming procedures and formalities, including notices, as maybe prescribed by law pertaining thereto.

(v) Issue any and all such other orders or undertake such other functions and activities as the Board reasonably believes is required to protect the health, safety, welfare of persons or property within the County or to otherwise preserve the public peace or abate, clean up, or mitigate the effects of any emergency or disaster.

20.040 Enforcement of Orders.

(1) The members of the Sheriff's Office and such other law enforcement and peace officers are further authorized to enforce the orders, rules and regulations made or issued pursuant to this chapter.

(2) During the period of a declared emergency or disaster, a person shall not:

(a) Enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment.

(b) Violate any of the orders duly issued by the Board or authorized personnel.

(c) Willfully obstruct, hinder, or delay any duly authorized County officer, employee or volunteer in the enforcement or exercise of the provisions of this chapter, or of the undertaking of any activity pursuant to this chapter.

20.045 Authority to Enter Property.

During the period of a declared disaster, a County employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that there is a true emergency and an immediate need for assistance for the protection of life or property, and that entering onto the private land will allow the person to take such steps to alleviate or minimize the emergency or disaster or to prevent or minimize danger to lives or property from the declared disaster.

20.050 Location of Governing Body Meetings and Departments.

(1) Whenever a disaster makes it imprudent or impossible to conduct the affairs of the County at its regular locations, the Board may meet at any place, inside or outside the County limits. Any temporary disaster meeting location for the Board shall continue until it is able to return to its normal location.

(2) Whenever a disaster makes it imprudent or impossible to conduct the affairs of any department of the County at its regular location, such department may conduct its business at any place, inside or outside the County limits and may remain at the temporary location until the emergency or disaster is declared ended or until the department is able to return to its normal location.

(3) Any official act or meeting required to be performed at any regular location of the Board or of its departments is valid when performed at any temporary location under this section.

(4) The provisions of this section shall apply to all executive, legislative and judicial branches, powers and functions conferred upon the County and its offices, employees, and authorized agents.

20.055 Mutual Aid Agreements.

(1) The Board may, on behalf of the County, enter into such reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other compacts or plans with other governmental entities for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.

(2) The Board or any of its committees, commissions or authorities may exercise such powers and functions in light of the exigencies of the emergency or disaster and may waive compliance with time consuming procedures and formalities prescribed by law pertaining thereto.

(3) The foregoing shall apply to all executive, legislative and judicial powers and functions conferred upon the County and its officers, employees and authorized agents.

20.060 Constitutionality/Review.

(1) The provisions of this chapter are declared to be severable, and if any section, sentence, clause or phrase of this chapter shall for any reason be held to be invalid or unconstitutional or if the application of this chapter to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the validity of the remaining sections, sentences, clauses and/or phrases of this chapter.

(2) Nothing in this chapter shall be construed to grant the County any greater power than authorized by state or federal law. No section, sentence, clause or phrase of this chapter is intended to violate and local or state law or may state or federal constitutional provision.

(3) Nothing in this chapter is intended to conflict with Oregon law on disasters, including but not limited to ORS Chapter 401, or federal law and regulations on disasters.

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(b) Pursuant to ORS 401.309(4) (2016) authorize the Sheriff or other public safety official to order mandatory evacuations of residents and other individuals after a County disaster is declared and only when necessary for public safety or when necessary for the efficient conduct of activities that minimize or mitigate the effects of the disaster. Further, the authorized official may prescribe routes, modes of transportation and destination in connection with any evacuation.

(c) Issue an order controlling, restricting, allocating or regulating the use, sale, production or distribution of food, water, fuel, clothing, and other commodities, materials, goods, services and resources when necessary for the efficient conservation and allocation of limited resources and supplies during disaster conditions.

(d) Issue an order requiring the closing of County government services deemed nonessential.

(e) When necessary for protecting, life, property or conserving the peace, issue an order suspending or limiting the sale, distribution, dispensing, or transportation of alcoholic beverages, explosives and/or combustible products and requiring the closing of those businesses or parts of businesses insofar as the sale, distribution, dispensing or transportation of these items are concerned.

(f) Issue an order prohibiting the sale or distribution within the County of any products which could be employed in a manner that would constitute a danger to public health or safety.

(g) Issue an order closing the access to any buildings, streets, alleys, sidewalks or other public or private places when necessary for protecting life, property or conserving the peace.

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(i) Control ingress and egress from a disaster area.

(j) Subject to requirements for compensation, commandeer or utilize private property if necessary to cope with disaster conditions.

(k) Pursuant to LM 20.320 and ORS 279B.080 (2016) appropriate and expend funds, authorize the obtaining and acquisition of property, equipment, services, supplies and materials without the strict compliance with procurement regulations or procedures.

(l) Transfer the direction, personnel or functions of non-elected County departments and agencies for the purposes of performing or facilitating disaster services.

(m) Utilize all available resources of the County as may be reasonably necessary to cope with the disaster whether in preparation for impending conditions, response to or recovery from a disaster.

(n) Suspend or modify the provisions of any ordinance if strict compliance thereof would in any way prevent, hinder or delay necessary action in coping with any emergency or disaster.

(o) Pursuant to ORS 294.481 (2016) accept services, donations, grants and loans, equipment, supplies and materials whether from private, nonprofit or governmental sources for purposes of meeting the needs or lessening the suffering of impacted populations.

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~~(p) Temporarily suspend, limit, cancel, postpone, convene, schedule, or continue all meetings of the Board, and any County committee, commission, board, authority or other non-elected County body as deemed appropriate by the Board.~~

~~(q) Make application for local, state, or federal assistance.~~

~~(r) Terminate or suspend any process, operation, machine, device or event that is or may negatively impact the health, safety and welfare of persons or property within the County.~~

~~(s) Delegate authority to such County officials as the Board determines reasonably necessary or expedient.~~

~~(t) Close or cancel the use of any County owned or operated building or other public facility.~~

~~(u) Exercise such powers and functions in light of the exigencies of disaster including the waiving of compliance with any time consuming procedures and formalities, including notices, as maybe prescribed by law pertaining thereto.~~

~~(v) Issue any and all such other orders or undertake such other functions and activities as the Board reasonably believes is required to protect the health, safety, welfare of persons or property within the County or to otherwise preserve the public peace or abate, clean up, or mitigate the effects of any emergency or disaster.~~

20.040 Enforcement of Orders.

~~(1) The members of the Sheriff's Office and such other law enforcement and peace officers are further authorized to enforce the orders, rules and regulations made or issued pursuant to this chapter.~~

~~(2) During the period of a declared emergency or disaster, a person shall not:~~

~~(a) Enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment.~~

~~(b) Violate any of the orders duly issued by the Board or authorized personnel.~~

~~(c) Willfully obstruct, hinder, or delay any duly authorized County officer, employee or volunteer in the enforcement or exercise of the provisions of this chapter, or of the undertaking of any activity pursuant to this chapter.~~

20.045 Authority to Enter Property.

~~During the period of a declared disaster, a County employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that there is a true emergency and an immediate need for assistance for the protection of life or property, and that entering onto the private land will allow the person to take such steps to alleviate or minimize the emergency or disaster or to prevent or minimize danger to lives or property from the declared disaster.~~

20.050 Location of Governing Body Meetings and Departments.

~~(1) Whenever a disaster makes it imprudent or impossible to conduct the affairs of the County at its regular locations, the Board may meet at any place,~~

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inside or outside the County limits. Any temporary disaster meeting location for the Board shall continue until it is able to return to its normal location.

(2) Whenever a disaster makes it imprudent or impossible to conduct the affairs of any department of the County at its regular location, such department may conduct its business at any place, inside or outside the County limits and may remain at the temporary location until the emergency or disaster is declared ended or until the department is able to return to its normal location.

(3) Any official act or meeting required to be performed at any regular location of the Board or of its departments is valid when performed at any temporary location under this section.

(4) The provisions of this section shall apply to all executive, legislative and judicial branches, powers and functions conferred upon the County and its offices, employees, and authorized agents.

20.055 Mutual Aid Agreements.

(1) The Board may, on behalf of the County, enter into such reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other compacts or plans with other governmental entities for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.

(2) The Board or any of its committees, commissions or authorities may exercise such powers and functions in light of the exigencies of the emergency or disaster and may waive compliance with time consuming procedures and formalities prescribed by law pertaining thereto.

(3) The foregoing shall apply to all executive, legislative and judicial powers and functions conferred upon the County and its officers, employees and authorized agents.

20.060 Constitutionality/Review.

(1) The provisions of this chapter are declared to be severable, and if any section, sentence, clause or phrase of this chapter shall for any reason be held to be invalid or unconstitutional or if the application of this chapter to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the validity of the remaining sections, sentences, clauses and/or phrases of this chapter.

(2) Nothing in this chapter shall be construed to grant the County any greater power that authorized by state or federal law. No section, sentence, clause or phrase of this chapter is intended to violate and local or state law or nay state or federal constitutional provision.

(3) Nothing in this chapter is intended to conflict with Oregon law on disasters, including but not limited to ORS Chapter 401, or federal law and regulations on disasters.