

ORDINANCE # 2007-06

AN ORDINANCE ESTABLISHING THE WARRICK COUNTY DEPARTMENT OF EMERGENCY MANAGEMENT AND OTHER RELATED MATTERS CONCERNING THE EXERCISE OF EMERGENCY POWERS

BE IT ORDAINED THAT a new ordinance be added to the Warrick County Code. The attached Exhibit A, Sections 1 through 4, containing the substantive provisions of this Ordinance is incorporated into said Code as part of this Ordinance.

All ordinances or parts of ordinances in conflict with provisions of this Ordinance are hereby repealed.

Should any Section, Paragraph, clause or phrase of this Ordinance be declared unconstitutional or invalid the remainder of said Ordinance shall continue in full force and effect.

Adopted by the Board of Commissioners of the County of Warrick, State of Indiana on the 20th day of JUNE, 2007: effective upon Passage.

  
Commissioner DON WILLIAMS

  
Commissioner PHILLIP H. BAXTER

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Commissioner

Attest:

  
County Auditor

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- (8) Wave action.
- (9) Oil spill.
- (10) Other water contamination requiring emergency action to avert danger or damage.
- (11) Air contamination.
- (12) Drought.
- (13) Explosion.
- (14) Technological emergency.
- (15) Utility failure.
- (16) Critical shortages of essential fuels or energy.
- (17) Major transportation accident.
- (18) Hazardous material or chemical incident.
- (19) Radiological incident.
- (20) Nuclear incident.
- (21) Biological incident.
- (22) Epidemic.
- (23) Public health emergency.
- (24) Animal disease event requiring emergency action.
- (25) Blight.
- (26) Infestation.
- (27) Riot.
- (28) Hostile military or paramilitary action.
- (29) Act of terrorism.
- (30) Any other public calamity requiring emergency action.

8. **“Emergency Management”** has the meaning established in Indiana Code 10-14-3-2; which at the time this ordinance is adopted means the preparation for and the coordination of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters. The functions include the following:
- (1) Firefighting services.
  - (2) Police services.
  - (3) Medical and health services.
  - (4) Rescue.
  - (5) Engineering.
  - (6) Warning services.
  - (7) Communications.
  - (8) Radiological, chemical, and other special weapons defense.
  - (9) Evacuation of persons from stricken areas.
  - (10) Emergency welfare services.
  - (11) Emergency transportation.
  - (12) Plant protection.
  - (13) Temporary restoration of public utility services.
  - (14) Other functions related to civilian protection.

unavailable or are incapacitated, then the President Pro-Tem of the County Board of Commissioners shall serve as the Principal Executive Officer for the purposes of this ordinance until such time that either the regularly designated President or a quorum of the County Board of Commissioners is no longer unavailable or incapacitated.

- (c) Remaining Commissioner of the Board of County Commissioners  
If a quorum of the Board of County Commissioners, the regularly designated President of the Board of County Commissioners, and the President Pro-Tem of the County Board of Commissioners are all unavailable or are incapacitated, then the remaining Commissioner of the County Board of Commissioners shall serve as the Principal Executive Officer for the purposes of this ordinance until such time that the President Pro-Tem, the regularly designated President, or a quorum of the County Board of Commissioners is no longer unavailable or incapacitated.
- (d) Director of Emergency Management  
If all of the County Commissioners are unavailable or incapacitated, then the Director of Emergency Management shall serve as the Principal Executive Officer for the purposes of this ordinance until such time that the Counter Recorder, the County Auditor, the County Clerk or a County Commissioner is no longer unavailable or incapacitated.

14. "IDHS" means the Indiana Department of Homeland Security established under Indiana Code 10-19-2-1.

**B. GENERAL SCOPE AND INTENT: LIBERAL CONSTRUCTION OF POWERS**

The general intent of this Ordinance is to provide for all necessary and indispensable powers and procedures reasonably needed to mitigate, prepare for, respond to and recover from emergency conditions. To this end, all powers, both ministerial and discretionary, as conferred herein shall be liberally construed to supplement and augment, not to limit, any other powers or reasonable exercise of discretion which may ordinarily pertain to county officers, employees, department, and agencies.

**C. LIMITATIONS: NONSUPERSESSION OF EMERGENCY POWERS OF COUNTY SHERIFF**

Nothing in this Ordinance is intended to supersede or delimit any statutory powers of the County Sheriff.

**B. COUNTY EMERGENCY MANAGEMENT ADVISORY COUNCIL: POWER AND DUTIES**

The powers and duties of the County Emergency Management Advisory Council are established by Indiana Code 10-14-3-17(d) and under this statute consist of the following:

1. The Advisory Council shall exercise general supervision and control over the emergency management and disaster program of the County.
2. The Advisory Council shall select, or cause to be selected, with the approval of the Board of County Commissioners, a County Emergency Management Director.
3. The statute establishing the powers and duties of the Advisory Council does not describe the procedure to be used to terminate a County Emergency Management Director. However, the statute does require the Advisory Council to select the Director and obtain approval for the Board for this selection before a Director can be appointed. Therefore, an Advisory Council may make a determination to terminate a Director, but this determination is subject to the approval of the Board before the termination is final.

**C. DIRECTOR OF EMERGENCY MANAGEMENT: GENERAL POWERS AND DUTIES**

The Director, subject to the direction and control of the Advisory Council, shall be executive head of the Department, and pursuant to Indiana Code 10-14-3-17(d)(2)(A) has direct responsibility for the organization, administration and operation of the Department, including the following specific powers and duties:

1. The Director, pursuant to Indiana Code 10-14-3-17(d)(2)(B), is responsible to the chairman of the Advisory Council, and as such shall keep the chairman fully informed on emergency management activities and shall provide such reports to the Advisory Council if so directed by the chairman of the Advisory Council.
2. The Director shall keep the Board fully informed on emergency management activities.
3. The Director shall submit to the Advisory Council and the County Commissioners a yearly report on the county's comprehensive emergency management, including mitigation, preparedness, response and recovery taken in the previous year and planned and recommended for the year to come.
4. The Director shall ensure that all of the duties and responsibilities of the Emergency Management Agency are completed.
5. The Director shall ensure that all county employees and rostered volunteers with responsibilities as part of the Comprehensive Emergency Management Plan receive training in the functions that they are to perform under the Plan.
6. The Director shall design and conduct exercises of the Comprehensive Emergency

17. The Director shall assume responsibility for public relations, information and education regarding all phases of emergency management.
18. The Director shall assure coordination within the County of all activities for emergency management.
19. The Director shall maintain liaison and coordinate with all other affected agencies, public and private.
20. The Director shall coordinate the recruitment and training for volunteer personnel and agencies to augment the personnel and facilities of the county for emergency management purposes.
21. The Director shall seek, negotiate and enter into (with the approval or ratification of the County Commissioners and consistent with the State Emergency Operations Plan and program) mutual aid arrangements with other public and private agencies for emergency management purposes, and taking all steps in accordance with such arrangements to comply with or take advantage thereof in the event of an actual emergency affecting the parties;
22. The Director shall accept any offer of the Federal Government to provide for the use of the county any services, equipment, supplies, materials, or funds for emergency management purposes by way of gift, grant or loan, when the Governor has approved such offer.
23. The Director shall seek and may accept from any person, firm or corporation, any gratuitous offers to provide services, equipment, supplies, materials, funds, or licenses or privileges to use real estate or other premises, to the county for emergency management purposes.
24. The Director shall issue proper insignia and papers to emergency management workers and other people directly concerned with emergency management.
25. The Director shall ensure that all volunteers meet the criteria set forth in this Ordinance prior to accepting them as members of the Department.
26. The Director shall make rapid and accurate assessment of:
  - (a) Property damage;
  - (b) Personal injuries;
  - (c) Fatalities;
  - (d) Basic needs; and
  - (e) Special needsas soon as an emergency or disaster declaration has been made.
27. In addition to the powers and duties expressly provided above, the Director shall be construed to have all powers and duties of a local emergency management

application form.

- (d) The employees, equipment and facilities of all county departments and agencies suitable for, or adaptable to emergency management and designated by the Emergency Plan to participate in emergency management activity.
  - (e) Staff officers with responsibility for Communications and Warning, Radiological, Health and Medical Care, Law Enforcement, Fire and Search and Rescue, Public Works and Public Information in accordance with the Comprehensive Emergency Management Plan.
  - (f) Such assistants, clerical help, and other employees as deemed necessary and appointed by the Director in accordance with the Comprehensive Emergency Management Plan.
3. Pursuant to Indiana Code 10-14-3-27(a), no person shall be employed or associated in any capacity in any emergency management organization established under this Ordinance who:
- (a) advocates a change by force or violence in the constitutional form of the government of the United States or the overthrow of any government in the United States by force or violence; or
  - (b) has been convicted of or is under indictment or information charging any subversive act against the United States.
4. Pursuant to Indiana Code 10-14-3-27(b), each individual who is appointed to serve in an organization for emergency management shall, before entering upon the individual's duties, take a Loyalty Oath, in writing, before a person authorized to administer oaths in Indiana.
- (a) The loyalty oath shall be substantially as follows:  
  
“I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Indiana against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates, the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am a member of the County Department of Emergency Management I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force

- (b) Inventory manpower and material resources from governmental and private sector sources that would be available in a disaster or emergency.
  - (c) Establish a system to alert key officials in event of a disaster or emergency.
  - (d) Identify resource deficiencies and work with appropriate officials on measures to correct them.
  - (e) Develop and maintain an emergency communications system, thus assuring proper functioning of emergency communications throughout the county, including all cities and towns.
  - (f) Take all actions necessary to ensure the continuity of government procedures and systems in the event of a disaster.
  - (g) Establish and maintain a shelter and reception and care system for both people and animals.
  - (h) Develop a training program for emergency response personnel ensuring that mitigation, training and exercising have been performed for all such personnel.
  - (i) Coordinate with industry to develop and maintain industrial emergency plans and capabilities in support of the Comprehensive Emergency Management Plan.
4. Update the Comprehensive Emergency Management Plan as needed to keep it current, as required by Indiana Code 10-14-3-17(h).
  5. Develop a program to test and exercise the Emergency Plan.

**F. DEPARTMENT OF EMERGENCY MANAGEMENT: BUDGET AND FINANCE**

1. The Advisory Council shall advise the Director in the preparation of the budget.
2. The County Council shall appropriate such funds, as it may deem necessary for the purpose of emergency management.
3. All funds appropriated or otherwise available to the Department of Emergency Management shall be administered by the Director.

**G. COMPREHENSIVE EMERGENCY MANAGEMENT PLAN: FORMULATION; CONTENT AND ADOPTION**

1. A County Comprehensive Emergency Management Plan, referred to as the

Comprehensive Emergency Management Plan;

- (b) Coordinate Standard Operating Procedures, Standard Operating Guides and checklists with the Department of Emergency Management;
- (c) Assure inclusion of the Standard Operating Procedures, Standard Operating Guides and checklists within the county Comprehensive Emergency Management Plan;
- (d) Perform the functions and duties assigned by the County Comprehensive Emergency Management Plan; and
- (e) Maintain their portion of the Comprehensive Emergency Management Plan in a current state of readiness at all times.

**H. JURISDICTION: DEPARTMENT OF EMERGENCY MANAGEMENT; COUNTY COMPREHENSIVE EMERGENCY MANAGEMENT PLAN; AND POLITICAL SUBDIVISIONS**

- 1. Except as provided by Sections 2.C. and 2.D., the jurisdiction of the County Department of Emergency Management shall be comprehensive and inclusive Countywide and effective in both the incorporated and unincorporated areas of the County.
- 2. The jurisdiction and applicability of the County Comprehensive Emergency Management Plan, as adopted pursuant to Section 3.G., and the exercise of any powers of the Principal Executive Officer of the County and of the County Board of Commissioners under Section 4, shall be comprehensive and inclusive Countywide and effective in both the incorporated and unincorporated areas of the County.
- 3. All political subdivisions in the County shall:
  - (a) If they develop a plan for their political subdivision:
    - (i) Ensure that the plan is consistent with the requirements of the County Comprehensive Emergency Management Plan;
    - (ii) Coordinate the development of the plan with the Department of Emergency Management; and
    - (iii) Ensure inclusion of the plan within the County Comprehensive Emergency Management Plan.
  - (b) Perform the functions and duties assigned by the County Comprehensive Emergency Management Plan.
  - (c) Maintain their portion of the Comprehensive Emergency Management Plan in a current state of readiness at all times.

2. The Principal Executive Officer of the County, pursuant to Indiana Code 10-14-3-29(a) and Section 4.C. hereof, is preparing to, or has declared a local disaster emergency affecting all or part of the County.
3. The County Board of Commissioners has implemented a test of the County's Comprehensive Emergency Management Plan and procedures in accordance with and to the extent necessary or dispensable to such test.

**B. SPECIAL EMERGENCY POWERS AND DUTIES OF PRINCIPAL EXECUTIVE OFFICER:  
DECLARATION OF LOCAL DISASTER EMERGENCY**

1. In the event of an actual or threatened disaster emergency affecting the County, if feasible, the Principal Executive Officer of the County shall seek the advice and input of the Director as to the advisability of declaring a local disaster emergency.
2. If the County Board of Commissioners, acting as the Principal Executive Officer of the County, is the entity declaring the local disaster emergency, then the statutory requirements contained in Indiana Code 36-2-2-8 and Indiana Code 5-14-1.5-5(d) regarding special and emergency meetings of the County Board of Commissioner must be met.
3. The Principal Executive Officer of the County may, in the event of an actual or threatened disaster emergency affecting the County declare a local disaster emergency, pursuant to Indiana Code 10-14-3-29(a). This declaration shall:
  - (a) Be in writing.
  - (b) State the nature of the disaster.
  - (c) State the conditions that have brought the disaster about.
  - (d) State the area or areas threatened.
  - (e) State the area or areas to which the local disaster emergency declaration applies (this may include the entire County or only designated parts thereof).
  - (f) State the effective period of the local disaster emergency declaration. The disaster declaration shall not be continued or renewed for a period in excess of seven (7) days except by or with the consent of the County Board of Commissioners.
4. The declaration of a local disaster emergency, as well as any continuation or termination of such declaration shall be:
  - (a) Announced or disseminated to the general public by the best means

- (b) Continue without adjournment for the duration of the disaster emergency.
- (c) Be recessed for reasonable periods of time as necessary and permitted by the circumstances.

**D. PRINCIPAL EXECUTIVE OFFICER: SPECIAL EMERGENCY POWERS AND DUTIES**

- 1. In the event that a disaster emergency has been declared that affects all or part of the County, and a quorum of the County Board of Commissioners cannot be assembled for purposes of the meeting needed under Section 4.C., the Principal Executive Officer of the County shall have, on an interim basis, all powers of the County Board of Commissioners and may take all such actions with respect to the disaster emergency declaration that the County Board of Commissioners would have been authorized to take.
- 2. When a quorum of the County Board of Commissioners is assembled, these interim powers of the Principal Executive Officer of the County shall cease.

**E. COUNTY BOARD OF COMMISSIONERS: SPECIAL EMERGENCY POWERS AND DUTIES**

- 1. At the meeting convened under Section 4.C., the County Board of Commissioners may exercise any of their normal executive and legislative powers to the extent related to the emergency and necessary to deal therewith.
- 2. In addition to the powers enumerated in Section 4.E.1., the Board may also exercise any of the following special and extraordinary powers:
  - (a) The County Board of Commissioners may extend the period of a local disaster emergency declared by the Principal Executive Officer of the County, pursuant to Section 4.B., to last more than 7 days if necessary.
  - (b) The County Board of Commissioners may terminate the local disaster emergency.
  - (c) The County Board of Commissioners may assemble and utilize emergency management resources, including:
    - (i) Personnel of the Department of Emergency Management;
    - (ii) Participating emergency services; and
    - (iii) Any other resources at the disposal of the Commissioners hereunder for emergency management purposes.
  - (d) The County Board of Commissioners may order volunteer forces which have been activated pursuant to the Comprehensive Emergency Management Plan to the aid of the county, state or political subdivisions thereof as soon as practicable. These volunteer forces shall be under the

- (iii) Agencies.
  - (k) Any unexpended and unencumbered monies budgeted and appropriated but not otherwise dedicated by law to different purposes may, within the scope of each major budget and appropriation category (major object classification), be utilized and expended for the purpose of carrying out such special emergency duties and functions.
  - (l) Pursuant to Indiana Code 10-14-3-22, the County Board of Commissioners may make, amend, and rescind such orders, rules, and regulations as may be necessary for emergency management purposes and to supplement the carrying out of the provisions of this Ordinance. Such orders, rules, and regulations:
    - (i) Cannot be inconsistent with any orders, rules, or regulations promulgated by the Governor or by any State agency exercising a power delegated to it by the Governor.
    - (ii) Cannot be inconsistent with the County's emergency management program or Emergency Plan.
    - (iii) Shall have full force and effect of law when filed in the office of the County Clerk;
    - (iv) Are enforceable by any local or state law enforcing authority in accordance with Indiana Code 10-14-3-24.
  - (m) The County Board of Commissioners may, in accordance with the Emergency Plan, request the State or the United States or their agencies and political subdivisions to send aid (including financial assistance) if the situation is beyond the control of the regular and emergency county forces and resources.
3. All actions taken by the County Board of Commissioners under this Section shall be:
- (a) Adopted by ordinance or resolution pursuant Indiana Code 10-14-3-22;
  - (b) Consistent with, and subordinate to, any actions, orders, or regulations made by the Governor or a state agency implementing the State Comprehensive Emergency Management Plan.

**F. OFFICERS AND EMPLOYEES OF INCORPORATED AND UNINCORPORATED AREAS OF THE COUNTY: GENERAL DUTIES DURING EMERGENCY**

During a declared disaster emergency, all officers and employees of incorporated and unincorporated areas of the County shall:

- 1. Cooperate with and give active support to the County Board of Commissioners and the County Emergency Management Director.

forces of Indiana. Any person claiming compensation for the use, damage, loss, or destruction of such property shall make a claim for it. This claim shall be filed and adjudicated as provided in Indiana Code 32-24.