

ORDINANCE NO. 2024-16

AMENDING ORDINANCE 92-03, 06-01 AND 24-09

AN ORDINANCE OF THE CASS COUNTY COMMISSIONERS AMENDING PRIOR  
ORDINANCE ESTABLISHING EMERGENCY MANAGEMENT PROGRAM

WHEREAS, the provisions of the Cass County Emergency Management Program are set forth in the Cass County, Code of Ordinances 38.001-38.999

WHEREAS, the Indiana legislature has passed certain legislation which would require the amendment of the Cass County Code of Ordinances related to the Emergency Management Program.

WHEREAS, the Cass County Commissioners desire to ensure that such amendments are reflected in its ordinances and the Cass County Code of Ordinances hereby amend Section 38.001-38.999 as follows:

CHAPTER 38: EMERGENCY MANAGEMENT PROGRAM

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GENERAL PROVISIONS

§ 38.001 APPLICABILITY.

The provisions of this chapter, unless otherwise indicated, also apply to, govern, and refer to matters contained herein.

(Prior Code, § 36.001) (Ord. 92-03, passed 4-20-1992)

§ 38.002 DEFINITIONS.

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

CHIEF EXECUTIVE OFFICER OF THE COUNTY. As referred to in I.C. 10-4-3-29 For purposes of declaring a local disaster emergency, and as referred to hereinafter, means the Board of County Commissioners established under I.C. 36-2-2-2. If a quorum of the Board of County Commissioners (two of the three Commissioners) is unavailable or is incapacitated, then the following establishes the line of succession for CHIEF EXECUTIVE OFFICER.

(a) Regularly designated President of the Board of County Commissioners. If a quorum of the Board of County Commissioners (two of the three Commissioners as established under I.C. 36-2-4-3 ) is unavailable or is incapacitated, then the regularly designated President of the Board of County Commissioners shall serve as the Principal Executive Officer for the purposes of this chapter until the time that a quorum of the Board of County Commissioners is no longer unavailable or incapacitated.

(b) Vice President of the Board of County Commissioners. If both a quorum of the Board of County Commissioners and the regularly designated President of the Board of County Commissioners are unavailable or are incapacitated, then the Vice President of the Board of County Commissioners shall serve as the Principal Executive Officer for the purposes of this chapter until such time that either the regularly designated President or a quorum of the Board of County 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 Vice President of the Board of County Commissioners are all unavailable or are incapacitated, then the remaining Commissioner of the Board of County Commissioners shall serve as the Principal Executive Officer for the purposes of this chapter until such time that the Vice President, the regularly designated President, or a quorum of the Board of County Commissioners is no longer unavailable or incapacitated.

(d) County Sheriff. If all of the County Commissioners are unavailable or incapacitated, then the County Sheriff shall serve as the Principal Executive Officer for the purposes of this chapter until such time that a County Commissioner is no longer unavailable or incapacitated.

(e) County EMA Director. If all of the County Commissioners and the County Sheriff are unavailable or incapacitated, then the County EMA Director shall serve as the Principal Executive Officer for the purposes of this chapter until such time that the County Sheriff or a County Commissioner is no longer unavailable or incapacitated.

(f) County Council President. If all of the County Commissioners, the County Sheriff, and the County EMA Director are unavailable or incapacitated, then the County Council President shall serve as the Principal Executive Officer for the purposes of this chapter until such time that the County Sheriff, the County EMA Director, or a County Commissioner is no longer unavailable or incapacitated.

COUNCIL. Unless clearly referring to the County Council, the County Emergency Management Advisory Council as established hereunder.

DIRECTOR. The County Director of the Emergency Management Agency, as established and appointed pursuant hereto.

EMERGENCY. A condition resulting from enemy attack, or other hostile action, or from natural disaster, or from human-made disasters, which cannot be handled by normal operating personnel or facilities.

EMERGENCY MANAGEMENT. The preparation for, and the execution of, all emergency functions, other than functions for which the military forces are primarily responsible, for protection against, and to minimize and repair, injury, and damage resulting from enemy attack, sabotage, or other hostile action, or by natural disaster.

EMERGENCY MANAGEMENT VOLUNTEER. Any person who serves without compensation in the County Emergency Management Agency, including persons and private agencies or government units offering services to the county during the emergency situations or mutual aid to other emergency services who request assistance.

HUMAN-MADE DISASTER. Any condition such as riots, strikes, insurrections, or other civil disturbances.

NATURAL DISASTER. Any condition affecting or threatening public health, welfare, or security as a result of flood, tornado, blizzard, or other natural cause.

PARTICIPATING EMERGENCY SERVICE. Any county department or agency designated by the Commissioner to participate in emergency activities pursuant hereto; and any department or agency of the state, another county, a municipality, or other municipal corporation, or a volunteer organization designated to participate in the county's emergency management programs and activities pursuant to a cooperative or mutual aid agreement entered into pursuant hereto.

PERSONNEL. County officers and employees and emergency management volunteer, unless otherwise indicated.

TECHNOLOGICAL DISASTER. Incidents such as severe fire, explosions, hazardous material spills, and radiological problems which are beyond the control of regular forces.

(B) The County Emergency Management Agency encompasses and assumes all prior civil defense duties and obligations for state and federal purposes.

(Prior Code, § 36.002) (Ord. 92-03, passed 4-20-1992; Ord. 06-01, passed 1-17-2006)

§ 38.003 GENERAL SCOPE AND INTENT; LIBERAL CONSTRUCTION OF POWERS.

(A) The general intent of this chapter is to provide for all necessary and dispensable powers and procedure reasonably needed to prevent, cope with, or make more tolerable emergency conditions.

(B) For this and all powers, both ministerial and discretionary, as conferred herein, shall be liberally construed and shall be construed as intending to supplement and augment, and not to limit, any other powers or reasonable exercise of discretion which may ordinarily pertain to county officers, employees, departments, and agencies.

(Prior Code, § 36.003) (Ord. 92-03, passed 4-20-1992)

§ 38.004 LIMITATIONS; NON-SUPERSESSION OF EMERGENCY POWERS OF COUNTY SHERIFF.

Nothing in this chapter is intended to supersede or delimit any statutory powers of the County Sheriff to determine, respond to, and provide for the control of public disasters and other emergency situations under the provisions of I.C. 36-8-10-6 1 .

(Prior Code, § 36.004) (Ord. 92-03, passed 4-20-1992)

§ 38.005 LIMITATIONS; NON-SUPERSESSION OF EMERGENCY POWERS OF INCORPORATED MUNICIPALITIES; CONFORMANCE OF MUNICIPAL REGULATIONS WITH COUNTY REGULATIONS

Nothing in this chapter is intended to supersede or delimit the powers of any incorporated municipality under I.C. 10-14-3-17 to adopt and implement emergency plans, and promulgate and enforce special emergency regulations and procedures in the advent of an actual emergency affecting such municipality. However, pursuant to I.C. 10-14-3-17 such regulations and procedures as promulgated by the municipal authorities may not be inconsistent with the county's emergency regulations and procedures.

(Prior Code, § 36.005) (Ord. 92-03, passed 4-20-1992)

ADVISORY COUNCIL

§ 38.020 ESTABLISHED.

In accordance with I.C. 10-14-3-17(b), there is established a County Emergency Management Advisory Council which shall consist of the following:

- a. The President of the Cass County Commissioners or his/her designee;
- b. The President of the Cass County Council or his/her designee;
- c. The Mayor of the City of Logansport or his/her designee;
- d. A representative of either the Logansport Police or Fire Departments, as appointed by the Mayor;
- e. An individual representing the legislative bodies of all towns located within Cass County;
  - A. Town of Galveston
  - B. Town of Onward
  - C. Town of Royal Center
  - D. Town of Walton
- f. An individual of the Cass County Sheriff's Department as recommended by the Sheriff, Cass County, Indiana
- g. An individual being a member of the Cass County Emergency Ambulance Service to be recommended by the Cass County Emergency Medical Services Board;
- h. An individual to be appointed representing the Cass County Fire Departments (south half of the county), to be selected by the County Commissioners
- i. An individual to be appointed representing the Cass County Fire Departments (north half of county), to be selected by the County Commissioners;

j. An individual to be appointed representing public works (i.e. Utilities, highway), to be selected by the County Commissioners;

k. A representative of or liaison to the Civil Air Patrol, however the Civil Air Patrol representative or liaison shall not be counted for the determination of whether a quorum exists;

The Advisory Council shall have a Chairman, Vice Chairman and Secretary.

(Prior Code, § 36.020) (Ord. 92-03, passed 4-20-1992)

#### § 38.021 TERMS OF THE ADVISORY COUNCIL.

(A) The County Council, Board of County Commissioners, and the Mayor of the City of Logansport, or their respective designees' terms, shall be permanent unless otherwise revised by state statute and/or county ordinance.

(B) The designee(s) shall serve at the pleasure of the respective office holder.

(Prior Code, § 36.021) (Ord. 92-03, passed 4-20-1992)

#### § 38.022 DUTIES OF EMERGENCY MANAGEMENT ADVISORY COUNCIL.

(A) (1) The County Emergency Management Advisory Council (hereinafter referred to as "Advisory Council") shall exercise general supervision and control over the County Emergency Management Agency and disaster program of the county and shall cause to be selected an Emergency Management Director, who shall have direct responsibility for the organization, administration, and operation of the Emergency Management program in the county; shall be responsible to the Chairperson of the Advisory Council; and shall not hold any other local state government office.

(2) The Advisory Council shall also implement and maintain an inventory control system identifying all of the personal property acquired by, and/or used for, the benefit of the Advisory Council, its Director, Deputy Director, and Emergency Management Volunteers.

(B) The Advisory Council shall meet at least quarterly. At each quarterly meeting, the Advisory Council shall review and approve all monies received by the Advisory Council and/or Director for services performed by the Emergency Management Director, Deputy Director, and/or Emergency Management Volunteers; recommend for approval, or non-approval, claims and expenses incurred by, and for the benefit of, the Emergency Management Program in the county; and any other business that might come before the Advisory Council.

(Prior Code, § 36.022) (Ord. 92-03, passed 4-20-1992)

Statutory reference:

Similar provisions, see I.C. 10-14-3-17

#### EMERGENCY MANAGEMENT AGENCY

#### § 38.035 ESTABLISHED; ORGANIZATION AND CONSTITUENCY.

(A) There is established an Emergency Management Agency within the executive branch of the county government for the purpose of utilizing, to the fullest extent

possible, the personnel and facilities of existing county departments and agencies to prepare for, and meet, an emergency as defined herein. The Advisory Council and Director of the Emergency Management Agency shall be responsible for its organization, administration, and operation.

(B) The agency shall consist of the following:

(1) An executive head of the County Emergency Management Agency, who shall be known as the Director of Emergency Management, appointed in accordance herewith;

(2) A Deputy Director, who shall be appointed by the Director with the approval of the Advisory Council;

(3) Emergency management volunteers, as deemed necessary, and appointed by the Director in accordance herewith;

(4) The employees, equipment, and facilities of all county departments and agencies suitable for, or adaptable to, emergency management, and designated by the Board of County Commissioners to participate in the emergency management activity;

(5) Staff officers with responsibility for warning, communications, radiological, health, emergency care, police, fire and light rescue, public education, and transportation, who may be appointed by the Director, but which positions shall be, so far as possible, additional duty assignments to existing personnel; and

(6) Such assistants, clerical help, and other employees, as deemed necessary to the proper functioning of the Department, who may be appointed by the Director. However, notwithstanding any other provision of this section, no compensated position may be established within the County Emergency Management Agency, nor any person appointed to such position without the authorization of the County Council pursuant to I.C. 36-2-5-3(a), and the making of sufficient appropriations to pay such compensation. This provision does not give the County Council any power of approval over particular candidates for any positions, but refers only to their general statutory powers to determine the numbers of officers, deputies and employees of county departments, classify positions, and adopt schedules of compensation. In addition, it is also the intent of this section that emergency management and disaster assignments shall be as nearly consistent with normal duty assignments as possible.

(Prior Code, § 36.035) (Ord. 92-03, passed 4-20-1992)

#### § 38.036 DIRECTOR; APPOINTMENT, QUALIFICATIONS, AND TENURE.

Qualifications for Director will be determined by the Advisory Council with input from Board of County Commissioners, provided that pursuant to I.C. 10-14-3-17. The appointment of the Director shall be permanent unless the Advisory Council determines the Director to be incapable to fulfill his or her responsibilities, which shall include dereliction of duties (including failure to provide the Indiana Department of Homeland Security Executive Director required annual reports and documentation), malfeasance in office, incompetence, insubordination, or deliberate disregard of the directives of superior county or state authorities, or physical or mental incapacity to perform his or her duties.

(Prior Code, § 36.036) (Ord. 92-03, passed 4-20-1992)

§ 38.037 DIRECTOR; GENERAL POWERS AND DUTIES.

(A) The Director, subject to the direction and control of the Advisory Council and/or the Board of County Commissioners, shall be executive head of the County Emergency Management Agency and shall have responsibility for the organization, administration, and operation of the emergency management organization, including the following specific powers and duties.

(1) The Director shall be responsible for public relations, information, and education regarding all phases of emergency management.

(2) The Director shall be responsible for the development of a County Emergency Operating Plan, and, upon adoption, shall be responsible for such implementation and revision of the plan as to maintain it on a current state of readiness at all times. This plan shall include all major cities within the county.

(3) The Director shall coordinate, within the county, all activities for emergency management, and shall maintain liaison and coordinate with all other affected agencies, public and private.

(4) 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.

(5) The Director may seek, negotiate, and enter into (with the approval or ratification of the Board of County Commissioners and to the extent consistent with the state's Emergency Operations Plan and program) mutual-aid arrangements with other public and private agencies for emergency management purposes, and take all steps in accordance with such, arrangements to comply with, or take advantage thereof, in the event of an actual emergency affecting the parties.

(6) The Director may, when such offer has been approved by the Governor, 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.

(7) (a) The Director may seek and 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.

(b) Any such gratuitous donations shall be immediately reported and accounted to the Advisory Council.

(c) Any monies received by the Director, Deputy Director, and/or Emergency Management Volunteers shall, within 60 hours of its receipt, be deposited with the County Auditor in an appropriate account.

(8) The Director may issue proper insignia and papers to emergency management workers and other people directly concerned with emergency management.



(B) (1) The Director, in addition to the powers and duties expressly provided above, shall be construed to have all powers and duties of a local emergency management director as provided under I.C. 10-14-3-17.

(2) In particular, but not by limitation, the Director, through the County Emergency Management Agency, may perform, or cause to be performed, with respect to the county, any function parallel or analogous to those performed on a statewide basis by the state's Indiana Department of Homeland Security.

(Prior Code, § 36.037) (Ord. 92-03, passed 4-20-1992)

§ 38.038 DEPUTY DIRECTOR; GENERAL POWERS AND DUTIES.

(A) If a Deputy Director has been appointed pursuant hereto, he or she shall during normal times, assist the Director in the performance of his or her duties.

(B) During an emergency, the Deputy Director shall assist the Director and fulfill the duties of the Director in the absence or inability of the Director to serve.

(Prior Code, § 36.038)

GENERAL ADMINISTRATION AND POWERS

§ 38.050 BOARD OF COUNTY COMMISSIONERS; GENERAL ADMINISTRATIVE POWERS AND DUTIES; TESTS OF EMERGENCY OPERATIONS PLANS.

The powers and duties of the County Commissioners pertaining to emergency management in time of normal county operation are to:

(A) Maintain general supervision over the planning and administration for the County Emergency Management Agency and the Advisory Council;

(B) Adopt the emergency management and disaster plans; and

(C) (1) Coordinate the emergency management activities and make assignments of emergency management activities and make assignments of emergency management duties to county forces in order to meet situations not covered in the normal duties and powers of such agencies.

(2) In addition, the Board of County Commissioners may take all necessary action to conduct tests of the emergency management plans. Emergency management tests may be conducted at any time with or without prior notification. Any emergency tests conducted within the boundaries of the county shall be coordinated with the County Emergency Management Agency and the County Sheriff's Department.

(Prior Code, § 36.050)

§ 38.051 EMERGENCY MANAGEMENT VOLUNTEERS.

(A) The Director shall make sure that all volunteer personnel meet the following qualifications before he or she is sworn in as a member:

(1) Be at least 18 years of age;

(2) Not convicted of a felony;

- (3) Complete, and have on file, an application form; and
- (4) Other requirements as approved by the Advisory Council.

(B) Upon satisfaction of the above requirements, the applicant is officially a member of the County Department of Emergency Management Agency.

(Prior Code, § 36.051) (Ord. 92-03, passed 4-20-1992)

## § 38.052 EMERGENCY RESPONSE TEAM.

### A. Definitions

1. "Person" shall mean individual, partnership, co-operative, Limited Liability Company, firm, company, corporation, association, trust, estate, government entity, or any other legal entity or their representatives, agents, or assignees.
2. "Responsible party" shall mean the person liable for reimbursement for costs and expenses associated with the operation of the Cass County Emergency Response Team.
3. Substances considered as dangerous, hazardous, or toxic are those which:
  - a. Meet the definition of a Hazardous Substance as provided in 49 CFR 171.8
  - b. Meet the definition of a Hazardous Material, as provided in 49 CFR 171.8
4. "Response" shall mean any and all instances when one or more members of the Cass County Emergency Response Team are called out to the scene of an incident involving the presence or suspected presence of dangerous, hazardous, or toxic substances.

### B. Violations

1. Any person that uses, stores, handles, transports, or disposes of any dangerous, hazardous, or toxic substances or materials or any substances or materials reasonably believed to be dangerous, hazardous, or toxic in such a fashion or manner so as to necessitate a response by the Cass County Emergency Response Team shall be liable to the County of Cass for reimbursement of the costs and expenses made necessary by such response of the Cass County Emergency Response Team pursuant to the provisions of this ordinance.
2. The Director of the Cass County Emergency Management Agency shall prepare a billing pursuant to this Ordinance and shall submit such billing to the party responsible for paying the costs and expenses identified in this Ordinance no later than thirty (30) days following any reimbursement response of the Cass County Emergency Response Team.
3. The person responsible for reimbursing the County of Cass under the provisions of this ordinance shall tender payment in satisfaction of the aforementioned billing no later than sixty (60) days following receipt of the billing prepared and issued by the Director of Cass County Emergency Management Agency.
4. Any person who fails to reimburse the County of Cass within the aforementioned sixty (60) days, shall be deemed to have violated this Ordinance and shall be subject to a penalty equivalent to ten (10%) percent of the total billed amount

that remains unpaid on the due date and shall be responsible for attorney fees incurred to pursue a claim for reimbursement.

5. If a person objects to the aforementioned billing by the Director of the Cass County Emergency Management Agency, the responsible party must file with the Cass County Emergency Management Advisory Council a written objection to the billed amount within thirty days of the date of billing.
  - a. Upon receipt of such objection, the Cass County Emergency Management Advisory Council shall place the matter on the agenda of its next regularly scheduled meeting and shall allow the responsible party an opportunity to object to the billing.
  - b. The Cass County Emergency Management Advisory Council shall then receive and review the objection and the business for such objection, deliberate and issue a written opinion concerning the appropriateness of the billed amount.
  - c. If the responsible party objects to the decision of the Cass County Emergency Management Advisory Council, a petition requesting judicial review shall be filed with the Cass County Circuit Court no later than thirty (30) days from the date of the decision of the Cass County Emergency Management Advisory Council.
  - d. The decision of the Cass County Circuit Court Judge shall be final unless the responsible party or the Cass County Emergency Management Advisory Council appeal that decision to the appellate procedure for appeal of any civil matter pursuant to the administrative review process.

#### C. Reimbursement and Charges Incurred by Response Team

1. Any time the Cass County Emergency Response Team is called to the scene of an accident, the responsible party shall reimburse the County of Cass (at replacement cost) for any Emergency Response Team equipment or supplies which are damaged, lost, spent, destroyed, rendered irreparable, or "used up" in responding to or managing the incident; provided that any reimbursement under this paragraph shall be limited to equipment and supplies which are listed on the "Equipment and Supply Inventory List" of the Cass County Emergency Response Team which shall be kept on file at the office of the Director of the Cass County Emergency Management Agency and made available for public inspection during normal business hours of the Cass County Emergency Management Agency.
2. In addition to the reimbursement obligations contained in Paragraph I of Article III, the responsible party shall be billed by the Director of the Cass County Emergency Management for the initial response with a hazardous materials response unit or a rescue ambulance unit dispatched to a hazardous materials incident at the rates set forth below:
  - (a) For initial response with a fire engine, a fire truck, or a fire apparatus, including a hazardous material response unit, or a fire rescue unit dispatched on a fire or hazardous material incident, two hundred fifty dollars (\$250.00) per response vehicle except command/control vehicle, which is one hundred dollars (\$100.00) per vehicle.
  - (b) For each hour or fraction thereof as on-scene assistance, one hundred fifty dollars (\$150.00) per response unit and fifty dollars (\$50.00) per command/control vehicle.

- (c) For expendable materials such as absorption materials, emulsifiers, or other agents used in cleanup operations, the actual replacement cost of those materials.
- (d) For collection of debris, chemicals, fuel, or contaminated materials resulting from a spill, the actual cost of removal and disposal at an authorized location.

In addition to all the foregoing amounts, the responsible party shall pay the costs of collection, including attorney fees, if suit is necessary to collect such amounts.

#### D. Application of Ordinance

In the event that the Cass County Emergency Response Team responds to an incident outside of the boundaries of Cass County, the Cass County Emergency Response Team and Cass County Emergency Management Agency shall not be held liable for anything that goes wrong in providing such aid (including liability, workman's compensation, property damage, loss, bodily injuries and/or death). The party requesting aid shall take full responsibility for the Cass County Emergency Response Team.

By signing the Mutual Aid Agreement, the requesting party accepts these terms. The provisions of Article II of this Ordinance shall also be applicable to this out-of-county assessment.

In the event that any portion of this Ordinance is declared invalid, unconstitutional, or otherwise null and void, the Cass County Council specifically intends that the remaining portions hereof shall continue to have full force, effect, and validity until or unless declared otherwise.

It is the intent of the Cass County Commissioners and the Cass County Council that the purpose of the ordinance is to amend and update its current ordinance to be consistent with current Indiana law, specifically, IC § 36-8-12.2-1 et seq.

#### § 38.053 DEPARTMENTAL PERSONNEL ADMINISTRATION; STATUS OF PAID EMPLOYEES; ESTABLISHMENT OF MERIT SYSTEM IF FEDERAL FUNDING IS USED.

In general, any paid employees of the Emergency Management Agency shall have the same employment status and shall be governed by the same uniform personnel policies, rules, and procedures that apply to other county employees. However, in the event that and during such times as the county emergency management program may hereafter be directly supported by federal funding, the Board of County Commissioners shall adopt and implement a merit system applicable only to paid employees of the Agency other than the Director. The merit system shall conform to the standards and comply with the other requirements as set forth in Federal Emergency Management Agency Public Assistant Program and Policy Guide, Version 4, June 2020, or subsequent editions thereof as may be in effect at the time.

(Prior Code, § 36.053) (Ord. 92-03, passed 4-20-1992) Penalty, see § 38.999

#### POWERS AND DUTIES; FINANCE

§ 38.065 DEPARTMENTAL BUDGETING AND FINANCE.

The Advisory Council shall advise the Director in the preparation of the budget. The County Council shall appropriate such funds as it may deem necessary for the purpose of emergency management. All funds appropriated or otherwise available to the Emergency Management Agency shall be administered by the Director, subject to the approval of the Board of County Commissioners, in the same manner as provided by law or ordinance for other county funds, except as otherwise provided hereunder.

(Prior Code, § 36.065) (Ord. 92-03, passed 4-20-1992)

§ 38.066 EMERGENCY MANAGEMENT EMERGENCY OPERATIONS PLAN;  
FORMULATION, CONTENT, AND ADOPTION OF PLAN.

A County Emergency Operations Plan shall be adopted by resolution of the Board of County Commissioners. In the preparation of this plan, as it pertains to county organization, it is the intent that the services, equipment, facilities, and personnel of all existing departments and agencies shall be utilized to the fullest extent possible. The following content shall be adopted:

- (A) (1) Basic Plan, to include:
  - (a) Purpose;
  - (b) Situation/assumption;
  - (c) Concept of operations;
  - (d) Assignment of responsibilities;
  - (e) Direction and control;
  - (f) Continuity of government;
  - (g) Administration and logistics; and
  - (h) Execution.
- (2) The following annexes will be required:
  - (a) Direction and control (warning and communications);
  - (b) Radiological protection;
  - (c) Law enforcement;
  - (d) Fire and rescue;
  - (e) Health and medical;
  - (f) Welfare;
  - (g) Shelter;
  - (h) Evacuation;
  - (i) Public works; and

(j) Resource and supply.

(B) (1) In addition, all participating emergency services who develop internal plans shall coordinate those plans with the County Emergency Management Agency in order to include such plans within the county comprehensive plan.

(2) When approved, it shall be the duty of all county departments and agencies to perform the functions and duties assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times.

(Prior Code, § 36.066) (Ord. 92-03, passed 4-20-1992)

§ 38.067 COUNTYWIDE JURISDICTION OF THE EMERGENCY MANAGEMENT AGENCY, COUNTY EMERGENCY OPERATIONS PLAN, AND RELATED OFFICIALS POWERS.

Except as provided herein, the jurisdiction of the County Emergency Management Agency and the jurisdiction and applicability of the county's comprehensive emergency management and disaster plan as adopted pursuant hereto, and the exercise of any powers of the chief executive officer of the county and the Board of County Commissioners hereunder shall be comprehensive and inclusive countywide and effective in both the incorporated and unincorporated areas of the county.

(Prior Code, § 36.067) (Ord. 92-03, passed 4-20-1992)

§ 38.068 APPLICABILITY OF PROVISIONS.

These provisions apply whenever:

(A) A state of emergency affecting all, or part of, the county has been declared by the Governor pursuant to I.C. 10-14-3-12;

(B) A state of emergency affecting all, or part of, the county has been declared by the chief executive officer of the county pursuant to I.C. 10-14-3-29;

(C) A presumptive state of emergency is deemed to exist affecting all or part of the county causing the Director to invoke and implement emergency plans and procedures in accordance with § 38.070; or

(D) When the Board of County Commissioners has implemented a test of the county's emergency plans and procedures in accordance herewith, to the extent necessary or dispensable to such test.

(Prior Code, § 36.068) (Ord. 92-03, passed 4-20-1992)

§ 38.069 SPECIAL EMERGENCY POWERS AND DUTIES OF BOARD OF COUNTY COMMISSIONERS.

At the meeting convened, the Board of County Commissioners may exercise any of its normal executive and legislative powers to the extent related to the emergency and necessary to deal therewith. In addition, however, it may also exercise any of the following special and extraordinary powers.

(A) The Board of County Commissioners may extend the period of state of emergency declared by the chief executive officer to last more than seven days, if necessary.

(B) The Board of County Commissioners may terminate the state of emergency, except for a state of emergency proclaimed by the Governor of the state.

(C) The Board of County Commissioners may order the activation and implementation of the county's comprehensive emergency management and disaster control plan that has been adopted pursuant hereto, or such several component parts thereof as may be relevant to the emergency.

(D) The Board of County Commissioners may assemble and utilize emergency management forces, including personnel of the Department of Homeland Security, participating emergency services, and any other forces at the disposal of the Board of County Commissioners thereunder, for emergency management purposes.

(E) The Board of County Commissioners may order volunteer forces to the aid of the county, state, or political subdivisions thereof as soon as practicable. Those volunteer forces will be under the direction of the County Emergency Management Agency.

(F) The Board of County Commissioners may, to the extent permitted by I.C. 10-14-3-11 and subject to its provisions command service from and/or requisition the use of equipment, facilities, supplies, or other property belonging to other organizations, corporations, or private persons, as necessary to control the emergency and protect and provide for the public safety and welfare.

(G) The Board of County Commissioners may order the evacuation of all or part of the population from stricken areas of the county, and prescribed routes, modes of transportation, and destinations for such evacuation.

(H) The Board of County Commissioners may make provision for availability and use of temporary emergency housing, which housing need not necessarily comply with any minimum housing standards, building or zoning regulations, and the like, which would govern the use and location of premises for housing purposes during normal times.

(I) The Board of County Commissioners may suspend, for the duration of the state of emergency (or for a lesser period as it determines), any provisions of or procedures prescribed by ordinances of the county if they would be impractical during the emergency, would interfere with the implementation and carrying out of emergency plans, or would be inimical to actions necessary to protect the public safety and welfare; provided, however, that except in accordance with division (J) below, the Board of County Commissioners may not suspend any provisions of ordinances or procedures which are mandated by statute.

(J) In the event of enemy attack, or when the state of emergency has been proclaimed by the Governor, the Board of County Commissioners may also, in accordance with I.C. 10-14-3-17(j)(5)(H), waive any procedures or requirements of statute, or of county ordinances reflecting statutory requirements and mandates, and pertaining to the appropriation and expenditure of public funds, the incurrence of obligations, the performance of public works, the entering into contracts, the employment of permanent or temporary workers or utilization of volunteer workers, the rental of equipment, or the purchase and distribution of supplies, materials, and facilities.

(K) The Board of County Commissioners may assign special emergency duties and functions to any county officers, departments, and agencies, irrespective of their usual duties and functions; and any unexpended and unencumbered monies budgeted and appropriated for the operation of such offices, departments, and agencies and not dedicated by law to different and specified 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) (1) The Board of County Commissioners may make and promulgate such emergency regulations as may be deemed necessary to protect life and property, preserve order, conserve critical resources, or implement and carry out the provisions of the county's or state's disaster plans, including, but not limited to: the power to order the roads closed; establish curfews; close business; or any action that it deems necessary to save lives and recover from a declared emergency.

(2) This power also includes the power to supplement, modify, or suspend any general contingency regulations which may have been incorporated as part of the county's previously adopted Emergency Operations Plan.

(3) Any emergency regulations adopted under this division (L) shall not be effective until promulgated, which promulgation shall be by written filing in the offices of the County Clerk and County Auditor, as required by I.C. 10-14-3-22; provided however, that should such filing be impossible because of the emergency situation, such regulations shall be effective and enforceable notwithstanding. Such regulation shall have the full force of law and shall be enforceable by any police officer.

(M) The Board of County Commissioners may 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.

(N) All actions and regulations under this section may be by executive order and need not be made or adopted by ordinance or resolution, but shall be consistent with and subordinate to any actions, orders, or regulations made by the Governor or a state agency implementing state emergency operations plans.

(Prior Code, § 36.069) (Ord. 92-03, passed 4-20-1992)

§ 38.070 SPECIAL EMERGENCY POWERS AND DUTIES OF DIRECTOR OF EMERGENCY MANAGEMENT; RECOMMENDATIONS TO COMMISSIONERS ON SPECIAL EMERGENCY ACTIONS.

It shall be the duty of the Director to make recommendations and advise the Board of County Commissioners or the chief executive officer on any actions which it would be necessary or desirable to take under § 38.069 in the event of an emergency.

(Prior Code, § 36.070) (Ord. 92-03, passed 4-20-1992)



§ 38.071 SPECIAL EMERGENCY POWERS AND DUTIES OF DIRECTOR OF EMERGENCY MANAGEMENT; POWER TO IMPLEMENT EMERGENCY OPERATIONS PLANS DURING PRESUMPTIVE STATE OF EMERGENCY; RENDERING OF ASSISTANCE BY EMERGENCY MANAGEMENT AGENCY.

(A) In the event that an emergency clearly exists or is imminent within the county, and state of emergency has not been declared by the Governor, nor is any person having the powers of the chief executive officer of the county present to declare such an emergency pursuant hereto, the Director may temporarily presume the existence of a state of emergency even though not officially declared and may, as his or her own judgment dictates, invoke, implement, and carry out such provisions of the county's adopted comprehensive emergency management and disaster control plan as are necessary to cope with the emergency and protect the public safety and welfare, and shall be construed to have all powers necessary and dispensable to doing so to the extent not specifically limited by statute, or specifically limited herein, until such time as a chief executive officer becomes available.

(B) (1) This section also applies to the Deputy Director to the extent that the Deputy Director is required to assume the duties of the Director, as provided hereby, in the latter's absence or incapacitation during the emergency.

(2) Assistance from the County Emergency Management Agency may be rendered without a declaration of an emergency in order to assist local emergency services in time or need.

(Prior Code, § 36.071) (Ord. 92-03, passed 4-20-1992)

§ 38.072 GENERAL DUTIES OF COUNTY OFFICERS AND EMPLOYEES DURING EMERGENCY.

All officers and employees of the county shall cooperate with and give active support to the Board of County Commissioners and the County Emergency Management Director in all emergency management operations, and shall comply with all orders of the Board of County Commissioners and County Emergency Management Director issued pursuant to this chapter.

(Prior Code, § 36.072) (Ord. 92-03, passed 4-20-1992)

§ 38.073 PRIORITY OF EMERGENCY ORDERS, RULES, AND REGULATIONS.

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

(Prior Code, § 36.073) (Ord. 92-03, passed 4-20-1992)

§ 38.074 NONCOMPLIANCE WITH EMERGENCY ORDERS, RULES, AND REGULATIONS.

(A) Whenever this chapter applies as provided herein, it shall be unlawful and a penal ordinance violation for any person to: willfully obstruct, hinder, or delay the Board of County Commissioners, or the Director of Emergency Management participating emergency services, authorized emergency management volunteers, or other

authorities, from implementing, carrying out, and enforcing emergency plans and procedures; fail to observe, abide by, and comply with any emergency management duties, orders, regulations, and procedures as made applicable to such person by the appropriate authorities; or falsely wear or carry identification as a member of the County Emergency Management Agency, or to otherwise falsely identify or purport himself to be a county emergency management authority.

(B) Any regular or reserve police officer of the state, or any of its political subdivisions, or any member of the County Emergency Management Agency, or a participating emergency service, is hereby empowered to issue and serve a civil citation against any person found to be committing any offense described above.

(Prior Code, § 36.074) (Ord. 92-03, passed 4-20-1992) Penalty, see § 38.999

#### § 38.075 LIMITATION OF LIABILITY DURING STATE OF EMERGENCY OR EMERGENCY MANAGEMENT TESTS.

The county, its assigned personnel, and participating emergency services shall be held blameless and without responsibility for the loss of life or injury to persons or the destruction of any property during an emergency management test or emergency as performed under the direction of the Emergency Management Director.

(Prior Code, § 36.075) (Ord. 92-03, passed 4-20-1992)

#### § 38.076 REIMBURSEMENT FOR USE OF PROPERTY COMMANDEERED DURING EMERGENCY.

Owners of property commandeered for the use in any emergency by any county official shall be reimbursed for its use by the county in a manner approved by the County Council.

(Prior Code, § 36.076) (Ord. 92-03, passed 4-20-1992)

#### § 38.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person who fails to reimburse the county within the aforementioned 30 days, as described in § 38.052(B)(2)(c) shall be deemed to have violated this section and shall be subject to a penalty equivalent to 5% of the total billed amount for every day that the responsible party fails to tender reimbursement to the county.

(Prior Code, § 36.052)

(C) Any person who commits an offense as described in § 38.074 shall be liable to a fine of up to \$2,500; the fine to be subject, however, to the discretion of the court of jurisdiction.

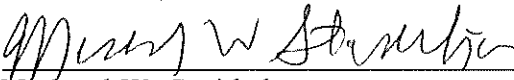
(Prior Code § 36.074)


(Ord. 92-03, passed 4-20-1992; Res. 96-06, passed 6-3-1996; Ord. 98-3, passed 2-20-1998)

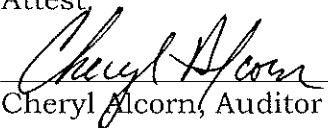
PASSED AND ADOPTED BY THE COMMISSIONERS OF CASS COUNTY,  
INDIANA THIS 19 day of August 2024.

CASS COUNTY BOARD OF COMMISSIONERS:

  
\_\_\_\_\_  
Ruth Baker, President

  
\_\_\_\_\_  
Michael W. Stajduhar

  
\_\_\_\_\_  
Mike Deitrich

Attest:  
  
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Cheryl Alcorn, Auditor