

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2012 – 45

AN ORDINANCE TO AMEND THE CODE OF CLAYTON COUNTY, GEORGIA, AS AMENDED; SPECIFICALLY CHAPTER 34 “EMERGENCY MANAGEMENT”; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE OF THIS ORDINANCE; AND FOR OTHER PURPOSES.

WHEREAS, Clayton County Fire and Emergency Services (“Fire Department”) endeavors to provide updated information to members of the public in regards to clearly defined roles and responsibilities of the Fire Department during a disaster; and

WHEREAS, the Board of Commissioners deems it in the best interest of the County to amend the Code of Clayton County as hereinafter set forth.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS

OF CLAYTON COUNTY, GEORGIA, AND IT IS HEREBY ORDAINED

Section 1. The Board of Commissioners hereby amends the Code of Clayton County, Georgia, as amended, specifically Chapter 34, “Emergency Management”, as follows:

**“Chapter 34 – EMERGENCY MANAGEMENT**

**Sec. 34-1. - Definition**

As used in this chapter, the term “emergency management” shall mean the preparation for the carrying out of all emergency and disaster functions other than those functions for which military forces or state and federal agencies are primarily responsible to prevent, minimize and repair injury and damage resulting from emergencies or disasters, or the Imminent threat thereof, of manmade or natural origin. These functions include without limitation, fire fighting services, police services, medical and health services, rescue, engineering , warning services, communications, protection against the effects of radiological, chemical and other special weapons; evacuation of persons from stricken areas, emergency welfare services, emergency transportation, plant protection, shelter, temporary restoration of public utility services and other functions related to civilian population, together with all other activities necessary or incidental to total emergency and disaster preparedness for carrying out the foregoing functions.

Cross reference – Definitions generally, § 1-2

**Sec. 34-2. – Office of the county emergency management director**

In agreement with the governing officials in the cities within the county, there is hereby established the Clayton County Emergency Management Agency. The chairman of the board of commissioners shall nominate for appointment by the director of the Georgia Emergency Management Agency, a director of emergency management for the entire county except for Forest Park. When appointed, the emergency management director is charged with the following duties:

- (1) To represent the governing officials of the county and cities therein on matters pertaining to emergency management.
- (2) To assist county and city officials in organizing county and city departments for emergency operations
- (3) To develop, in conjunction with county and city departments the county plan for emergency functions set forth in section 34-1 of this chapter. Such plan will be in consonance with the Georgia Emergency Operations Plan, and shall be submitted to the governing officials of the county and the cities therein for approval, and thence to the Georgia Emergency Management Agency for approval.
- (4) To maintain the emergency management agency and carry out the day-to-day administration of the county emergency management program, including the submission of required reports to the Georgia Emergency Management Agency
- (5) To submit reports as required by governing officials in keeping with good management practices, e.g., financial, daily activity, etc.
- (6) To obtain, with the authority of governing officials, a facility to be used as the county's emergency operations center.
- (7) To coordinate the activities of the county emergency operations center staff during periods of an emergency, and under the supervision of county governing officials.
- (8) In conjunction with public and private agencies/organizations that have responsibility for designated emergency support functions, plans for responding to and recovering from disasters and/or emergencies
- (9) Attend training and meetings convened by the appointing authority or the state emergency management director.

**Sec. 34-3. – Emergency Management Agency**

The Clayton County Emergency Management Agency shall be established around existing county and city departments and agencies. The emergency support functions listed in Section 34-1 above are assigned and set forth in the Appendix E - ESF Matrix of Primary and Support Agencies of the Clayton County Emergency Operations Plan.

Heads of departments/agencies listed are responsible for developing appropriate standard operating procedures (SOP's) to the local emergency operations plan (EOP) for their assigned function, as listed in Appendix E of the EOP. Such plans will be submitted through emergency management director to the county board of commissioners for inclusion in the local EOP.

**Sec. 34-4. - Emergency management and response powers.**

(a) Major/Minor Incidents not requiring an emergency declaration.

The Emergency Management Director may at his discretion activate portions of the Emergency Operations Plan to respond to incidents not requiring a formal declaration from the Chairman.

(b) Declaration of emergency.

- (1) Grant of authority. In the event of an actual or threatened occurrence of a disaster or emergency which may result in the large-scale loss of life, injury, property damage or destruction or in the major disruption of routine community affairs, business or governmental operations in the county and which is of sufficient severity and magnitude to warrant extraordinary assistance by federal, state and local departments and agencies to supplement the efforts of available public and private resources, the chairman of the board of commissioners, jointly with the mayors of the affected cities, or in their absences their legally appointed designees, may determine that an emergency or disaster exists and thereafter shall have and may exercise for such a period as such emergency or disaster exists or continues.
- (2) Request for state assistance. Consistent with a declaration of emergency, the chairman may request the governor to provide assistance, provided that the disaster or emergency is beyond the capacity of the county to meet adequately and state assistance is necessary to supplement local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster
- (3) Continuance. The declaration of emergency shall continue until the Chairman finds that emergency conditions no longer exist, at which time, the Chairman shall execute and file with the clerk of the board of commissioners a document marking the end of the state of emergency. No state of emergency shall continue for longer than 30 days, unless renewed by the chairman. The board of commissioners may, by resolution, end the state of emergency at any time.
- (4) Effect of a declaration of emergency
  - (a) Activation of emergency operations plan. A declaration of emergency shall automatically activate the county emergency operations plan and all Incident and Support Annexes and shall be authority for the deployment of personnel and use of any forces to which the plan applies and for use or distribution of any supplies, equipment, materials and facilities assembled, stockpiles or arranged to be made available pursuant to the Georgia Emergency Management Act or any other laws applicable to emergency or disasters.
    1. The Clayton County Emergency Management Director shall have the legal authority to exercise the powers and discharge the duties conferred upon the emergency management agency, including the implementation of the emergency operations plan, coordination of the emergency responses of public and private agencies and organizations, coordination of recovery efforts with state and federal officials, and inspection of emergency or disaster sites.
    2. In responding and conducting necessary and appropriate investigations, the director or his/her designee is authorized to enter at a reasonable time upon any property public or private for

the purpose of investigating and inspecting sites involved with emergency management functions.

3. No person shall refuse entry or access to any authorized representative or agent of the county who requests entry for the purpose of inspection and who presents appropriate credentials. Nor shall any person obstruct, hamper or interfere with any such representative while that individual is in the process of carrying out his or her official duties.

(b) Emergency powers. Following a declaration of emergency and during the continuance of such state of emergency, the chairman is authorized to implement local emergency measures to protect life and property or to bring the emergency situation under control. In exercising this authority, the chairman may cause to become effective any of the sections of Chapter 34 as appropriate. If any of these sections are included in a declaration of emergency, the same shall be filed in the office of the clerk of the board of commissioners and shall be in effect until the declaration of emergency has been terminated,

(c) Authority to waive procedures and fees. Pursuant to a declaration of emergency, the board of commissioners is authorized to cause to be effective any of the subsections of this chapter as appropriate. The implementation of such subsections shall be filed in the office of the clerk of the board of commissioners.

(d) Additional emergency powers. The chairman of the board of commissioners shall have and may exercise for such a period as the declared emergency exists or continues, the following additional emergency powers:

1. To direct and compel the evacuation of all or part of the population from any stricken or threatened area, for the preservation of life or other disaster mitigation, response or recovery;
2. To prescribe routes, modes of transportation and destinations in connection with evacuation;
3. To suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives and flammable liquids and substances;
4. To make provision for the availability and use of temporary emergency housing, emergency shelters and/or emergency medical shelters.
5. To transfer the direction, personnel or functions of any county departments and agencies or units thereof for the purpose of performing or facilitating emergency services;
6. To utilize all available resources of the county and subordinate agencies over which the county has budgetary control as reasonably necessary to cope with the emergency or disaster;
7. To commandeer or utilize public or private property when necessary to cope with the emergency or disaster or when there is a compelling necessity for the protection of lives health and welfare; and/or the property of citizens;
8. To suspend any law, code provision or regulation prescribing the procedures for conduct of county businesses, or the orders, rules or regulations of any county agency, if strict compliance with any ordinance, resolution , order, rule or regulation would in any

way prevent, hinder or delay necessary action in coping with the emergency or disaster, provided that such suspension shall provide for the minimum deviation from the requirements under the circumstances and further provided that, when practicable, specialists shall be assigned to avoid adverse effects resulting from such suspension;

9. To provide welfare benefits to citizens upon execution of an intergovernmental agreement for grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by an emergency or disaster in cases when the individuals or families are unable to meet the expenses or needs from other means, provided that such grants are authorized only when matching state or federal funds are available for such purposes;
10. To perform and exercise such other functions, powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population, including individuals with household pets and services animals prior to, during, and following a major disaster or emergency.

(c) Form of declaration.

Upon the declaration of emergency, an official "Declaration of Emergency," in substantially the same form set forth below, shall be signed and filed in the office of the clerk of the county and shall be communicated to the citizens of the affected area using the most effective and efficient means available. The declaration shall state the nature of the emergency or disaster, the conditions that require the declaration and any sections of this chapter which shall be in effect.

#### DECLARATION OF EMERGENCY

WHEREAS, Clayton County, Georgia has experienced an event of critical significance as a result of [*DESCRIPTION OF EVENT*] on [*DATE*]; and

WHEREAS, in the judgment of the Chairman of the Clayton County Board of Commissioners, with advice from the Clayton County Emergency Management Agency Director, there exist emergency circumstances located in [*DESCRIBE GEOGRAPHIC LOCATION*] requiring extraordinary and immediate corrective actions for the protection of the health, safety and welfare of the citizens of Clayton County, including individuals with household pets and service animals; and

WHEREAS, to prevent or minimize injury to people damage to property resulting from this event;

NOW, THEREFORE, pursuant to the authority vested in me by local and state law;

IT IS HEREBY DECLARED that a local state of emergency exists and shall continue until the conditions requiring this declaration are abated.

WHEREFORE, IT IS ORDERED:

- (1) That the Clayton County Emergency Management Agency activate the Emergency Operations Plan and Incident and Support Annexes as needed;
- (2) That the following sections of the Official Code of Clayton County, Georgia be implemented; [*if deemed appropriate, choose from the sections in the code Overcharging, Registration of building and repair services, closed or restricted areas and curfews; and*]
- (3) That the following measures also be implemented

ENTERED at [TIME] on [DATE]

Signed

Chairman, Clayton County Board of Commissioners

(b) Emergency powers of municipalities

- (1) Municipalities. Under the Georgia Emergency Management Act, municipalities within the county are authorized to exercise the same emergency governmental powers within their municipal boundaries as are authorized by county government.
- (2) Contracts with municipalities. In addition to the normal agreements embodied in the county's emergency operations plan for mutual emergency assistance, the board of commissioners may contract with any municipality for the administration of an emergency response program.

**Sec. 34-5. - Enforcement and remedies.**

(a) Law enforcement responsibilities.

The law enforcement authorities of the county shall enforce the orders, rules and regulations contained in this chapter and/or implemented by the chairman or his/her designee or local governing authority during a declared emergency.

(b) Penalties.

Failure to comply with any of the requirements or provisions of the regulations contained in this chapter, or with any code section, order, rule or regulation made effective by the chairman or local governing authority upon or after the declaration of an emergency shall constitute a violation of the provisions of this chapter. Any person who violates any provision in this chapter shall, upon conviction thereof, be guilty of a misdemeanor punishable by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding 60 days, or both such fine and imprisonment, for each violation.

(c) Injunctive relief.

In addition to the remedies prescribed in this section, the Emergency Management Director is authorized to obtain an injunction to restrain violation of laws, code sections, orders, rules, and regulations which are contained in the Georgia Emergency Management Act and/or this code, and/or which are implemented by the local governing authority during a declared emergency.

**Sec. 34-6. - Authority to waive procedures and fee structures.**

(a) County business.

Upon activation of the EOP or declaration of an emergency or disaster by the chairman of the board of commissioners or the governor, the affairs and business of the county may be conducted at places other than the regular or usual location, within or outside of the county, when it is not prudent, expedient or possible to conduct business at the regular location. When such meetings occur outside of the county, all actions taken by the local governing body shall be as valid and binding as if performed within the county. Such meetings may be called by the presiding officer or any two members of the governing body without regard to or compliance with time-consuming procedures and formalities otherwise required by law.

(b) Purchasing and public works contracts.

(1) Upon activation of the EOP or declaration of an emergency or disaster by the chairman of the board of commissioners or the governor, the chairman shall cause to be created by the Finance Director a budget line item specifically for the purpose of emergency purchases and/or other costs associated with the responding to or recovering from the incident. This budget line item will be set up and funded through monies from the general fund and will be made available to the EMA Director, Central Services Director and Finance Director.

(2) Upon activation of the EOP or declaration of an emergency or disaster by the chairman of the board of commissioners or the governor, the board of commissioners may contract for public works without letting such contracts out to the lowest, responsible bidder and without advertising and posting notification of such contract; provided, however, that the emergency must be of such nature that immediate action is required and that their action is necessary for the protection of the public health, safety and welfare. Any public works contract entered into pursuant to this subsection shall be entered on the minutes of the county as soon as practical and the nature of the emergency described therein.

(c) Code enforcement.

Upon declaration of a state of emergency or disaster by the chairman of the board of commissioners or the governor, the board of commissioners may temporarily suspend the enforcement of the ordinances of the county, or any portion thereof, where the emergency is of such nature that immediate action outside code is required, such suspension is consistent with the protection of the public health, safety and welfare, and such suspension is consistent with the protection of the public health, safety and welfare and such suspension is not inconsistent with any federal or state statutes or regulations.

(d) Fees.

Upon declaration of a state of emergency or disaster by the chairman of the board of commissioners or the governor, the board of commissioners may temporarily reduce or suspend any permit fees, application fees or other rate structures as necessary to encourage the rebuilding of the areas impacted by the disaster or emergency. The term "fees" include fees or rates charged by the county for building permits, land disturbance permits, zoning applications, special land use permits, temporary land use permits and other fees relating to the reconstruction, repair and clean up of areas impacted by the disaster or

emergency. The term “fees” does not include fees collected by the county on behalf of the state or federal government or fees charged by the county pursuant to a state or federal statute or regulation.

(e) Temporary dwellings.

Upon the declaration of a state of emergency or disaster by the governor or chairman or chairman of the board of commissioners or its designees may issue temporary mobile home, trailer, recreational vehicle or other temporary dwelling structures or parks in any zoning district, even though not otherwise permitted by zoning regulation , while the primary dwelling is being repaired, provided that such temporary dwelling or parks are designed by an engineer and the plans are approved by the county health department and building and inspections division,. The temporary permit shall not exceed six months in duration. In the case of a continuing hardship, and in the discretion of the board of commissioners or its designee, the permit may be extended for a period of to an additional six months. Upon expiration of the temporary permit and/or extension, the temporary dwelling must be removed.

**Sec. 34-7. Overcharging prohibited**

To preserve, protect or sustain the life, health or safety of persons within a designated area upon the declaration of emergency or disaster, it shall be unlawful, during the duration of the emergency or subsequent recovery period, for any person, firm or corporation located or doing business in the unincorporated portions of the county to overcharge for any good, materials, goods, equipment, supplies, services, labor, motel rooms, temporary lodging or houses sold or rented within the county.

(a) Definitions. The following words, terms and phrases, when used in this section shall have the meanings ascribed, except where the context clearly indicate a different meaning:

- (1) “Overcharging” means charging prices for goods, materials, foods, equipment, supplies, services, labor, motel rooms, temporary lodging or houses, which exceed the customary charges by at least 25 percent or, in applicable cases, which exceed by at least 25 percent the suppliers’ or providers’ costs for such goods, materials, foods, equipment, supplies, service, labor, motel rooms, temporary lodging or houses. The existence of overcharging shall be presumed from a 25 percent or greater increase in the price at which the merchandise or rate fee or cost/rental of housing was offered in the usual course of business immediately prior to the onset of the emergency or disaster, but shall not include increases in cost to the supplier directly attributable to the higher cost of material, supplies and labor costs resulting from the emergency.
- (2) “Subsequent recovery period”\_means that period during which the emergency or disaster continues to cause disruptions in the area designated in the declaration of emergency, but shall not exceed six months after the declaration has been terminated, unless extended by action of the board of commissioners.

- (b) Effective date. This section shall become effective only upon the signing of a declaration of emergency stating this section is in effect.

**Sec. 34-8. - Registration of building and repair services**

- (a) Before building, constructing, repairing, renovating or making improvements to any real property, including dwellings, homes, building, structures or fixtures within an area in the unincorporated area of the county designated in a declared emergency or disaster, any person, firm, partnership corporation or other entity must register with the county and secure a building permit that is posted at the work site. Each day any such entity does business in the unincorporated areas of the county without complying with this ordinance constitutes a separate offense.
- (b) The cost of registration fees in a declared emergency or disaster is fixed at \$50.00 per annum. Registration is nontransferable. The cost of the emergency building permit shall be equal to the cost for a building permit under existing regulations. The permit shall only be authorized for repairs.
- (c) When registering, any person, partnership, corporation or other entity making application must, under oath, complete an application, providing the following information:
  - (1) Name of applicant;
  - (2) Permanent address and phone number of applicant;
  - (3) Applicant's Social Security number or Federal Employer Identification number;
  - (4) If applicant is a corporation, the state and date of incorporation;
  - (5) Tag registration information for each vehicle to be used in the business;
  - (6) List of cities where the applicant has conducted business within the past 12 months;
  - (7) Georgia sales tax number or authorization;
  - (8) Georgia business license number, if required.
- (d) Effective date. This section shall become effective only upon the signing of a declaration of emergency stating this section is in effect.

**Sec. 34-9. - Closed or restricted areas and curfews during an emergency.**

- (a) To preserve, protect or sustain the life, health, welfare or safety of persons, or their property, within a designated area under a declaration of emergency, it shall be unlawful for any person to travel, loiter, wander, or stroll in or upon the public streets, highways, roads, lanes, parks or other public grounds, public places, public buildings, places of amusement, eating places, vacant lots or any other place during a declared emergency between hours specified by the chairman until the curfew is lifted.
- (b) To promote order, protect lives, minimize the potential for looting and other crimes, and facilitate recovery operations during an emergency, the chairman shall have discretion to impose re-entry restrictions on certain areas. The chairman shall exercise such discretion in accordance with the county emergency operations plan, which shall be followed during emergencies.
- (c) The provisions of this section shall not apply to persons acting in the following capacities:
  - (1) Authorized and essential law enforcement personnel;

- (2) Authorized and essential health care providers;
- (3) Authorized and essential personnel of the county or city;
- (4) Authorized National Guard or federal military personnel;
- (5) Authorized and essential firefighters;
- (6) Authorized and essential emergency response personnel
- (7) Authorized and essential personnel or volunteers working with or through Clayton County Emergency Management;
- (8) Authorized and essential utility repair crews;
- (9) Citizens seeking to restore order to their homes or businesses while on their own

(d) Enforceability.

This section shall be enforced by officers of the law enforcement personnel approved to provide aid and assistance during the emergency. Nothing contained in this section shall prohibit a law enforcement officer from bringing other charges under state law.

#### **Sec. 34-10. – Credentialed Volunteers**

All persons, other than officers and employees of the county and cities therein, performing emergency functions pursuant to this chapter, shall serve with or without compensation. While engaged in such emergency functions, duly assigned volunteers shall have the same immunities as county and city officers and employee.

#### **Sec. 34-11. - Penalties**

Any person violating any provision of the chapter or any rule, order or regulation made pursuant to this chapter, shall, upon conviction thereof, be punishable for committing a misdemeanor.

#### **Sec. 34-12. - Liberality of construction**

This resolution shall be construed liberally in order to effectuate its purpose.

#### **Sec. 34-13. - Effective date**

This effective date of this chapter shall be when approved by the board of commissioners.”

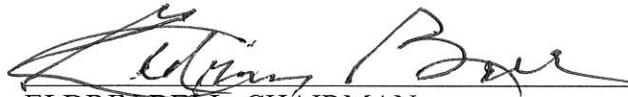
Section 2. In the event any section, paragraph, subpart, sentence, clause, phrase, or word of the Ordinance shall be declared or adjudged unconstitutional or invalid by any Court, such declaration or adjudication shall not affect the remaining portions of this Ordinance which shall remain in full force and effect as if the portions declared invalid or unconstitutional had never been enacted into law.

Section 3. All laws, ordinances or resolutions, or parts thereof, in conflict with provisions of this ordinance are hereby repealed.

Section 4. This Ordinance shall become effective upon its approval by the Board of Commissioners.

SO ORDAINED, this the 6<sup>th</sup> day of March, 2012.

CLAYTON COUNTY BOARD OF COMMISSIONERS



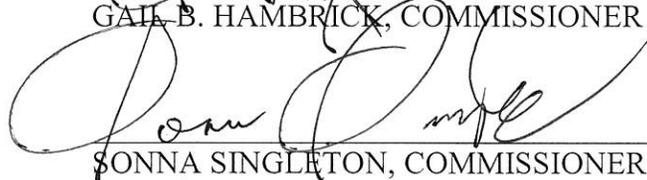
ELDRIN BELL, CHAIRMAN



WOLE RALPH, VICE-CHAIRMAN



GAIL B. HAMBRICK, COMMISSIONER



SONNA SINGLETON, COMMISSIONER



MICHAEL EDMONDSON, COMMISSIONER

ATTEST:



SHELBY D. HAYWOOD, CLERK