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March 2, 2023

Board of County Commissioners
 Clackamas County

BCC Agenda Date/Item: _____

Second Reading of Ordinance 01-2023, an Ordinance Amending Clackamas County Code Chapter 6.03, Emergency Regulations, and Declaring an Emergency. No fiscal impact. No County General Funds are involved.

Previous Board Action/Review	The Board adopted ordinance 06-2022 on August 11, 2022. The first reading of Ord. 01-2023 took place on February 16, 2023.		
Performance Clackamas	1. Which indicator of success does this item affect? Building public trust through good government.		
Purpose/Outcome	Public hearing on proposed code changes to Chapter 6.03, Emergency Regulations.		
Counsel Review	SM	Procurement Review	Not required.
Contact Person	Stephen L. Madkour, County Counsel		

EXECUTIVE SUMMARY:

Ordinance 06-2022, adopted August 11, 2022, added definitions of emergency, clarified additional emergency measures, and added a severability clause.

Ordinance 01-2023, attached here will repeal the changes made by Ordinance 06-2022, except for the severability clause, which will remain in place.

If passed, the ordinance could be effective immediately, as opposed to 90 days, if the Board finds an emergency exists.

A first reading of Ordinance 01-2023 took place before the Board on February 16, 2023.

RECOMMENDATION:

Staff recommends that the Board have a public hearing for a second reading of Ordinance 01-2023 which amends Chapter 6.03, Emergency Regulations as set forth on Exhibit A and declares an emergency. Staff recommends the Board approves Ordinance 01-2023.

Sincerely,



Stephen L. Madkour
County Counsel

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ORDINANCE NO. 01-2023

**An Ordinance Amending
Clackamas County Code Chapter 6.03, Emergency Regulations, and
Declaring an Emergency**

WHEREAS, the Board finds that repealing the language adopted by Ord. 06-2022 on August 11, 2022 is in the best interest of the community;

Now, therefore, the Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 6.03, Emergency Regulations, of the Clackamas County Code is hereby amended as shown on Exhibit "A", attached hereto and incorporated herein by this reference.

Section 2: The Board of Commissioners hereby finds and declares that an emergency exists inasmuch as the immediate effect of this ordinance is necessary for the peace, health and welfare of the residents of the County. Accordingly, this ordinance will be effective upon its adoption.

ADOPTED this 2nd day of March, 2023.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

EXHIBIT A to Ord. 01-2023

Chapter 6.03

6.03 EMERGENCY REGULATIONS

6.03.010 Purpose

The purpose of this chapter is to provide a procedure to minimize injury to persons, the environment, and property. In addition, to preserve the established civil authority in the event a state of emergency exists within the unincorporated areas of Clackamas County or within the incorporated areas of Clackamas County, if assistance is requested by such incorporated jurisdiction. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 08-2015, 12/3/15]

6.03.020 Definition Of Emergency

For the purposes of this ordinance, emergency is defined as any human-made or natural event or circumstance causing or threatening loss of life; injury to persons, the environment, or property; human suffering; or financial loss to the extent that extraordinary measures must be taken to protect the public health, safety, and welfare. Such event shall include, but not be limited to: fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills of oil or other hazardous substances, disease, blight, infestation, utility or transportation service disruptions, civil disturbance, ~~malfeasance in office, or willful or wanton neglect of duty of a County public official, failure to meet statutory or regulatory requirements,~~ riot, sabotage, terrorism, war or any other such emergency as defined under Oregon Revised Statute, Chapter 401, as may be amended from time to time. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2006, 6/29/06; Amended by Ord. 08-2015, 12/3/15; Amended by Ord. 06-2022, 8/11/22]

6.03.030 Authority Of County

Under the provisions of ORS Chapter 401, and any successor statutes, the authority, and responsibility for responding to emergencies is placed at the local government level. ORS Chapter 401 further mandates that the County shall establish an emergency management agency to perform emergency program management functions including, but not limited to: program development, fiscal management, coordination with non-governmental agencies and organizations, public information, personnel training, and development and implementation of exercises to test the system. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 08-2015, 12/3/15]

6.03.040 Declaration Of Emergency

When, in the judgment of the Board of County Commissioners, a state of emergency exists, it shall declare in writing and publicize the existence of it. At the earliest practical opportunity, a written declaration of emergency shall be adopted by the Board and made a part of the County's official records. If circumstances prohibit the timely action of the Board of County Commissioners, the Chair of the Board may declare a state of emergency, provided that the approval of a majority of the Board of County Commissioners is sought and obtained at the first

available opportunity. Upon that declaration of emergency, the Chair of the Board is empowered to assume centralized control of, and have authority over, all departments, divisions, and offices of Clackamas County in order to implement the provisions of this chapter. The state of emergency declared pursuant to this section shall specify the factors that warrant the exercise of emergency controls. ~~Nothing in this chapter is intended to divest any County official of their statutory duties.~~ [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 08-2015, 12/3/15; Amended by Ord. 06-2022, 8/11/22]

6.03.050 Succession Of Authority

In the event that the Chair of the Board of County Commissioners is unavailable or unable to perform his or her duties under the ordinance, the duties shall be performed by:

- A. The Vice-Chair of the Board of County Commissioners;
- B. If the Vice-Chair is unable to perform the required duties, then the remaining members of the Board of County Commissioners in order of seniority;
- C. If the remaining members of the Board are unable to perform the required duties, then the Clackamas County Administrator or designee.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2006, 6-29-06; Amended by Ord. 08-2015, 12/3/15]

6.03.060 Regulation And Control

Whenever a state of emergency has been declared to exist within unincorporated Clackamas County, or on the request of a municipality's governing body, the Board of County Commissioners is empowered to order and enforce the measures listed herein below. However, if circumstances prohibit the timely action of the Board of County Commissioners, the Chair of the Board may order emergency measures, provided that approval from a majority of the Board of County Commissioners is sought and obtained at the first available opportunity, or else the Chair's order will become invalid if such approval is not granted. Such emergency measures shall include but not be limited to:

- A. Establish a curfew for the area designated as an emergency area which fixes the hours during which all persons other than officially authorized personnel may be upon the public streets or other public places;
- B. Prohibit or limit the number of persons who may gather or congregate upon any public street, public place, or any outdoor place within the area designated as an emergency area;
- C. Barricade streets and roads, as well as access points onto streets and roads, and prohibit vehicular or pedestrian traffic, or restrict or regulate the same in any reasonable manner in the area designated as an emergency area for such distance or degree of regulation as may be deemed necessary under the circumstances;
- D. Evacuate persons from the area designated as an emergency area;
- E. Close taverns or bars and prohibit the sale of alcoholic beverage throughout Clackamas County or a portion thereof;
- F. Commit to mutual aid agreements;

- G. Suspend standard competitive bidding procedures to obtain necessary goods, services and/or equipment, utilizing the procedures in the Clackamas County Local Contract Review Board rules;
- H. Redirect funds and County staff for emergency use to take measures to abate the emergency; and,
- I. Order such other measures as are found to be immediately necessary for the protection of life and/or property and to avoid financial loss.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 08-2015, 12/3/15; Amended by Ord. 06-2022, 8/11/22]

6.03.070 Acquisition Of Resources

Under this section, the Board of County Commissioners is authorized to extend government authority to non-governmental resources (i.e.: personnel, equipment) that may support regular government forces during an emergency and may enter into agreements with other public and private agencies for either use of governmental resources in aid of authorized private agency efforts related to the emergency or for private resources to aid governmental efforts. When real or personal property is taken under power granted by this section, the owner of the property shall be entitled to immediate notice of the requisition by the County under its authority hereunder and to receive reasonable compensation within a reasonable period of time.

Under the provisions of ORS Chapter 401, State resources are available when the appropriate response to an emergency is beyond the capability of the county in which it occurs.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 08-2015, 12/3/15]

6.03.080 Penalty

- A. Any person, firm, corporation, association or entity who violates any emergency measure taken by the Board of County Commissioners under authority of this chapter shall be subject, upon conviction, to a fine in an amount set by resolution of the Board of County Commissioners.
- B. Each day of violation shall be deemed a separate offense for purposes of imposition of penalty up to the maximum allowed by law.
- C. Where the Oregon Revised Statutes provide a penalty for an act, commission, or omission, the penalty prescribed herein shall be no greater than the penalty prescribed by said Oregon Revised Statutes.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 08-2015, 12/3/15]

6.03.090 Responsibility For Emergency Management

For purposes of this Ordinance, in accordance with ORS Chapter 401 or any successor statutes, the Emergency Management Agency for Clackamas County shall be the Clackamas County Department of Emergency Management. The Clackamas County Administrator is hereby designated as the Emergency Program Manager. Day-to-day management of the emergency

program may be delegated to the Emergency Management Director. The National Incident Management System (NIMS) shall be used as the foundation for incident command, coordination and support activities.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2006, 6-29-06; Amended by Ord. 08-2015, 12/3/15]

6.03.100 Severance Clause

If any provision of this Chapter 6.03 is adjudged or declared to be unconstitutional or otherwise held to be invalid by a court of competent jurisdiction, the remaining provisions of this Chapter shall remain in full force and effect.

[Added by Ord. 06-2022, 8/11/22]