

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance Establishing )  
Rules for Responding to Emergencies and )  
Approving the Yamhill County Emergency ) ORDINANCE No. 759  
Operations Plan; Declaring an Emergency; )  
Effective Immediately. )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in formal session on February 16, 2005 commissioners Mary P. Stern, Leslie Lewis and Kathy George being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. The policy and intent of the Oregon Legislature is that preparations for emergencies and governmental responsibility for responding to emergencies be placed at the local government level. Further, its policy and intent is that the state should prepare for emergencies, but not assume authority or responsibility for responding to such an event unless the appropriate response is beyond the capability of the local government.

B. The purpose of this Ordinance is to respond to Legislature's policy and intent; to reduce the vulnerability of Yamhill County to loss of life, injury to persons or property and human suffering and financial loss resulting from emergencies; and to provide for recovery and relief assistance for the victims of such occurrences.

C. Further, this Ordinance is intended to provide notice of conditions and circumstances that define or describe when an emergency may be declared; to provide a procedure to minimize injury to persons and property; to preserve the established civil authority in the event that a state of emergency exists within the unincorporated areas of Yamhill County or within the incorporated areas of Yamhill County if assistance is requested by such incorporated jurisdictions, or if those jurisdictions are unable to request assistance; and to provide a post-evacuation hearing process.

D. This Ordinance is adopted pursuant to the authority granted to the Board by ORS 203.035 and ORS Ordinance 401, especially ORS 401.305 to 401.335. NOW, THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

Section 1 **Definitions.** As used in this Ordinance, unless the context requires otherwise, the following definitions apply:

a. "Emergency" includes any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion whether by terrorist act or otherwise, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, crisis influx of people unmanageable by the county, civil disturbance, riot, sabotage and war.

b. "Emergency management agency" means the Emergency Management Division of the Yamhill County Sheriff's Office authorized under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 by Yamhill County to provide for and assure the conduct and coordination of functions for comprehensive emergency program management.

c. "Emergency Operations Plan" means the Yamhill County Emergency Operations Plan adopted September 30, 2004 by Board Order 04-704, as the Plan may be amended from time to time by Board Order.

d. "Emergency program management" includes all the tasks and activities necessary to provide, support and maintain the ability of the emergency services system to prevent or reduce the impact of emergency or disaster conditions which includes, but is not limited to, coordinating development of plans, procedures, policies, fiscal management, coordination with non-governmental agencies and organizations, providing for a coordinated communications and alert and notification network and a public information system, personnel training and development and implementation of exercises to routinely test the emergency services system.

e. "Emergency program manager" means the person appointed by the Board who administers the emergency management agency of Yamhill County or acts under the Emergency Operations Plan as emergency services director.

f. "Emergency service agency" means an organization within a local government which performs essential services for the public's benefit prior to, during or following an emergency. This includes, but is not limited to, organizational units within local governments, such as law enforcement, fire control, health, medical and sanitation services, public works and engineering, public information and communications.

g. "Emergency service worker" means an individual who, under the direction of an emergency service agency or emergency management agency, performs emergency services and:

(1) is a registered volunteer or independently volunteers to serve without compensation and is accepted by the office or the emergency management agency of a county or city; or

(2) is a member of the Oregon State Defense Force acting in support of the emergency services system.

h. "Emergency services" includes those activities provided by state and local government agencies with emergency operational responsibilities to prepare for and carry out any activity to prevent, minimize, respond to or recover from an emergency. These activities include, without limitation, coordination, preparedness planning, training, interagency liaison, fire fighting, oil or hazardous material spill or release cleanup as defined in ORS 466.605, law enforcement, medical, health and sanitation services, engineering and public works, search and rescue activities, warning and public information, damage assessment, administration and fiscal management, and those measures defined as "civil defense" in section 3 of the Act of January 12, 1951, P. L. 81-920 (50 U.S.C. 2252).

i. "Emergency services system" means that system composed of all agencies and organizations involved in the coordinated delivery of emergency services.

j. "Injury" means any personal injury sustained by an emergency service worker by accident, disease or infection arising out of and in the course of emergency services or death resulting proximately from the performance of emergency services.

k. "Major disaster" means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion whether by terrorist act or otherwise, in any part of the United States, which in the determination of the Sheriff or Emergency Program Manager causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Ordinance to supplement the efforts and available resources of the subject jurisdiction and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

l. "Search and rescue" means the acts of searching for, rescuing or recovering, by means of ground or marine activity, any person who is lost, injured or killed while out of doors. However, "search and rescue" does not include air activity in conflict with the activities carried out by the Department of Transportation.

m. "Sheriff" means the Sheriff of Yamhill County.

n. Yamhill County" means any area of Yamhill County serviced by the Yamhill County emergency management program.

**Section 2      Emergency management agency; manager; functions**

a. There is hereby established the Yamhill County emergency management agency. The emergency management agency shall be directly responsible to the Board.

b. The Board shall appoint an emergency program manager who shall have responsibility for the organization, administration and operation of such agency, subject to the direction and control of the Board.

c. Pursuant to subsection (b) of this section the Board, by an order entered into the Commissioners' Journal, has appointed the person holding the office of Sheriff of Yamhill County as the emergency program manager who shall supervise and control the Yamhill County emergency management agency and shall be responsible to develop and maintain the emergency program management plan. For purposes of administering the Emergency Operations Plan, the Sheriff may delegate duties of the emergency program manager to a subordinate within the Yamhill County Sheriff's Office.

d. The local governing bodies of the County and cities that have both city and county emergency management programs shall jointly establish policies which provide direction and identify and define the purpose and roles of the individual emergency management programs, specify the responsibilities of the emergency program managers and staff and establish lines of communication, succession and authority of elected officials for an effective and efficient response to emergency conditions.

e. The emergency management agency shall perform emergency program management functions within the territorial limits of the county and may perform such functions outside the territorial limits as required under any mutual aid or cooperative assistance agreement or as authorized by the county or city. Such emergency management functions shall include, as a minimum, coordination of the planning activities necessary to prepare and maintain a current emergency operations plan, management and maintenance of emergency operating facilities from which elected and appointed officials can direct emergency and disaster response activities, and establishment of an incident command structure for management of a coordinated response by all local emergency service agencies.

### **Section 3. Responsibility for emergency services systems**

a. The Governor is responsible for the emergency services system within the State of Oregon.

b. The Board is responsible for the emergency services system within Yamhill County.

c. In carrying out its responsibilities for emergency services systems, the Board may delegate any administrative or operative authority vested in them by ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 and provide for the sub-delegation of that authority.

### **Section 4. Declaration of state of emergency; conditions**

a. The Board shall assess whether an emergency exists.

b. The Board may declare an emergency pursuant to this section and Section 5 of this Ordinance.

c. An emergency may be declared when:

- (1) any of the conditions or factors described in Section 5 of this Ordinance exist; or
- (2) when conditions not described herein are determined by the Board to be a serious threat to the peace, health, welfare, or safety of a significant number of the citizens of Yamhill County and, but for the declaration of an emergency, would leave the citizens without the aid or services authorized by this Ordinance.

d. If the Board is unable to act under this section or Section 5 of this Ordinance, the declaration of an emergency may be made by the persons and in the order described in Section 7 of this Ordinance.

**Section 5 Declaration of state of emergency; procedure**

a. Declaration prior to or without invoking state or federal aid.

- (1) When, in the judgement of the Board, a state of emergency exists, it shall declare such emergency in accordance with this section and Section 4 of this Ordinance.
- (2) The declaration shall be in writing and publicize the existence of same.
- (3) If circumstances prohibit the timely action of the Board, the Chair of the Board may declare a state of emergency, provided that the approval of a majority of the Board is sought and obtained at the first available opportunity.
- (4) The state of emergency declared pursuant to this section shall specify the conditions or factors which warrant the exercise of emergency controls, as well as the nature of aid and assistance the County requests from the State and Federal government if such assistance is requested.
- (5) The Chair of the Board shall terminate the state of emergency when the emergency no longer exists or the threat of an emergency has passed.

b. Requirements to invoke state or federal aid.

- (1) The Governor may declare a state of emergency by proclamation at the request of the Board or after determining that an emergency has occurred or is imminent.
- (2) All requests by the Board that the Governor declare an emergency shall be sent to the Office of Emergency Management. Requests shall be in writing and include the following:

(A) A certification signed by the Board that all local resources have been expended; and

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

(3) Any proclamation of a state of emergency must specify the geographical area covered by the proclamation. Such area shall be no larger than necessary to effectively respond to the emergency.

**Section 6. Powers during state of emergency; suspension of rules.** During a state of emergency, the Board shall:

a. Have authority to suspend provisions of any order or rule of any county agency, if the Board determines and declares that strict compliance with the provisions of the order or rule would in any way prevent, hinder or delay mitigation of the effects of the emergency; and

b. Have authority to direct any agencies in the county government to utilize and employ county personnel, equipment and facilities for the performance of any activities designed to prevent or alleviate actual or threatened damage due to the emergency, and may direct the agencies to provide supplemental services and equipment to local governments to restore any services in order to provide for the health and safety of the citizens of the affected area in order to effectuate the purposes of this Ordinance.

**Section 7 Succession of authority**

a. In the event that the Chair of the Board, or other person set forth in this section, is unavailable or unable to perform the duties granted and described under this Ordinance, the duties shall be performed by and in the following order; provided, however, a named official may decline to serve. If a named official declines to serve, the next named official shall perform the duties:

- (1) The Vice-Chair of the Board;
- (2) The third member of the Board;
- (3) The Sheriff of Yamhill County.
- (4) The County Director of Administrative Services;
- (5) The County Counsel;
- (6) The District Attorney.
- (7) The Director of Health and Human Services

- (8) The Director of Public Works.
- (9) The Director of Information Systems.
- (10) The County Surveyor.
- (11) The Director of Planning and Development.

**Section 8 Regulation, control; application**

a. Whenever a state of emergency has been declared to exist within an unincorporated area of Yamhill County, or at the request of a municipality's governing body, the Board is empowered to issue, amend and enforce rules, regulations, orders and emergency measures set forth in subsection (b) of this section. However, if circumstances prohibit the timely action of the Board, the Chair of the Board may issue, amend and enforce rules, regulations, orders and emergency measures after first consulting with the County Director of Administrative Services or County Counsel provided that approval from a majority of the Board is sought and obtained at the first available opportunity, or the Chair's order will become null and void.

b. Such rules, regulations, orders and emergency measures may include, but not be limited to:

(1) Assisting in the evacuation of persons from an area designated as an emergency evacuation area when the Sheriff decides to issue either a voluntary or involuntary evacuation order after a state of emergency has been declared to exist under this ordinance. When the Sheriff issues an evacuation order, the following rules apply:

A. Definitions. A "voluntary evacuation order" means a declaration by the Sheriff that persons are strongly advised to evacuate the emergency evacuation area. An "involuntary evacuation order" means a declaration by the Sheriff that persons are required to evacuate the emergency evacuation area.

B. Presumption that order is voluntary. Evacuations ordered by the Sheriff shall be voluntary except in those circumstances when the Sheriff determines evacuation is necessary to avoid imminent danger to the life or property of third parties.

C. Order by Sheriff required for involuntary evacuation order. No persons are authorized to carry out an involuntary evacuation order under this Ordinance until the Sheriff has made the determination evacuation is necessary to avoid imminent danger to the life or property of third parties and has issued an involuntary evacuation order.

D. Personnel authorized to carry out evacuation orders. The following personnel or agencies are authorized to carry out voluntary or involuntary evacuation

orders in response to an order by the Sheriff: The Sheriff and the Sheriff's deputies; Oregon State Police Officers; Police Officers of incorporated cities in Yamhill County; city and rural district firefighters in Yamhill County; emergency service respondents from other jurisdictions, under mutual aid or by agreement with Yamhill County.

(2) Establishing a curfew for the area designated as an emergency area which fixes the hours during which all persons other than officially authorized personnel may not be upon the public street, public place, or any outdoor place within the area designated as an emergency area.

(3) Prohibiting or limiting 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.

(4) Closing, in the emergency area, all county roads, streets, and highways, as well as access points onto streets and roads, to traffic.

(5) Limiting, prohibiting, restricting or regulating vehicular or pedestrian traffic on such roads 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. to such extent as the Board deems necessary and expedient.

(6) Entering into contracts and incurring obligations necessary to mitigate, prepare for, respond to or recover from emergencies or major disaster.

(7) Making appropriations, in the manner provided by law for making appropriations for the expenses of the county, for the payment of expenses of its emergency management agency and levying taxes upon the taxable property within the county. An appropriation made under this paragraph shall be budgeted so that it is possible to identify it as a distinguishable expense category.

(8) Acquiring, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims, and entering into arrangements necessary to prepare or equip such sites to utilize the housing units.

(9) In collaboration with public and private agencies, entering into cooperative assistance agreements for reciprocal emergency aid and resources.

(10) Closing taverns or bars and prohibit the sale of alcoholic beverages.

(11) Committing to mutual aid agreements.

(12) Suspending standard procurement procedures to obtain necessary services and /or equipment.

- (13) Redirecting funds for emergency use.
- (14) Ordering such other measures as are found to be immediately necessary for the protection of life and/or property.
- (15) Controlling, restricting and regulating by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means, the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods and services.
- (16) Taking any other action that may be necessary for the management of resources following an emergency.
- (17) Assuming complete control of all emergency operations in the area specified in a proclamation of a state of emergency issued under this Ordinance.
- (18) Directing all rescue and salvage work and do all things deemed advisable and necessary to alleviate the immediate conditions.
- (19) Designating persons to coordinate the work of public and private relief agencies operating in such area and exclude from such area any person or agency refusing to cooperate with and work under such coordinator(s) or to cooperate with other agencies engaged in emergency work.
- (20) Requiring the aid and assistance of any other public or quasi-public agencies in the performance of duties and work attendant upon the emergency conditions in such area.

**Section 9 Authority over removal of disaster debris or wreckage; unconditional authorization of community; liability for injury or damage**

a. Yamhill County, a corporation, organization, or individual may grant authority to the Governor to clear or remove from publicly or privately owned land or water, debris and wreckage which may threaten public health or safety, or public or private property when:

- (1) The Governor has declared a disaster emergency to exist under the laws of this state, or the President of the United States, at the request of the Governor, has declared a major disaster or emergency to exist in this state; and
- (2) Yamhill County, a corporation, organization, or individual has presented an unconditional authorization for removal of such debris or wreckage from public and private property and, in the case of removal of debris or wreckage from private property, has agreed to indemnify the state government against any claim arising from such removal.

b. Whenever the Governor provides for clearance of debris or wreckage pursuant to subsection (a) of this section, individuals appointed by the Governor are authorized to enter upon private lands or waters and perform any tasks necessary to the removal or clearance operation.

c. Except in cases of willful misconduct, gross negligence or bad faith, any individual appointed by the Governor authorized to perform duties necessary to the removal of debris or wreckage shall not be liable for death of or injury to persons or damage to property.

d. Yamhill County may acquire temporarily or permanently, by purchase, lease or otherwise, sites required for staging or temporarily storing disaster debris for sorting prior to moving the debris to a permanent site.

#### Section 10 **Acquisition of resources**

a. Under this section, the Board is authorized to extend government authority to non-governmental resources (e.g., personnel, equipment, etc.) which may support regular government forces during an emergency, and may enter into agreements with other public and private agencies for use of resources. When real or personal property is taken under power granted by this section, the owner of the property shall be entitled to reasonable compensation.

b. Under provisions of ORS Ordinance 401, state resources are available when:

(1) the appropriate response to an emergency occurring in Yamhill County is beyond the capability of the county,

(2) Yamhill County fails to act; or

(3) the emergency involves two or more counties and the Governor determines that lack of coordination is hampering the effectiveness of response to the emergency.

#### Section 11 **Emergency Operations Plan**

a. The Yamhill County Emergency Operations Plan adopted September 30, 2004 by Board Order 04-704, incorporated into this Ordinance by reference, is recognized as the official plan compliant with ORS Chapter 401.

b. The plan described in subsection (a) shall be effective, to the extent that it is not inconsistent with this Ordinance and state statutes and rules, until such time as a new emergency operations plan may be adopted or revised by Board Order to comply with current state requirements and this Ordinance. Such new plan shall supercede and replace the current plan.

**Section 12 Responsibility for emergency management; Homeland Security**

a. For the purposes of this Ordinance, and in accordance with ORS Ordinance 401, the Emergency Management Director for Yamhill County shall be appointed by order of the Board. The Emergency Management Director is also known as the emergency operations manager.

b. The Board hereby confirms the appointment of the person holding the office of Sheriff of Yamhill County as the Emergency Management Director who shall supervise and control the Yamhill County Emergency Management Agency and shall be responsible to develop and maintain the emergency program management plan. The Sheriff is authorized to delegate the duties of the Emergency Management Director to a subordinate within the Yamhill County Sheriff's Office.

c. Yamhill County is in compliance with Homeland Security Presidential Directive 5 and will utilize the National Incident Management System as part of the County's incident management and emergency prevention, preparedness, response, recovery, and mitigation programs and activities.

**Section 13. Post-evacuation due process**

a. A person who has been ordered pursuant to this Ordinance to evacuate and by that evacuation is aggrieved may within a period not to exceed 30 days following a declaration by the Board that the emergency no longer exists file with the Board a petition seeking redress.

b. The petition shall specifically and clearly address each of the issues set forth in this subsection.

(1) That the petitioner evacuated petitioner's property in response to an evacuation order;

(2) The date and time of the evacuation by petitioner from petitioner's property;

(3) That the petitioner or petitioner's property because of the evacuation suffered injury;

(4) The basis for believing that the injury was caused by the action or inaction of Yamhill County;

(5) The extent of the injury, and

(6) What measures the petitioner took to mitigate the injury in any way.

c. The Board shall not later than 30 days following receipt of the petition conduct a hearing to determine the validity of the petitioner's claim.

d. The petitioner shall be allowed to appear and provide evidence and testimony of the issue of injury to petitioner or to petitioner's property.

e. The issues to be decided by the Board at the hearing include:

- (1) whether the petitioner was ordered to evacuate petitioner's property;
- (2) whether the petitioner evacuated the petitioner's property;
- (3) whether there was an injury to petitioner or petitioner's property;
- (4) whether the action or lack thereof was the responsibility of Yamhill County;
- (5) whether Yamhill County had good cause to perform the action or to fail to perform the action;
- (6) whether the action or lack thereof caused the injury alleged;
- (7) the extent of the injury, and whether the petitioner mitigated or aggravated the injury in any way;
- (8) whether the County is liable for the injury; and
- (9) the method to be employed to address the injury.

f. Upon a finding of clear and convincing evidence, the Board shall:

- (1) dismiss the evidence if the evidence and testimony do not support the petition,
- or
- (2) affirm the petition.

g. If the petition is affirmed, the Board shall determine the extent of damages and shall grant such relief as the Board determines in its order.

**Section 14 Non-liability for emergency services; exception**

a. During the existence of an emergency, Yamhill County, any agent thereof, or emergency service worker engaged in any emergency services activity, while complying with or attempting to comply with ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, this Ordinance, or any Ordinance, order, resolution, regulation, or rule promulgated under those sections, shall not, except in cases of willful misconduct, gross negligence or bad faith, be liable for the death or injury of any person, or damage or loss of property, as a result of that activity.

b. There shall be no liability on the part of a person who owns or maintains any building or premises which has been designated by any emergency management agency or emergency service agency or any public body or officer of this state or the United States as a fallout shelter or a shelter from destructive operations or attacks by enemies of the United States for the death of or injury to any individual or damage to or loss of property while in or upon the building or premises as a result of the condition of the building or premises or as a result of any act or omission, except willful misconduct, gross negligence or bad faith of such person or the servants, agents or employees of the person when the dead or injured individual entered or went on or into the building or premises for the purpose of seeking refuge therein during or in anticipation of destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority.

c. The provisions of ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, or this Ordinance, shall not affect the right of any person to receive benefits or compensation to which the person would otherwise be entitled under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, under ORS Ordinance 656, under any pension or retirement law or under any act of Congress.

d. Emergency service workers, in carrying out, complying with or attempting to comply with any order or rule issued under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, or this Ordinance, or performing any of their authorized functions or duties or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its local governments performing similar work.

e. Nothing in this section shall excuse Yamhill County or any county governmental agency from liability for intentional confiscation or intentional destruction of private property.

## Section 15 Penalties

a. A violation of any rule, order, regulation, or emergency measure established by the Board pursuant to this Ordinance is a Class A violation. A person convicted of the violation in circuit court by a preponderance of the evidence is subject to a fine of \$720 per violation.

b. Violations of this Ordinance may, at the election of Yamhill County, be prosecuted under the Citation Ordinance, No. 449, as amended.

c. Each day of violation shall be deemed a separate offense for purposes of imposition of penalty.

d. Where the Oregon Revised Statutes provide for a penalty for the act, commission or omission, the penalty prescribed herein shall be no greater than prescribed by said Oregon Revised Statutes.

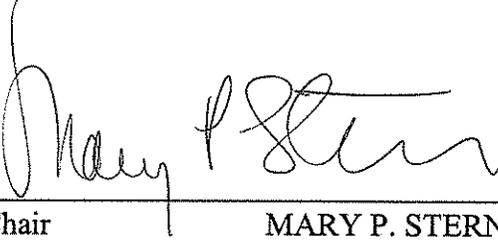
Section 16. **Effective date; emergency clause.** The first and second readings of this ordinance were made February 16, 2005. To carry out the intent of this ordinance an emergency is hereby declared to exist. In accordance with ORS 203.045(4) this ordinance shall take effect on February 16, 2005.

DONE at McMinnville, Oregon on February 16, 2005.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

JAN COLEMAN  
County Clerk

  
Chair MARY P. STERN

By:   
Deputy ANNE BRITT



Unavailable for signature  
Commissioner LESLIE LEWIS

FORM APPROVED BY:

  
JOHN M. GRAY, JR.  
Yamhill County Legal Counsel

  
Commissioner KATHY GEORGE

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Accepted by Yamhill County  
Board of Commissioners on  
2/16/05 by Board Order  
# 05-102