

DARE COUNTY BOARD OF COMMISSIONERS

RESOLUTION

**AMENDING CHAPTER 92 OF THE DARE COUNTY CODE OF
ORDINANCES TO REVISE AND CODIFY THE
DARE COUNTY EMERGENCY MANAGEMENT ORDINANCE**

WHEREAS, Dare County is at risk of threats to public health, safety and welfare, injury and loss of life, damage to real and personal property, and economic harm resulting from natural and manmade disasters; and

WHEREAS, the Dare County Board of Commissioners determines that it is in the best interest of the health, safety, and welfare of residents of and visitors to Dare County to be in a constant state of readiness to respond to such disasters, and has devoted significant resources toward the preparation for, response to, and recovery from such disasters; and

WHEREAS, to this end, the Dare County Board of Commissioners further determines that revising and updating the County's Emergency Management Ordinance supports and furthers the County's efforts in ensuring maximum readiness for and response to such disasters.

NOW THEREFORE, BE IT RESOLVED that, pursuant to its authority under Chapter 153A, Chapter 166A, and Chapter 36A of Chapter 14 of the North Carolina General Statutes, the Dare County Board of Commissioners adopts the following as a rewrite in its entirety of Chapter 92 of the Dare County Code of Ordinances:

"Chapter 92: Emergency Management

SECTIONS

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§ 92.01. Short Title.

This Chapter shall be known and may be cited and referred to as the “Dare County Emergency Management Ordinance.”

§ 92.02. Intent and Purpose.

(1) It is the intent and purpose of this Chapter to set forth the authority and responsibility of the County of Dare, its officials, officers, departments, and employees in the prevention of, preparation for, response to and recovery from natural or man-made disasters or hostile military or paramilitary action. It is further the intent and purpose of this Chapter to establish an office that will insure the complete and efficient utilization of all of the County of Dare’s resources to prepared for, respond to and recover from natural or man-made disasters or hostile military or paramilitary action.

(2) This Ordinance will not relieve any Municipal or County Department of the legal responsibilities or authority given to it in the Municipal or County Charter or by local ordinances, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.

(3) To the extent not specifically enumerated herein, all authorities and powers conferred on the County pursuant to Chapter 166A and Chapter 36A of Chapter 14 of the North Carolina General Statutes, and all similar provisions of state and federal law, are incorporated herein by reference.

§ 92.03. Definitions.

The following definitions shall apply in the interpretation of this Chapter:

- (a) “Disaster” – An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, or paramilitary cause.
- (b) “Emergency Management” – those measures taken by the public and governmental units operating within Dare County to minimize the adverse effect of any type of disaster, including preparedness, prevention, mitigation, warning, movement, shelter, emergency assistance, response, and recovery. This term shall not, however, include any activity, maneuvers, operations, or exercises that are the primary responsibility of the military forces of the United States.
- (c) “Emergency Management Personnel” - all employees of Dare County and municipal governments within Dare County, their departments, boards, institutions, and councils, agents, representatives, contractors and subcontractors who are participating in emergency management activities.

Where possible, duties assigned to Municipal or County departments shall be the same as or similar to the normal duties of the department.

- (d) "State of Emergency" – the condition that exists whenever, during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, public safety authorities are unable to maintain public order or afford adequate protection for lives or property, and which constitutes a significant threat to public health, safety and welfare whether actual or imminent.
- (e) "Volunteers" - all volunteer personnel and agencies offering emergency management service to, and accepted by municipalities and the County.

§ 92.04. Powers and Duties of County.

(1) Pursuant to Chapter 166A of the North Carolina General Statutes, Dare County is responsible for emergency management within the geographical limits of the County. All emergency management efforts within the County, including activities of the municipalities within the County, shall be coordinated by the County.

(2) The County is authorized to take the following actions in furtherance of coordinating emergency management efforts:

- (a) Establish and maintain an emergency management agency.
- (b) Appoint a Director of the county emergency management agency who will have the direct responsibility for the organization, administration, and operation of the County's emergency management program.
- (c) Appropriate and expend funds, execute contracts, enter into mutual aid agreements with other units of federal, state, and local government and other non-profit organizations and agencies, obtain and distribute equipment, materials, and supplies for emergency management purposes, and provide for the health and safety of persons and property, including emergency assistance.
- (d) Develop, coordinate, and implement an emergency management plan consistent with policies and standards established by the State of North Carolina.
- (e) Assign and make available resources for emergency management purposes for service within or outside of the geographical limits of the County.
- (f) Delegate powers in a declared state of emergency to an appropriate official.

- (g) Coordinate with municipalities within Dare County and other units of local, state, and federal government, and other non-profit, emergency management, and affected organizations in the development and implementation of an emergency management plan and responses to disasters.

§ 92.05. Declaration of State of Emergency.

(1) A state of emergency shall be declared when it is determined that circumstances and conditions exist which create a real or imminent threat of a public crisis, disaster, rioting, catastrophe, or similar public emergency within Dare County in response to which public safety authorities are unable to maintain public order or afford adequate protection for lives and property and which pose significant threats to public health and safety.

(2) The Dare County Board of Commissioners hereby delegates to the Chairman of the Board of Commissioners, or the Chairman's designee, who shall also be a member of the Board of Commissioners, the authority to determine and declare the existence of a state of emergency within Dare County, to order the evacuation of some or all portions of the County, to authorize the reentry of persons into the County following evacuation, and to impose, during that state of emergency, prohibitions and restrictions:

- (a) On movements of people in public places;
- (b) Of the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate;
- (c) Upon the possession, transportation, sale, purchase, and consumption of alcoholic beverages;
- (d) Upon possession, storage, and use of dangerous weapons and substances, and combustible fuels;
- (e) Upon other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency.

(3) A state of emergency declared pursuant to this Chapter, and all prohibitions and restrictions imposed as a result of the declaration, shall be established by written proclamation duly executed by the Chairman or the Chairman's designee, and shall remain in effect until such time as the proclamation is amended or rescinded in the same manner. The proclamation shall include a listing of all restrictions and prohibitions imposed and, where applicable, the date and time on which such restrictions and prohibitions become effective.

(4) At such time as a state of emergency is declared, the Emergency Management Plan, all standard operating procedures adopted pursuant to the Plan, and all applicable mutual aid agreements and other similar agreements and compacts shall be activated.

(5) Any proclamation declaring the existence of state of emergency, and all restrictions and prohibitions imposed as a result of the declaration, shall apply in all areas of Dare County unless otherwise specified in the proclamation.

§ 92.06. Emergency Management Department Established; Appointment of Director.

(1) The Dare County Emergency Management Department is hereby established, and shall serve as the coordinating agency for all activity in connection with emergency management within Dare County. The Department shall be the agency through which the Dare County Board of Commissioners exercises the authority and discharges the responsibilities vested in it during disasters and states of emergency. The Department shall also be the coordinating agency for all activity connected with emergency management, including activities within municipalities.

(2) The Dare County Board of Commissioners shall appoint a Director of the Dare County Emergency Management Department who shall be a person well versed and trained in planning operations involving the activities of many different agencies which will operate to protect the public health, safety and welfare in the event of a disaster.

(3) The Director shall designate and appoint Deputy Directors to assume the duties of the Director during an emergency in the event of his absence or inability to fulfill these duties.

§ 92.07. Duties and Responsibilities of the Director.

(1) The Director shall be responsible to the Dare County Board of Commissioners with regard to all phases of emergency management activity. The Director shall be responsible for the planning, coordination and operation of all emergency management activities in Dare County. The Director shall maintain liaison with State and Federal authorities and the authorities of nearby political subdivisions to maximize effective operation of emergency management plans. The Director's duties shall include, but are not limited to, the following:

- (a) Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of Dare County for emergency management purposes.
- (b) Developing, coordinating and implementing a comprehensive Emergency Management Plan for the County, including plans for the immediate use of all facilities, equipment, manpower and other resources of the County for

the purpose of minimizing or preventing damage to persons and property, and protecting and restoring to operational status those governmental services and public utilities necessary for the public health, safety, and welfare.

- (c) Negotiating and concluding agreements with owners or persons in control of buildings or other property for the use of such buildings or other property for emergency management purposes, and identifying suitable buildings as public shelters.
- (d) Through public informational programs, educating the public as to actions necessary and required for the protection of their persons and property in case of disaster.
- (e) Conducting proactive public alerts to ensure the efficient operation of emergency management personnel and procedures, and to familiarize residents and businesses with emergency management regulations, procedures and operations.
- (f) Coordinating the activities of all other public and private agencies engaged in emergency management operations, including planning, organizing, staffing, equipping, training, testing, and activation of emergency management plans and programs.
- (g) Developing and maintaining a system of damage assessment to determine the level of post-disaster damage to public and private property.
- (h) Entering into mutual aid agreements with other units of federal, state, and local government, and other organizations as may be necessary, for the mutual sharing and coordination of resources needed to respond to and recover from a disaster.
- (i) Coordinating the development of Standard Operating Procedures to provide for the implementation of the Emergency Management Plan.

§ 92.08. Emergency Management Plan.

(1) The Emergency Management Director shall develop a comprehensive Emergency Management Plan which shall be adopted and maintained by resolution of the Dare County Board of Commissioners. The Emergency Management Plan shall identify all possible threats of disaster to the County, and proscribe procedures to respond to and mitigate the consequences of disasters. It is intended that the Emergency Management Plan be consistent with all applicable state and federal emergency management and incident response guidelines. It is further intended that the services, equipment, facilities, and personnel of all departments and agencies of County and municipal government be utilized to the fullest extent in the Plan. When approved, it shall be the duty of the

Emergency Management Director to coordinate and maintain the Plan, and of all departments and agencies to perform the functions assigned under the Plan, and to maintain their areas of responsibility in a current state of readiness at all times. All provisions of the Plan shall have the effect of law whenever a state of emergency has been declared.

(2) The Director shall prescribe in the Plan those positions within the disaster organization, in addition to his own, for which lines of succession are necessary. In each instance, the responsible person will designate and keep on file with the Director a current list of three (3) persons as successors to his position. The list will be in order of succession and will nearly as possible designate persons best capable of carrying out of all assigned duties and functions.

(3) Each service chief and department head assigned responsibility in the Plan shall be responsible for carrying out all duties and functions assigned therein. Duties will include the organization and training of assigned employees and, where needed, volunteers. Each chief shall formulate a Standard Operating Procedure to implement the specific plans for carrying out his assigned area of responsibility.

(4) Amendments to the Plans shall be submitted to the Director. If approved, the Director will then submit the amendments to the Dare County Board of Commissioners with his recommendation for their approval. Such amendments shall take effect 30 days from the date of approval.

(5) When personnel requiring specialized competency or skill for a disaster function are not available within government, the Director is authorized to seek assistance from persons outside of government. The assignment of duties, when of a supervisory nature, shall also include the granting of authority for the persons so assigned to carry out such duties prior to, during, and after the occurrence of a disaster. Such services from persons outside of government may be accepted by local government on a volunteer basis. Such citizens shall be enrolled as Emergency Management volunteers.

(6) The Plan shall provide for the establishment of the Dare County Control Group, who shall work collectively to make timely decisions regarding implementation of the Plan in response to actual or imminent disasters and states of emergency. The membership of the Control Group shall include the Chairman of the Dare County Board of Commissioners or the Chairman's designee, the Mayors, or their designees, of all incorporated municipalities within Dare County, the Dare County Sheriff, and the Superintendent of the National Park Service Outer Banks Group. The Plan shall provide for specific functions, duties, and authorities of the Control Group. All proclamations issued by the Control Group, or by the Chairman of the Control Group, shall have the same force and effect of law as other provisions of this Chapter.

§ 92.09. No Governmental or Private Liability.

(1) This Chapter is adopted by the County of Dare as an exercise of its governmental functions for the protection of the public peace, health, and safety as authorized by state and federal law, and all functions hereunder and all other activities relating to emergency management are hereby declared to be governmental functions. Neither the County of Dare, nor its agents, representatives, or any volunteer, emergency management personnel, individual, receiver, firm, partnership, corporation, association, or trustee, or any of the agents thereof acting in good faith and without gross negligence or willful misconduct while carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this Chapter or any applicable provision of state and federal law, shall be liable for any injury or damage sustained to persons or property as the result of said activity.

(2) Any person, firm, or corporation owning or legally controlling real or personal property who voluntarily or involuntarily, knowingly or unknowingly, with or without compensation grants a license, privilege, or otherwise permits or allows the County of Dare and its agents, representatives, contractors, and subcontractors the right to inspect, designate and use the whole or any part or parts of such real or personal property for the purpose of sheltering, protecting, safeguarding or aiding in any way persons during an actual, impending, or practice disaster situation shall not be civilly liable for the death of, or injury to, any persons, or the loss of or damage to the property of any persons where such death, injury, loss or damage resulted from, through or because of the use of the said real or personal property for any of the above purposes.

§ 92.10. Violations; Penalties.

Unless otherwise provided for by law, it shall be a Class 3 misdemeanor for any person to violate any of the provisions of this Chapter, or any proclamations, provisions of any Emergency Management Plans, or provisions of any Standard Operating Procedures adopted or issued pursuant to the authority contained herein, or to willfully obstruct, hinder, or delay any member of the Emergency Management organization in the enforcement of the provisions of this Chapter or any proclamations, provisions of any Emergency Management Plans, or provisions of any Standard Operating Procedures adopted or issued thereunder.

§ 92.11. Severability.

Should any provision of this Chapter, or the application thereof to any person or circumstances be declared invalid for any reason, such declaration shall not affect the validity of any other provisions of this Chapter, it being the legislative intent that the provisions of this Chapter shall be severable and remain valid notwithstanding such declaration.

§ 92.12. Conflicting Ordinances, Orders, Rules and Regulations Suspended.

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

§ 92.13. Applicability Extensions.

The Municipalities within Dare County may ratify this Charter and adopt it as their own, including all forms and conditions specified herein.

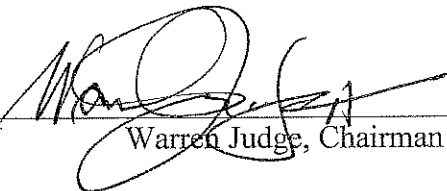
§ 92.14. Effective Date.


This Chapter shall be effective on the date adopted by the Dare County Board of Commissioners.”

Adopted this the 2nd day of August, 2004.

DARE COUNTY BOARD OF COMMISSIONERS




Warren Judge, Chairman


Fran Harris, Clerk to the Board