

PERRY COUNTY EMERGENCY MANAGEMENT ORDINANCE

C-88-4

WHEREAS, it is necessary and desirable to maintain an Emergency Management Program; and general provisions, powers, regulations, and procedures for the Perry County Emergency Management to carry out the powers granted by state statute and hereinafter;

WHEREAS, it is desirable that all activities heretofore carried out by the Perry County Civil Defense and Emergency Management departments shall, as hereinafter set forth be carried out by the Perry County Emergency Management;

BE IT ORDERED, ADJUDGED AND ORDAINED by the Board of Commissioners of Perry County, Indiana, as follows:

All ordinances heretofore enacted concerning the organization and administration of Emergency Management activities in Perry County, Indiana, whether in conflict with the provisions of this ordinance or not, be and hereby are repealed as of the effective date hereof. Such prior ordinances include, but are not limited to, the following:

MERIT SYSTEM ESTABLISHED FOR EMERGENCY MANAGEMENT AGENCY OF PERRY COUNTY  
ADOPTED -1/20/62

ORDINANCE TO ESTABLISH A DEPARTMENT OF EMERGENCY MANAGEMENT AND TO PROVIDE FOR THE EXERCISE OF NECESSARY POWERS DURING EMERGENCIES - ADOPTED 9/3/74

ORDINANCE ESTABLISHING MERIT SYSTEM OR PERSONNEL ADMINISTRATION FOR EMPLOYEES OR EMERGENCY MANAGEMENT - ADOPTED 2/7/83

PERRY COUNTY CIVIL DEFENSE ORDINANCE, C-88-2, ADOPTED MAY 2, 1988, AS AMENDED BY ORDINANCE C-88-3 ADOPTED AUGUST 1, 1988, AND BY ORDINANCE ADOPTED MARCH 3, 1997, AS AMENDED BY ORDINANCE C-88-4 ADOPTED APRIL 2006.

PROCLAMATION TO IMPLEMENT THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)  
ADOPTED 2/15/2006

SPECIAL EMERGENCY POWERS AND DUTIES OF CHIEF EXECUTIVE OFFICER; DESIGNATION OF A LOCAL TRAVEL ADVISORY ESTABLISHED ADOPTED 2/4/2013

It is the intent of this ordinance to replace and recodify all of said prior ordinances with this ordinance, which shall become the sole ordinance governing the organization and administration of Emergency Management activities in Perry County, Indiana.

Adopted by the Board of Commissioners of Perry County this 4<sup>th</sup> day of February, 2013.

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Thomas J. Hauser, Commissioner

Attest:

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Bill Amos, Commissioner

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Perry County Auditor

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Randy Kleaving, Commissioner

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## CHAPTER 1

### COUNTY EMERGENCY MANAGEMENT PROGRAM: GENERAL PROVISIONS AND DEFINITIONS

#### DEFINITIONS

Sec. 1: As used in this chapter and in Chapters 2 and 3 hereinafter, the following words and terms have the meanings indicated:

(a) "Chief Executive Officer" of the county, as referred to in Indiana Code 10-14-3-29(a) for purposes of declaring a local disaster emergency, and as referred to hereinafter, means the presiding officer of the County Board of Commissioners established under Indiana Code 36-2-2. The presiding officer shall be considered as the regularly designated President of the Board, except if he is absent or incapacitated, and the Board has a regularly designated President Pro Tem., then the President Pro Tem., shall be considered as the chief executive officer. If the President is absent or incapacitated and there is no designated President Pro Tem., then the remaining two Commissioners shall select among themselves one to be presiding officer in the same manner as when an ordinary business meeting needs to be conducted in the absence of the President. If both the President and another commissioner are absent or incapacitated, then the remaining Commissioner shall be considered the presiding officer.

(b) "Council", unless clearly referring to the County Council, means the Perry County Emergency Management Advisory Council as established under Chapter 2, Section I of this article.

(c) "Director" refers to the county Director of Emergency Management as established and appointed pursuant to Chapter 2, Section 3 of this article.

(d) "Emergency" shall mean a condition resulting from enemy attack, or other hostile action, or from natural disaster, or from manmade disasters, which cannot be handled by normal operating personnel or facilities.

(e) "Emergency Management" means the preparation for and the coordination of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, plant protection, temporary restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and coordination of the foregoing functions.

(f) "Emergency management volunteer" shall mean any person who serves without compensation in the Department of Emergency Management including persons and private agencies or government units offering services to the county during emergency situations or mutual aid to other emergency situations or mutual aid to other emergency services who request assistance.

(g) "Disaster" means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, earthquake, wind, storm, oil spill, other water contamination requiring emergency action to avert danger or damage, air contamination, drought, explosion, riot, or hostile military or paramilitary action.

(h) "Participating emergency service: means:

(1) any county department or agency designated by the Commissioners to participate in emergency activities and,

(2) any department or agency of the state, another county, a municipality or other municipal

corporation, or a volunteer organization designated to participate in the county's emergency management programs and activities pursuant to a cooperative or mutual aid agreement entered into pursuant to **Indiana Code 10-14-3-17**.

(i) "Personnel" means county officers and employees and emergency management volunteers, unless otherwise indicated.

(j) "Plan" or "Emergency Plan" means the current local Comprehensive Emergency Management Plan whose preparation and updating are mandated by Indiana Code 10-14-3-9.

(k) "National Incident Management System (NIMS) means federal, state, local, and tribal governments; the private sector; and non-governmental agencies to work effectively and efficiently together to prepare for, respond to and recover from domestic incidents, regardless of cause, size, or complexity.

#### **GENERAL SCOPE AND INTENT LIBERAL CONSTRUCTION OF POWERS**

Sec. 2: The general intent of Chapter 1 through 3 is to provide for all necessary and dispensable powers and procedure reasonably needed to prevent, cope with, or make more tolerable emergency conditions. For this and, all powers, both ministerial and discretionary, as conferred herein shall be liberally construed and shall be construed as intending to supplement and augment, and not to limit, any other powers or reasonable exercise of discretion which may ordinarily pertain to county officers, employees, departments, and agencies.

#### **LIMITATIONS: NONSUPERSESSION OF EMERGENCY POWERS OF COUNTY SHERIFF**

Sec. 3: Nothing in Chapters 1 through 3 of this article is intended to supersede or delimit any statutory powers of the County Sheriff to determine, respond to, and provide for the control of public disasters and other emergency situations.

#### **LIMITATIONS: NONSUPERSESSION OF EMERGENCY POWERS OF INCORPORATED MUNICIPALITIES: CONFORMANCE OF MUNICIPAL REGULATIONS WITH COUNTY REGULATIONS**

Sec. 4: Nothing in Chapters 1 through 3 of this article is intended to supersede or delimit the powers of any incorporated municipality under Indiana Code 10-14-3-17(c) to adopt and implement emergency plans, and promulgate and enforce special emergency regulations and procedures in the event of an actual emergency affecting such municipality. However, pursuant to Indiana Code 10-14-3-22, such regulations and procedures as promulgated by the municipal authorities may not be inconsistent with the Perry County Emergency regulations and procedures.

### **CHAPTER 2**

#### **COUNTY EMERGENCY MANAGEMENT ADVISORY COUNCIL ESTABLISHED; APPOINTMENT AND TERMS OF MEMBERS: ELECTION OF OFFICERS**

Sec. 1: In accordance with Indiana Code 10-14-3-17(c), there is established a Perry County Emergency Management Advisory Council which shall consist of a Maximum 9 members, each of which shall be appointed by the Board of County Commissioners for 2-year terms, as follows:

- (a) The president of the Perry County Board of Commissioners;
- (b) The president of the Perry County Council;
- (c) The mayor of each city located in the County;
- (d) An individual representing the legislative bodies of all towns located in the County;

- (e) Representatives of private and public agencies or organizations which can be of assistance to emergency management as the organizing group considers appropriate, who are appointed to Council by the County Emergency Management Advisory Council.

### **COUNTY EMERGENCY MANAGEMENT ADVISORY COUNCIL OFFICERS**

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

### **DUTIES OF EMERGENCY MANAGEMENT ADVISORY COUNCIL, Indiana Code 10-14-3-17(d)**

The County Emergency Management Advisory Council shall exercise general supervision and control over the Emergency Management and disaster program of the county and shall select or cause to be selected, a county Emergency Management Director, who shall have direct responsibility for the organization, administration, and operation of the Emergency Management program in the county; shall be responsible to the chairman of the Emergency Management Advisory Council; and shall not hold any other local or state government office.

- (a) The Advisory Council shall meet at least once quarterly.

### **DEPARTMENT OF EMERGENCY MANAGEMENT ESTABLISHED; ORGANIZATION AND CONSTITUENCY OF THE DEPARTMENT**

Sec. 2: There is hereby established a Department of Emergency Management within the executive branch of the county government for the purpose of utilizing to the fullest extent possible the personnel and facilities of existing county departments and agencies to prepare for and meet any emergency as defined in Chapter 1, Section 2 of this article. The County Commissioners and Director of Emergency Management shall be responsible for its organization, administration and operation. The department shall consist of the following:

- (a) an executive head of the Department of Emergency Management, who shall be known as the Director of Emergency Management appointed in accordance with Section 3;
- (b) one or more "Deputy Directors" who shall be appointed by the Director with the approval of the Advisory Council;
- (c) emergency management volunteers, as deemed necessary and appointed by the Director in accordance with Section 7;
- (d) the employees, equipment, and facilities of all county departments and agencies suitable for, or adaptable to, emergency management and designated by the County Commissioners to participate in the emergency management activity;
- (e) staff officers with responsibility for Communications and Warning, Health and Medical Care, Law Enforcement, Fire, Search and Rescue, Public Information, Public Works and Transportation in accordance with the Comprehensive Emergency Management Plan; and
- (f) such assistants, clerical help, and other employees as deemed necessary to the proper functioning of the Department, who may be appointed by the Director.

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

## **DIRECTOR OF EMERGENCY MANAGEMENT: APPOINTMENT: QUALIFICATION AND TENURE**

Sec. 3: The Director of Emergency Management shall be appointed by the County Emergency Management Advisory Council. Qualifications for Director will be determined by the Advisory Council with input from County Commissioners, provided that pursuant to Indiana Code 10-14-3-17, the Director may hold no other local, state, or federal office. The appointment of the Director shall be permanent unless the Council determines the Director to be inadequate to fulfill his responsibilities, which shall include dereliction of duties (including failure to provide the State Department of Homeland Security required annual reports and documentation), malfeasance in office, incompetence, insubordination or deliberate disregard of the directives of superior county or state authorities, or physical or mental incapacity to perform his duties.

## **DIRECTOR OF EMERGENCY MANAGEMENT; GENERAL POWERS AND DUTIES**

Sec. 4: The Director, subject to the direction and control of the Advisory Council and/or County Commissioners, shall be executive head of the Department of Emergency Management and pursuant to Indiana Code 10-14-317(d) (2) (A) has direct responsibility for the organization, administration, and operation of the emergency management organization, including the following specific powers and duties:

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

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

(c) The Director shall coordinate, within Perry County, all activities for emergency management and shall maintain liaison and coordinate with all other affected agencies, public and private.

(d) The Director shall coordinate the recruitment and training for volunteer personnel and agencies to augment the personnel and facilities of the county for emergency management purposes.

(e) The Director may seek, negotiate, and enter into (with the approval or ratification of the commissioners and to the extent consistent with the State Department of Homeland Security Plan and program) mutual-aid arrangements with other public and private agencies for emergency management purposes, and take all steps in accordance with such arrangements to comply with or take advantage thereof in the event of an actual emergency affecting the parties.

(f) The Director may, when such offer has been approved by the Governor, accept any offer of the Federal Government to provide for the use of the county any services, equipment, supplies, materials, or funds for emergency management purposes by way of gift, grant or loan.

(g) The Director may seek and accept from any person, firm or corporation, any gratuitous offers to provide services, equipment, supplies materials, funds, or licenses, or privileges to use real estate or other premises, to the county for emergency management purposes.

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

(i) The Director shall participate in the NIMS, thereby enhancing the joint efforts of the National and State governments to improve the ways by which emergency response personnel respond to threats against our homeland.

The Director, in addition to the powers and duties expressly provided above, shall be construed to have all powers and duties of a local Emergency Management director as provided under Indiana Code 10-14-3. In particular, but not by limitation, the Director, through the Department of Emergency Management, may perform or cause to be performed with respect to the county, any function parallel or analogous to those performed on a statewide basis by Indiana Department of Homeland Security under Indiana Code 10-14-3.

#### **DEPUTY DIRECTOR: GENERAL POWERS AND DUTIES**

Sec. 5: If a Deputy Director has been appointed pursuant to Section 2(b) of this chapter, he shall during normal times, assist the Director in the performance of his duties. During an emergency, the Deputy Director shall assist the Director and fulfill the duties of the Director in the absence or inability of the Director to serve. If more than one Deputy Director is appointed pursuant to Section 2(b) of this chapter, the Director shall designate at the time of the appointment of second and subsequent Deputy Directors, the order of priority in which Deputy Directors shall fulfill the duties of Director in the absence or inability of the Director to serve.

#### **BOARD OF COMMISSIONERS; GENERAL ADMINISTRATIVE POWERS AND DUTIES; TESTS OF EMERGENCY OPERATIONS PLANS**

Sec. 6: The powers and duties of the County Commissioners pertaining to emergency management in time of normal county operation are to:

- (a) maintain general supervision over the planning and administration for the Department of Emergency Management;
- (b) adopt the emergency management and disaster plans; and
- (c) coordinate the emergency management activities and make assignments of emergency management activities and make assignments of emergency management duties to county forces in order to meet situations not covered in the normal duties and powers of such agencies. In addition the County Commissioners may take all necessary action to conduct tests of the emergency management plans. Emergency Management tests may be conducted at any time with or without prior notification. All emergency tests conducted within the boundaries of Perry County shall be coordinated with the Department of Emergency Management and the Perry County Sheriff's Department,

#### **QUALIFICATIONS AND APPOINTMENT OF EMERGENCY MANAGEMENT VOLUNTEERS**

Sec. 7: The Director shall make sure that all volunteer personnel meet the following qualifications before he/she is sworn in as a member:

- (a) be at least 18 years of age;
- (b) not convicted of a felony; and
- (c) complete and have on file an application form.

Upon satisfaction of the above requirements and the taking of an oath, the applicant is officially a member of the Perry County Department of Emergency Management.

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

Sec. 8: In general, any paid employees of the Department of Emergency Management shall have the same employment status and shall be governed by the same uniform personnel policies, rules, and procedures that apply to other county employees. However, in the event that and during such times as the county emergency management

program may hereafter be directly supported by federal funding, the Board of Commissioners shall adopt and implement a merit system applicable only to paid employees of the Department other than the Director. Such merit system shall conform to the standards and comply with other requirements as set forth in CPG 1-3: Federal Assistance Handbook, Emergency Management Direction and Control Programs (January, 1984) or subsequent editions thereof as may be in effect at the time.

## **DEPARTMENTAL BUDGETING AND FINANCE**

Sec. 9: The Advisory Council shall advise the Director in the preparation of the budget. The County Council shall appropriate such funds as it may deem necessary for the purpose of emergency management. All funds appropriated or otherwise available to the Department of Emergency Management shall be administered by the Director, subject to the approval of the County Commissioners, in the same manner as provided by law or ordinance for other county funds, except as otherwise provided under Chapter 3, Section 6, subsections (i) through (k) of this article.

## **COMPREHENSIVE EMERGENCY MANAGEMENT PLAN: FORMULATION, CONTENT, AND ADOPTION OF PLAN**

Section 10: A County Comprehensive Emergency Management Plan, referred to as the inter-jurisdictional disaster emergency plan by Indiana Code 10-14-3-17(h), shall be adopted by resolution of the Perry County Commissioners. in the preparation of this plan, as it pertains to county organization, it is the intent that the services, equipment, facilities, and personnel of all existing departments and agencies shall be utilized to the fullest extent possible. The following content shall be adopted:

- (a) The Comprehensive Emergency Management Plan shall include, at minimum, the following:
  - (1) An Administrative Section which includes:
    - (i) Authorities and Directives
    - (ii) Terms and Definitions
    - (iii) Acronyms/Abbreviations
    - (iv) Financial Management
  - (2) A Hazards Specific Section which includes:
    - (i) Unique Hazards
    - (ii) Special Events
  - (3) An Operations Section which includes:
    - (i) Coordination and Control Emergency Support Function
    - (ii) Communications and Warning Emergency Support Function
    - (ii) External Affairs Emergency Support Function
    - (iv) Resource Management Emergency Support Function
    - (v) Emergency Management Emergency Support Function
  - (4) An Emergency Services Section which includes:
    - (i) Firefighting Emergency Support Function
    - (ii) Health and Medical Emergency Support Function
    - (iii) Search and Rescue Emergency Support Function
    - (iv) Public Safety and Security Emergency Support Function
    - (v) Hazardous Materials Emergency Support Function
  - (5) An Infrastructure Support Section which includes:
    - (i) Transportation Emergency Support Function
    - (ii) Public Works and Engineering Emergency Support Function
    - (iii) Energy Emergency Support Function

- (6) Human Support Section which includes:
  - (i) Mass Care, Housing and Human Services Emergency Support Function
  - (ii) Agriculture and Natural Resources Emergency Support Function

In addition, all emergency services within the county shall develop and coordinate standard operating procedures subject to the requirements of the Comprehensive Emergency Management Plan the Department of Emergency Management in order to include such plans within the county comprehensive plan. When approved, it shall be the duty of all county departments and agencies to perform the functions and duties assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times.

### **COUNTYWIDE JURISDICTION OF DEPARTMENT OF EMERGENCY MANAGEMENT, COUNTY EMERGENCY OPERATIONS PLAN, AND RELATED OFFICIAL POWERS**

Section 11: Except as provided by, Chapter 1, Sections 3 and 4, the jurisdiction of the county Department of Emergency Management and the jurisdiction and applicability of the County Comprehensive Emergency Management Plan, as adopted pursuant to Section 3.G., and the exercise of any powers of the Chief Executive Officer of the County and the County Board of Commissioners under Chapter 3 of this article, shall be comprehensive and inclusive countywide and effective in both the incorporated and unincorporated areas of the county.

### **CHAPTER 3**

### **COUNTY EMERGENCY MANAGEMENT PROGRAM: EMERGENCY POWERS, REGULATIONS AND PROCEDURES**

#### **APPLICABILITY OF CHAPTER**

Section 1: This Chapter shall apply whenever:

- (a) a state of emergency affecting all or part of the county has been declared by the Governor pursuant to Indiana Code 10-14-3-12;
- (b) a state of emergency affecting all or part of the county has been declared by the chief executive officer of the county pursuant to Indiana Code 10-14-3-29(a) and Section 4.hereof, is preparing to, or has declared a local disaster emergency affecting all or part of the County.
- (c) a presumptive state of emergency is deemed to exist affecting all or part of the county causing the Director to invoke and implement emergency plans and procedures in accordance with Section 8 of this chapter; or
- (d) when the Board of Commissioners has implemented a test of the county's emergency plans and procedures in accordance with Chapter 2, Section 6 of this article, to the extent necessary or dispensable to such test.

#### **PRE-DISASTER RESPONSIBILITIES OF DEPARTMENT OF EMERGENCY MANAGEMENT**

Sec. 2: The Department of Emergency Management primary pre-disaster responsibility shall be the warning function as prescribed in the warning plan and emergency communications as prescribed in the communications plan for the entire county, including all cities and towns.

#### **SPECIAL EMERGENCY POWERS AND DUTIES OF CHIEF EXECUTIVE OFFICER; DECLARATION OF LOCAL DISASTER EMERGENCY**

Sec. 3: In the event of actual or threatened enemy attack or disaster affecting the county, the chief executive officer of

the county may declare a local disaster emergency pursuant to Indiana Code 10-14-3-29(a) for any period not to exceed 7 days. The declaration shall be in writing and indicate the nature of the disaster and the conditions which have brought it about, and the area or areas threatened and to which the state of emergency applied (which may include the entire county or only designated parts thereof). The declaration shall be filed in the offices of the County Clerk, the County Auditor, and the clerk of any incorporated, municipality included in the declared disaster area and shall be announced or disseminated to the general public by the best means available. However, the declaration is not invalidated nor ineffective if any of the filing and dissemination requirements cannot be complied with due to the prevailing adverse circumstances. Such a declaration is not necessary if the Governor, pursuant to Indiana Code 10-14-3-12, has already proclaimed a statewide or areawide state of emergency including the county.

#### **SPECIAL EMERGENCY POWERS AND DUTIES OF CHIEF EXECUTIVE OFFICER; DESIGNATION OF A LOCAL TRAVEL ADVISORY**

Sec. 4: If the chief executive officer of a political subdivision issues a local travel advisory as part of an emergency declaration under Indiana Code 10-14-3-29.5, the chief executive officer shall designate the travel advisory as falling into one (1) of the following categories:

- a. “Advisory”, the lowest level of local travel advisory, means that routine travel or activities may be restricted in areas because of a hazardous situation, and individuals should use caution or avoid those areas.
- b. “Watch”, means that conditions are threatening to the safety of the public. During a “watch” local travel advisory, only essential travel, such as to and from work or in emergency situations, is recommended and emergency action plans should be implemented by businesses, schools, government agencies, and other organizations.
- c. “Warning”, the highest level of local travel advisory, means that travel may be restricted to emergency management workers only. During a “warning” local travel advisory, individuals are directed to:
  1. refrain from all travel;
  2. comply with necessary emergency measures;
  3. cooperate with public officials and disaster services forces in executing emergency operations plans; and
  4. obey and comply with the lawful directions of properly identified officers.

#### **SPECIAL EMERGENCY POWERS AND DUTIES OF CHIEF EXECUTIVE OFFICER; CONVENTION OF EMERGENCY MEETING OF BOARD OF COMMISSIONERS; SPECIAL MEETING PROCEDURES**

Sec. 5: As soon as possible after a disaster emergency affecting the county is declared either by the Governor or by the chief executive officer of the county, the chief executive officer of the county shall convene a meeting of the County Commissioners to perform their legislative and administrative functions as the situation may demand. If the chief executive officer fails or is unable to perform the above duty, the meeting shall be convened by some other member of the Board of Commissioners, or by the Auditor or the successively empowered county officers, in accordance with Indiana Code 36-2-2-8. Any such meeting of the Commissioners shall automatically be deemed an emergency meeting subject only to such procedural provisions of law as govern emergency meetings of County Commissioners, including relaxation of any applicable notice requirements that may be held in any convenient and available place. The meeting shall continue without adjournment for the duration of the disaster emergency, but may be recessed for reasonable periods of time as necessary and permitted by the circumstances.

#### **SPECIAL EMERGENCY POWERS AND DUTIES OF CHIEF EXECUTIVE OFFICER; PLENIPOTENTIARY POWERS IN ABSENCE OF BOARD QUORUM**

Sec. 6: In the event that a quorum of the Board of Commissioners cannot be assembled for purposes of the meeting required under Section 4 of this chapter, the chief executive officer of the county shall be considered a plenipotentiary representative of the Board and shall have all powers and may take all actions of the full Board under Section 6,

subsections (b) through (m) of this chapter until the assemblage of a quorum is possible.

## **SPECIAL EMERGENCY POWERS AND DUTIES OF BOARD OF COMMISSIONERS**

Sec. 7: At the meeting convened under Section 4, the Commissioners may exercise any of their normal executive and legislative powers to the extent related to the emergency and necessary to deal therewith. In addition, however, they may also exercise any of the following special and extraordinary powers:

(a) The Commissioners may extend the period of a state of emergency declared by the chief executive officer pursuant to Section 3 to last more than 7 days if necessary.

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

(c) The Commissioners may order the activation and implementation of the county's comprehensive emergency management and disaster control plan that has been adopted pursuant to Chapter 2, Section 10, of this article, or such several component parts thereof as may be relevant to the emergency.

(d) The Commissioners may assemble and utilize emergency management forces, including personnel of the Department of Emergency Management, participating emergency services, and any other forces at the disposal of the Commissioners hereunder for emergency management purposes.

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

(f) The Commissioners may, to the extent permitted by Indiana Code 10-14-3-31 and subject to its provisions, command services from and/or requisition the use of equipment, facilities, supplies, or other property belonging to other organizations, corporations, or private persons as necessary to control the emergency and protect and provide for the public safety and welfare.

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

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

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

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

(k) The Commissioners may assign special emergency duties and functions to any county offices, departments, and agencies irrespective of their usual duties and functions, and any unexpended and unencumbered monies budgeted and appropriated for the operation of such offices, departments, and agencies and not otherwise

dedicated by law to different and specified purposes may within the scope of each major budget and appropriation category (major object classification), be utilized and expended for the purpose of carrying out such special emergency duties and functions.

(1) The Commissioners may make and promulgate such emergency regulations as may be deemed necessary to protect life and property, preserve order, conserve critical resources, or implement and carry out the provisions of the county's or state's disaster plans, including but not limited to the power to order the roads closed, establish curfews, close business, or any action that they deem necessary to save lives and recover from a declared emergency. This power also includes the power to supplement, modify, or suspend any general contingency regulations which may have been incorporated as part of the county's previously adopted Emergency Operations Plan. Any emergency regulations adopted under this subsection shall not be effective until promulgated, which promulgation shall be by written filing in the offices of the County Clerk and County Auditor as required by Indiana Code 10-14-3-22, provided however, that should such filing be impossible because of the emergency situation, such regulations shall be effective and enforceable notwithstanding. Such regulation shall have the full force of law and shall be enforceable by any police officer in accordance with Indiana Code 10-14-3-24.

(m) The Commissioners may request the state or the United States or their agencies and political subdivisions to send aid (including financial assistance) if the situation is beyond the control of the regular and emergency county forces and resources.

All actions and regulations under this section may be by executive order, and need not be made or adopted by ordinance or resolution, but shall be consistent with and subordinate to any actions, orders, or regulations made by the Governor or a state agency implementing state Emergency Operations Plans.

#### **SPECIAL EMERGENCY POWERS AND DUTIES OF DIRECTOR OF EMERGENCY MANAGEMENT; RECOMMENDATIONS TO COMMISSIONERS ON SPECIAL EMERGENCY ACTIONS**

Sec. 8: It shall be the duty of the Director to make recommendations and advise the Board of Commissioners or the chief executive officer on any actions which it would be necessary or desirable to take under Section 6 of this chapter in the event of any emergency.

#### **SPECIAL EMERGENCY POWERS AND DUTIES OF DIRECTOR OF EMERGENCY MANAGEMENT; POWER TO IMPLEMENT EMERGENCY OPERATIONS PLANS DURING PRESUMPTIVE STATE OF EMERGENCY; RENDERING OF ASSISTANCE BY DEPARTMENT OF EMERGENCY MANAGEMENT**

Sec. 9: In the event that an emergency clearly exists or is imminent within the county, and a state of emergency has not been declared by the Governor nor is any person having the powers of the chief executive officer of the county present to declare such an emergency pursuant to Section 3 of this chapter, the Director may temporarily presume the existence of a state of emergency even though not officially declared and may, as his own judgment dictate, invoke, implement, and carry out such provisions of the county's adopted comprehensive emergency management and disaster control plan as are necessary to cope with the emergency and protect the public safety and welfare, and shall be construed to have all powers necessary and dispensable to doing so to the extent not specifically limited by statute or specifically limited herein, until such time as a chief executive officer becomes available. This section also applies to the Deputy Director to the extent that the Deputy Director is required to assume the duties of the Director, as provided by Chapter 2, Section 5, of this article, in the latter's absence or incapacitation during the emergency. Assistance from the Department of Emergency Management may be rendered without a declaration of an emergency in order to assist local emergency services in time of need.

#### **GENERAL DUTIES OF COUNTY OFFICERS AND EMPLOYEES DURING EMERGENCY**

Sec. 10: All officers and employees of the county shall cooperate with and give active support to the County Commissioners and the county Emergency Management Director in all emergency management operations, and shall comply with all orders of the Commissioners and county Emergency Management Director issued pursuant to this chapter.

**PRIORITY OF EMERGENCY ORDERS, RULES, AND REGULATIONS**

Sec. 11: At all times when the orders, rules, and regulations made and promulgated pursuant to this chapter shall be in effect, they supersede all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.

**NONCOMPLIANCE WITH EMERGENCY ORDERS, RULES, AND REGULATIONS; OBSTRUCTION OR IMPERSONATION OF EMERGENCY MANAGEMENT AUTHORITIES; PENALTIES AND ENFORCEMENT**

Sec. 12: Whenever this chapter applies as provided in Section 1, it shall be unlawful and a penal ordinance violation for any person to:

- (a) willfully obstruct, hinder, or delay the Commissioners, the Director of Emergency Management, participating emergency services, authorized emergency management volunteers, or other authorities from implementing, carrying out, and enforcing emergency plans and procedures;
- (b) fail to observe, abide by , and comply with any emergency management duties, orders, regulations, and procedures as made applicable to such person by the appropriate authorities; or
- (c) falsely wear or carry identification as a member of the county Department of Emergency Management, or to otherwise falsely identify or purport himself to be a county emergency management authority.

Any regular or reserve police officer of the State of Indiana or any of its political subdivision, or any member of the county Department of Emergency Management or a participating emergency service, is hereby empowered to issue and serve a civil citation against any person found to be committing an offense described above. Any person who commits an offense as described above shall be liable to a fine of \$2,500.00; such fine to be subject, however, to the discretion of the court of jurisdiction.

**LIMITATION OF LIABILITY DURING STATE OF EMERGENCY OR EMERGENCY MANAGEMENT TESTS**

Sec. 13: The county, its assigned personnel, and participating emergency services, shall be held blameless and without responsibility for the loss of life or injury to persons or the destruction of any property during an emergency management test or emergency as performed under the direction of the Emergency Management Director.

**REIMBURSEMENT FOR USE OF PROPERTY COMMANDEERED DURING EMERGENCY**

Sec. 14: Pursuant to Indiana Code 10-14-3-31, compensation for property shall be paid only if the property was commandeered or otherwise used in coping with a disaster emergency and its use or destruction was ordered by a county official shall be reimbursed for its use by the county in a manner approved by the County Council.

**CHAPTER 4**

**MERIT SYSTEM ESTABLISHED FOR EMERGENCY MANAGEMENT AGENCY OF PERRY COUNTY**

Sec. 1: There is hereby established a merit system of personnel administration for all employees of the Emergency Management of Perry County, which shall be administered by the Perry County Emergency Management Advisory Council in accordance with the Standards of a Merit System of Personnel Administration outlined in the Federal Assistance Handbook, CPG 1-3, Appendix A, as the same may be from time to time amended or superseded.

Emergency Management employees who have completed a probationary period of employment will not be separated except for cause, or for reasons of curtailment of work or lack of funds.