

AN ORDINANCE ESTABLISHING DISASTER EMERGENCY
MANAGEMENT POWERS OF THE MANATEE COUNTY BOARD
OF COUNTY COMMISSIONERS AND DIRECTOR OF PUBLIC
SAFETY FOR MANATEE COUNTY; PROVIDING FOR A DEC-
LARATION OF POLICY; PROVIDING FOR SCOPE; PRO-
VIDING FOR SEVERABILITY; PROVIDING FOR DEFINI-
TIONS; PROVIDING FOR PROHIBITED ACTIVITIES AND
EXEMPTIONS; PROVIDING FOR LIMITATIONS UPON
LIABILITY; PROVIDING FOR COMPENSATION FOR
SERVICES FURNISHED; PROVIDING FOR LIABILITY
OF PRIVATE PERSONS; PROVIDING FOR AUTHORITY OF
DIRECTOR OF PUBLIC SAFETY TO ACCEPT SERVICES,
GIFTS, AND MATERIALS; PROVIDING FOR PENALTIES;
PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED, by the Board of County Commissioners of
Manatee County, Florida, that:

Section 1. There is hereby created a "Disaster Emergency
Management Powers Ordinance".

Section 1.01. Declaration of Policy.

A. Section 252.38(1), Florida Statutes states that "safe-
guarding" the life and property of its citizens is an
innate responsibility of the governing body of each politi-
cal subdivision of the State.

B. In order for Manatee County to fully carry out its
responsibility of protecting and ensuring the peace, health
and lives of the County's citizens in time of a disaster
emergency, the Board finds and declares it necessary to:

- 1) provide for a mechanism to declare a disaster
emergency within the County;
- 2) to provide for the exercise of the emergency powers
conferred by Chapter 252, Florida Statutes;
- 3) to prohibit certain acts by the citizens of the
County during a disaster emergency when such acts would
be detrimental to the overall interests of the other
citizens of the County.

Section 1.02. Legislative Authority.

This ordinance is enacted pursuant to the authority con-
ferred by Chapter 252, Florida Statutes.

Section 1.03. Scope.

This ordinance shall be effective throughout Manatee

1 County, Florida, except that no provision of this ordinance that
2 conflicts with a provision of any municipality within Manatee
3 County, Florida, shall be effective within such municipality,
4 unless and until the conflicting provision of the municipal ordi-
5 nance is repealed by that municipality.

6 Section 1.04. Construction.

7 This ordinance shall be liberally construed to accomplish
8 its declared policy.

9 Section 1.05. Severability.

10 If any part, section, subsection, or other portion of this
11 ordinance or any application thereof to any person or cir-
12 cumstance is declared to be void, unconstitutional, or invalid
13 for any reason, such part, section, subsection, or other portion,
14 or the prescribed application thereof, shall be severable, and
15 the remaining provisions of this ordinance, and all applications
16 thereof not having been declared void, unconstitutional or in-
17 valid, shall remain in full force and effect. The Board declares
18 that no invalid or prescribed provision or application was an
19 inducement to the enactment of this ordinance, and that it would
20 have enacted this ordinance regardless of the invalid or
21 prescribed provision or application.

22 Section 1.06. Definitions.

23 In this ordinance, unless the context otherwise requires:

24 A. "Board" means the Board of County Commissioners of
25 Manatee County, Florida.

26 B. "County" means Manatee County, Florida.

27 C. "Director" means the Emergency Management Director,
28 Emergency Management Division of Manatee County, Florida.

29 D. "Disaster emergency" means the occurrence or imminent
30 threat of widespread or severe damage, injury or loss of
31 life or property resulting from any natural or man-made
32 cause, including but not limited to enemy attack, sabotage,
33 terrorism, or other hostile military or paramilitary

1 action, earthquake, major fire as interpreted by State rule
2 or regulation, flood, hurricane, severe thunderstorm with
3 massive lightning strikes, tornado, volcanic activity, wave
4 action, windstorm, explosion or accident involving radiation
5 by-products, explosion or accident containing poisonous or
6 environmentally hazardous substances, wherein the explosion
7 or accident effects or could effect an area more than 500
8 feet from the site of the explosion or accident.

9 E. "Family" includes all the members of a household
10 whether related by blood or marriage or not.

11 F. "Structure" means anything constructed or erected with
12 a fixed location on the ground, or attached to something
13 having or requiring a fixed location on the ground.

14 Section 1.07. Supremacy of Ordinance, Rules, Regulations,
15 and Order.

16 Whenever the provisions of this ordinance or of any part of
17 this ordinance are being exercised, they shall be supreme to the
18 extent that these provisions are not inconsistent with any muni-
19 cipal ordinance. Rules, regulations, and orders issued pursuant
20 to the authority contained in this ordinance shall, during the
21 time that they are actually being used or executed and to the
22 extent of any conflict, supersede any other rules, regulations
23 and orders with which they may be in conflict. This ordinance
24 being intended to secure to the government the emergency powers
25 and authority required to handle a disaster emergency, it shall
26 take precedence over any law, rule, regulation or order that may
27 interfere with its execution or hinder the ability of County
28 officials and employees to exercise its emergency powers.

29 Section 1.08. Uniformity with State and Federal Actions.

30 In order to attain uniformity in measures taken to mitigate
31 disaster emergencies, all action taken under this ordinance, and
32 all rules, regulations, and orders made or issued with due con-
33 sideration for the orders, rules, regulations, actions, recommen-
dation and requests of the State and Federal authorities relevant

1 thereto and, to the extent permitted by law, shall be consistent
2 to those orders, rules, regulations, actions, recommendations,
3 and requests.

4 Section 1.09. Disaster Emergencies.

5 A. The Board is responsible for meeting the dangers pre-
6 sented to the County and its people by a disaster
7 emergency. The Board may issue proclamations or resolu-
8 tions and regulations and amend or rescind them in the
9 fulfillment of this responsibility, and these proclamations
10 or resolutions and regulations shall have the force and
11 effect of law during the period for which they are effec-
12 tive. During the continuance of a state of disaster
13 emergency the Director shall have direct responsibility for
14 the coordination of all disaster emergency relief activi-
15 ties and efforts, subject only to the direction and control
16 of the Board.

17 B. A disaster emergency shall be declared by proclamation
18 or resolution of the Board if it finds that a disaster
19 emergency has occurred or that the occurrence or the threat
20 thereof is imminent. The state of disaster emergency shall
21 continue until the Board finds that the threat or danger
22 has been dealt with to the extent that the disaster
23 emergency conditions no longer exist and the Board ter-
24 minates the state of disaster emergency by proclamation, or
25 resolution but, no state of disaster emergency may continue
26 for longer than seven (7) days unless renewed by procla-
27 mation or resolution by the Board. In such an event, the
28 renewal may run for periods of forty-eight (48) hours, as
29 long as the state of disaster emergency continues to exist.
30 At the same time that the state of disaster emergency is
31 declared, the chairman of the Board shall convene the Board
32 in special meeting, at which the Director shall report to
33 the Board all the facts and circumstances concerning the

1 disaster emergency and the Director's recommendations in
2 connection therewith.

3 A proclamation or resolution issued under this subsec-
4 tion shall indicate the nature of the disaster emergency,
5 the areas or areas of the County threatened by it, and the
6 conditions which have brought it about, or which make
7 possible the termination of the state of disaster
8 emergency. A proclamation or resolution issued under this
9 subsection shall be promptly disseminated by means calcu-
10 lated to bring it to the attention of the general public
11 and, unless the circumstances attendant upon the disaster
12 prevent or impede, it shall be promptly filed with the
13 Clerk of Circuit Court.

14 C. Whenever a mock or practice disaster alert is to be
15 called for by the Director, for the purpose of training and
16 exercising a segment of the people located within the
17 County, then the Director shall notify in writing the
18 Chairman of the Board. In that case, no state of disaster
19 emergency will exist, and no proclamation or resolution
20 shall be issued.

21 Section 1.10. Disaster Emergency Powers of Board.

22 A. In order to facilitate the activities and efforts asso-
23 ciated with the mitigate of a disaster emergency, the Board
24 shall have the power and authority to:

- 25 1) appropriate and expend funds; make contracts; obtain
26 and distribute equipment, materials, supplies for
27 disaster emergency management purposes; provide for the
28 health and safety of persons and property, including
29 disaster emergency assistance to the victims of any
30 disaster emergency; and direct and coordinate the deve-
31 lopment of disaster emergency management plans and
32 programs in accordance with the policies and plans set
33 by the Federal and State disaster emergency management

1 agencies.

2 2) establish, as necessary, a primary and one or more
3 secondary emergency operating centers to provide con-
4 tinuity of government and direction and control of
5 disaster emergency operations.

6 3) assign and make available for duty the offices and
7 agencies of the County, including the employees, prop-
8 erty, or equipment thereof relating to engineering,
9 rescue, health, medical, and related services, transpor-
10 tation, construction, and similar items or services for
11 disaster emergency operation purposes.

12 4) waive the procedures and formalities otherwise
13 required by the County, or by law pertaining to the:

14 a) performance of public work and taking whatever
15 prudent action is necessary to ensure the health,
16 safety, and welfare of the County;

17 b) entering into of contracts;

18 c) incurring of obligations;

19 d) employment of permanent and temporary workers;

20 e) utilization of volunteer workers;

21 f) rental of equipment;

22 g) purchase and distribution, with or without com-
23 pensation, of supplies, materials, and facilities;

24 h) appropriation and expenditure of public funds.

25 B. Where circumstances warrant, the Board may designate
26 the Director as the individual authorized to discharge the
27 power specified in Section 1.10(A) of this ordinance.

28 Section 1.11. Prohibited Activities, Exemptions.

29 A. During a disaster emergency the following activities
30 are prohibited in the County or in a portion of the County,
31 if so designated in the proclamation or resolution:

32 1) the sale, dispensing, or transportation of alcoholic
33 beverages, firearms, explosives, and combustibles,

1 excluding fuels used for the ordinary and normal pro-
2 pulsion of jet, diesel, kerosene, or gasoline engines or
3 household appliances.

4 2) the watering of grass, or washing of structures,
5 automobiles, boats, airplanes, or other motor-propelled
6 vehicles with water supplied by the County's Public
7 Utilities Department.

8 3) the sale of merchandise by any business establish-
9 ment at a rate or price that exceeds the rate or price
10 charged immediately prior to the declaration of the
11 disaster emergency by the Board.

12 B. The provisions of Section 1.11(A) shall have no effect
13 in the following situations:

14 1) persons engaged in the prohibited activities solely
15 for the purpose of survival of those persons or the
16 families of those persons;

17 2) persons engaged in the prohibited activities solely
18 for the purpose of self-defense.

19 3) persons who are duly authorized law enforcement
20 officials in the official performance of duty.

21 4) persons who are in the military service and who are
22 acting in the official performance of duty.

23 Section 1.12 Limitations Upon Liability.

24 No officer, employee or agent of the County shall be held
25 personally liable in tort for any injuries or damages suffered as
26 a result of any act, event, or omission of activity in the scope
27 of his duties under this ordinance, or specified by a disaster
28 emergency plan, or assigned or ordered by the Board or Director,
29 unless the officer, employee or agent acted in bad faith or with
30 malicious purpose or in a manner exhibiting wanton and willful
31 disregard of human rights, safety or property.

32 Section 1.13. Compensation.

33 A. Compensation for services or for the taking or use of

1 private property shall be owed by the County only to the
2 extent that:

- 3 1) a claimant may not be deemed to have volunteered his
4 services or property without compensation; and
- 5 2) the taking or use exceeds the legal responsibility
6 of the claimant to render the services or make the pro-
7 perty available.

8 B. Compensation owed for personal services shall be only
9 such as the Board may have fixed and for which funds shall
10 have been specifically appropriated. Compensation for pri-
11 vate property shall be owed only if the property was comman-
12 deered or otherwise used in coping with a disaster emergen-
13 cy and its use was ordered by the Board or Director of the
14 County. A person claiming compensation for the use,
15 damage, loss or destruction of private property or for ser-
16 vices shall file a claim with the County's Division of Risk
17 Management.

18 C. Nothing in this section applies to or authorizes com-
19 pensation for the damaging or destruction of standing
20 timber or other property in order to provide a firebreak or
21 damage resulting from the release of waters or the breach
22 of impoundments in order to reduce pressure or other danger
23 from actual or threatened flood. Nothing in this section
24 shall be construed as authorizing compensation to be paid
25 beyond the amount of funds available for this compensation,
26 nor except to the extent that the State Legislature may
27 have waived the sovereign immunity of the County.

28 Section 1.14 Liability of Private Persons.

29 A person owning or controlling real estate or other premises
30 who voluntarily and without compensation grants a license or
31 privilege or otherwise permits the designation or use of the
32 whole or any part of the real estate or premises for the purpose
33 of sheltering persons during an actual, impending, mock, or prac-

1 tice disaster emergency, together with his successor in interest,
2 if any, shall not be liable for the death of or injury to any
3 person on or about the real estate or premises during an actual,
4 impending, mock or practice disaster emergency or for loss or
5 damage to the property of the person, solely by reason, or as a
6 result of the license, privilege, designation, or use, unless
7 gross negligence or willful and wanton conduct of the person
8 owning or controlling the real estate or premises or of his suc-
9 cessor in interest shall be the proximate cause of the death,
10 injury, loss or damage.

11 Section 1.15 Authority to Accept Services, Gifts, Ma-
12 terials.

13 A. Whenever the State or federal government offers to the
14 County services, equipment, supplies, materials or funds,
15 by way of gift, grant, or loan, for the purpose of using in
16 an actual impending, mock or practice disaster emergency,
17 the Board, or when designated, the Director, may accept the
18 offer on behalf of the County and utilize the services,
19 equipment, supplies, materials or funds subject to the
20 terms of the offer and the rules and regulations, if any, of
21 the agency making the offer. If funds are accepted by the
22 Director, during an authorized designation, then such funds
23 may be expended only after appropriation by the Board.

24 B. Whenever a person offers to the County services, equip-
25 ment, supplies, materials, or funds, by way of gift, grant
26 or loans, for the purpose of using in an actual, impending,
27 mock or practice disaster emergency, the Board, or when
28 designated, the Director, may accept the offer on behalf of
29 the County and utilize the services, equipment, supplies,
30 materials or funds subject to the terms of the offer. If
31 funds are accepted by the Director, during an authorized
32 designation, then such funds may be expended only after
33 appropriation by the Board.

Section 1.16 Penalties.

Any person violating or failing to comply with any of the provisions of this ordinance shall be punished as provided for by general law. Each violation shall constitute a separate offense.

Section 2. Effective Date. This Ordinance shall become effective immediately upon receipt of the official acknowledgement from the Office of the Secretary of State in Tallahassee, Florida, that this Ordinance has been filed with that office.

PASSED AND DULY ADOPTED with a quorum present and voting
this 2nd day of October, 1984.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: Edward W. Chance
Chairman 10/2/84

ATTEST: R. B. SHORE
Clerk of Circuit Court

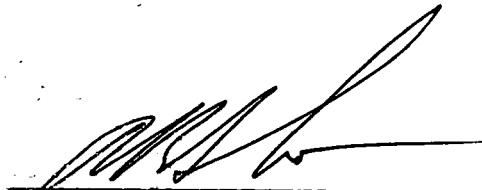
STATE OF FLORIDA

COUNTY OF MANATEE

I, R. B. Shore, Clerk of Circuit Court, in and for the County of Manatee, State of Florida, do hereby certify that the foregoing is a true copy of an ORDINANCE adopted by the Board of County Commissioners of said County in session on the 2nd day of October, 1984.

SUBJECT: MANATEE COUNTY ORDINANCE NO. 84-20:
AN ORDINANCE OF THE COUNTY OF MANATEE, FLORIDA,
ESTABLISHING DISASTER EMERGENCY MANAGEMENT POWERS OF
THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS AND
DIRECTOR OF PUBLIC SAFETY FOR MANATEE COUNTY; PROVIDING
FOR A DECLARATION OF POLICY; PROVIDING FOR SCOPE;
PROVIDING FOR SEVERABILITY; PROVIDING FOR DEFINITIONS;
PROVIDING FOR PROHIBITED ACTIVITIES AND EXEMPTIONS;
PROVIDING FOR LIMITATIONS UPON LIABILITY; PROVIDING
FOR COMPENSATION FOR SERVICES FURNISHED; PROVIDING
FOR LIABILITY OF PRIVATE PERSONS; PROVIDING FOR
AUTHORITY OF DIRECTOR OF PUBLIC SAFETY TO ACCEPT
SERVICES GIFTS, AND MATERIALS; PROVIDING FOR PENALTIES
PROVIDING FOR AN EFFECTIVE DATE.

WITNESS My Hand and Official Seal this the 3rd day of october,
1984, in Bradenton, Florida.



R. B. Shore, Clerk of Circuit Court
Manatee County, Florida



FLORIDA DEPARTMENT OF STATE
George Firestone
Secretary of State

October 8, 1984

Honorable R. B. Shore
Clerk of the Circuit Court
Post Office Box 1000
Bradenton, Florida 33506

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge:

- ✓ 1. Receipt of your letter/s of October 3
and certified copy/ies of Manatee
County Ordinance/s Nos. 84-20
2. Certified copy/ies of _____ County
Ordinance/s relative to:
(a) _____
which we have numbered _____
(b) _____
which we have numbered _____
- ✓ 3. This/these ordinance/s has/have been filed in this
office on October 8, 1984.
- ✓ 4. The original/duplicate copy/ies showing the filing
date is/are being returned for your records.

Kindest regards.

Sincerely,

Nancy Kavanaugh

(Mrs.) Nancy Kavanaugh
Chief, Bureau of Laws

FILED FOR RECORD
84 OCT 10 AM 9 15

R.B. SHORE
CLERK CIRCUIT COURT
MANATEE CO. FLORIDA

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