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**OFFICE OF COUNTY COUNSEL**

**PUBLIC SERVICES BUILDING**

2051 KAEN ROAD | OREGON CITY, OR 97045

November 12, 2015

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County Counsel

Board of County Commissioner  
Clackamas County

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Members of the Board:

Amendments to Chapters 2.09 and 6.03 of the Clackamas County Code

<b>Purpose/Outcomes</b>	Amend County Code - Chapter 2.09 County Administration and Chapter 6.03 Emergency Management
<b>Dollar Amount and Fiscal Impact</b>	No fiscal impact
<b>Funding Source</b>	Not applicable
<b>Safety Impact</b>	The amendments are recommended to further the safe and efficient use of county resources and operations.
<b>Duration</b>	Indefinite; ordinances are effective ninety days after second reading.
<b>Previous Board Action</b>	The Board met in an October 20, 2015 policy session on this matter and decided to proceed to a public hearing and a first reading of the proposed ordinance.
<b>Contact Person</b>	Stephen L. Madkour, County Counsel

**BACKGROUND:**

County Counsel is responsible for maintaining and updating the County Code. A Code Update Committee meets monthly to prioritize code amendments and draft new code provisions. The current batch of code amendments concern revisions to two existing Code Chapters: 2.09 and 6.03.

**Chapter 2.09** - The amendments to Chapter 2.09 expand and clarify the authority of the County Administrator. In addition to some general housekeeping revisions, substantive changes include: The Board delegating to the County Administrator contract signing authority for any

contract previously approved by the Board of County Commissioners. This delegation of authority shall apply both to the contract and any contract amendments; and the authority to draft and promulgate administrative rules and establish and implement operational policies. Additionally, the County Administrator's authority over county facilities has been expanded.

**Chapter 6.03** - The amendments to Chapter 6.03 serve to clarify and update the emergency management regulations. County Counsel has worked with the Department of Emergency Management regarding three areas to be updated in Chapter 6.03 of the County Code. The first deals with Board functions. The current provisions are premised on a three member board, so the update adds clarity on order of authority succession and the timing and effect of orders without a quorum. The second area of the update includes some best practices language to better address the contribution of private resources to recovery efforts in 6.03.070. Finally, the proposed amendments provide technical updates to the statutory references and clarify the process.

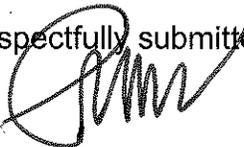
The code updates are intended to clarify and refine those sections of the County Code that require revisions. The proposed amendments to Chapter 2.09 concerning the authority of the County Administrator are intended to provide the Administrator with clear authority and latitude necessary to effectively manage county operations. The amendments to Chapter 6.03 update the Code to make it consistent with the five-member board.

These amendments are proposed by the Code Update Committee, which is comprised of a cross section of county staff and a commissioner representative.

**RECOMMENDATION:**

Staff recommends the Board of County Commissioners read the proposed ordinance by title only and proceed to a scheduled second reading on December 3, 2015. After the second reading the proposed ordinance would be adopted and effective ninety days after adoption.

Respectfully submitted,



Stephen L. Madkour  
County Counsel

**ORDINANCE NO. \_\_\_\_\_**

**An Ordinance Amending Chapter 2.09, County Administrator, of the  
Clackamas County Code**

WHEREAS, the Board would like to expand and clarify the authority of the County Administrator;

WHEREAS, the Board finds it beneficial to delegate contract signing authority to the County Administrator for contracts that have previously been approved by the Board; and

WHEREAS, the Board finds that the County Administrator should have the authority to implement administrative rules and operational policies; and

WHEREAS, the Board delegates authority over County facilities to the County Administrator; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

**Section 1:** Chapter 2.09 of the Clackamas County Code is hereby amended as shown in Exhibit A attached hereto.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

## **CHAPTER 2.09**

### **2.09 COUNTY ADMINISTRATOR**

#### **2.09.010 Office of County Administrator Created**

The Office of County Administrator is created and the person holding that office shall act as the head of administration for the County and, if delegated by the district board, its service districts. [Added by Ord. 11-2002, 8/22/02]

#### **2.09.020 Appointment**

The County Administrator shall be appointed by and serve at the pleasure of the Board of County Commissioners. The relationship between the County and the County Administrator shall be as set forth in this Chapter and any employment agreement between the County and the County Administrator not inconsistent with this Chapter. [Added by Ord. 11-2002, 8/22/02]

#### **2.09.030 Qualifications**

The County Administrator shall be appointed by the Board of County Commissioners solely on the basis of his or her executive and administrative qualifications and experience and need not be a resident of the County or the State prior to his or her appointment. After the time of his or her appointment the County Administrator shall reside outside the County only by express permission of the Board. He or she shall receive a salary fixed by the Board commensurate with the responsibilities of the office. [Added by Ord. 11-2002, 8/22/02]

#### **2.09.040 Vacancy**

When a permanent vacancy occurs in the Office of County Administrator, the Board of County Commissioners shall designate an Acting County Administrator until such time as a County Administrator is appointed. Such person, while he or she is the Acting County Administrator, shall have all powers and duties conferred by this Chapter on the County Administrator. [Added by Ord. 11-2002, 8/22/02]

#### **2.09.050 Absence or Disability**

The County Administrator may designate an administrative officer of the County to exercise and perform his or her powers and duties conferred by the Chapter during his or her temporary absence or disability. [Added by Ord. 11-2002, 8/22/02]

#### **2.09.060 Authority**

- A. A.—The County Administrator shall be the Chief Administrative Officer of the County and all County service districts, if that authority is delegated by the board of the district. The County Administrator shall be responsible to the Board of County Commissioners for the administration and management of the County and its service districts and shall have control and supervision of all administrative departments, divisions, offices, districts and agencies subject to his or her jurisdiction, except County Counsel, or as otherwise provided by law.
- B. The County Administrator shall exercise no authority over the actions of elected County officials while they are performing the duties of their offices.
- CB. The Board of County Commissioners hereby delegates to the County Administrator broad authority to perform his or her job functions. The County Administrator is responsible to the Board for the manner of his or her administration. The Board reserves to itself all of its legislative and judicial or quasi-judicial authority, unless expressly delegated.
- D The Board of County Commissioners hereby delegates to the County Administrator contract signing authority for any contract previously approved by the Board of County Commissioners.
- E. The Board of County Commissioners hereby delegates to the County Administrator the authority to draft and promulgate administrative rules and establish and implement policies.
- FE. It shall be within the specific authority of the County Administrator to perform all day-to-day functions necessary for the administration and management of County affairs and the affairs of County service districts, if delegated. Such authority includes but is not limited to the following:
1. Provide for the proper administration of all ordinances, orders and resolutions of the County and its service districts, all contracts and franchises entered into by the County and service districts, and provide for the enforcement of all policies, rules, procedures, orders and regulations adopted by the Board.
  2. Keep the Board informed of pertinent matters related to the administration and management of the County and its service districts.
  3. Serve as the Budget Officer for the County and its service districts and in that role prepare and submit to the Board and Budget Committee an annual budget and a long range capital improvement and expenditure program. Administer the provisions of the budget as adopted by the Board.
  4. Prepare and submit to the Board an annual report on the finances and administrative activities of the County and its service districts for the preceding fiscal year, together with recommendations for the betterment of the public service.
  5. Select, appoint, supervise, discipline or dismiss all County Administration staff and all employees designated as appropriate for unclassified status under Section 2.05.040(3)(B)(11), except the Office of County Counsel and any elected officers. The County Administrator has the authority to sign employment contracts for such designated unclassified employees, consistent with other employment contracts. The County Administrator shall consult the Board on these matters.

6. Manage and administer the County and service districts personnel programs. Prepare and recommend to the Board employee compensation plans.
7. Coordinate the work and facilities of all offices, departments and agencies, both elective and appointive, and devise ways and means whereby efficiency and economy may be secured in the operation of all offices, departments, districts and agencies.
8. Formulate and present to the Board plans for the implementation for goals adopted by the Board.
9. Administer the risk management program for the County and its service districts.
10. Direct the use, operation, maintenance, control and custody of all County and district property, buildings, works and improvements.  
~~according to any policies adopted by the Board.~~
11. Furnish the Board with information, proposals and recommendations concerning the operation of County departments, districts, boards and commissions.
12. Unless excused by the Board, attend regular meetings of the Board, participate in the discussions and make recommendations for action by the Board.
13. Conduct such other activities and assignments as may be required by the Board.

[Added by Ord. 11-2002, 8/22/02; Amended by Ord. 01-2009, 2/5/09]

#### **2.09.070 Delegation of Authority**

The County Administrator may delegate any authority granted by this Chapter to County department heads or other County or district staff, in a manner consistent with the provisions of the County Code.

[Added by Ord. 11-2002, 8/22/02]

#### **2.09.080 Term**

The County Administrator shall be appointed for an indefinite term. The County Administrator is an at-will employee and may be removed at the pleasure of the Board, consistent with any applicable employment agreement.

[Added by Ord. 11-2002, 8/22/02]

#### **2.09.090 Interaction with County Administrator, Employees**

In the exercise of their authority as members of the governing body of the County, Board members may individually, or as a group in a public meeting, discuss fully and freely with the County Administrator any matter pertaining to County affairs or the interests of the County. Board members may not direct any County employee, other than the County Administrator or County Counsel, in the performance of their duties. This section shall not be construed to prohibit a Board member from pursuing their role as ombudsman in making inquires of County employees concerning the day to day conduct of County affairs.

[Added by Ord. 11-2002, 8/22/02; Amended by Ord. 01-2009, 2/5/09]

ORDINANCE NO. \_\_\_\_\_

**An Ordinance Amending Chapter 6.03, Emergency Regulations, of the  
Clackamas County Code**

WHEREAS, the Board finds it beneficial to update and clarify the Emergency Regulations of the County; and

WHEREAS, the Board finds that the order of succession for the Emergency Regulations Board needs clarification; and

WHEREAS, the Board finds it necessary to update language regarding the contribution of private resources to recovery efforts; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

**Section 1:** Chapter 6.03 of the Clackamas County Code is hereby amended as shown in Exhibit A attached hereto.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

[Codified by Ord. 05-2000, 7/13/00]

## **Chapter 6.03**

### **6.03 EMERGENCY REGULATIONS**

#### **6.03.010 Purpose**

The purpose of this chapter is to provide a procedure to minimize injury to persons, the environment, and property. In addition, to preserve the established civil authority in the event a state of emergency exists within the unincorporated areas of Clackamas County or within the incorporated areas of Clackamas County, if assistance is requested by such incorporated jurisdiction.

[Codified by Ord. 05-2000, 7/13/00]

#### **6.03.020 Definition Of Emergency**

For the purposes of this ordinance, emergency is defined as any man-made or natural event or circumstance causing or threatening loss of life; injury to persons, the environment, or property; human suffering; or financial loss to the extent that extraordinary measures must be taken to protect the public health, safety, and welfare. Such event shall include, but not be limited to: fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills of oil or other hazardous substances, disease, blight, infestation, utility or transportation service disruptions, civil disturbance, riot, sabotage, terrorism, war or any other such emergency as defined under Oregon Revised Statute, Chapter 401, as may be amended from time to time.

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

#### **6.03.030 Authority Of County**

Under the provisions of ORS Chapter 401 and any successor statutes, the authority, and responsibility for responding to emergencies is placed at the local government level. ORS Chapter 401 further mandates that the County shall establish an emergency management agency to perform emergency program management functions ~~to include~~, but not limited to: program development, fiscal management, coordination with non-governmental agencies and organizations, public information, personnel training, and development and implementation of exercises to test the system.

[Codified by Ord. 05-2000, 7/13/00]

#### **6.03.040 Declaration Of Emergency**

When, in the judgment of the Board of County Commissioners, a state of emergency exists, it shall declare in writing and publicize the existence of it. At the earliest practical opportunity, a written declaration of emergency shall be adopted by the Board and made a part of the County's official records. If circumstances prohibit the timely action of the Board of County

Commissioners, the Chair of the Board may declare a state of emergency, provided that the approval of a majority of the Board of County Commissioners is sought and obtained at the first available opportunity. Upon that declaration of emergency, the Chair of the Board is empowered to assume centralized control of, and have authority over, all departments, divisions, and offices of Clackamas County in order to implement the provisions of this chapter. The state of emergency declared pursuant to this section shall specify the factors ~~that~~<sup>which</sup> warrant the exercise of emergency controls.

[Codified by Ord. 05-2000, 7/13/00]

### **6.03.050 Succession Of Authority**

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

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

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

### **6.03.060 Regulation And Control**

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

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

Contract Review Board rules, Appendix "B", Section B110.030, et seq.;

- H. Redirect funds for emergency use; and
- I. Order such other measures as are found to be immediately necessary for the protection of life and/or property.

[Codified by Ord. 05-2000, 7/13/00]

#### **6.03.070 Acquisition Of Resources**

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

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

[Codified by Ord. 05-2000, 7/13/00]

#### **6.03.080 Penalty**

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

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

#### **6.03.090 Responsibility For Emergency Management**

For purposes of this Ordinance, in accordance with ORS Chapter 401 or any successor statutes, the Emergency Management Agency for Clackamas County shall be the Clackamas County Department of Emergency Management. The Clackamas County Administrator is hereby designated as the Emergency Program Manager. Day-to-day management of the emergency program may be delegated to the Emergency Management Director. The National Incident Management System (NIMS) shall be used as the foundation for incident command, coordination and support activities.