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Introduced By: Rhonda Lewis, EM Director
1st Reading: Dec. 2, 2008
2nd Reading: Jan. 6, 2009

ORDINANCE NO. 09-01

AN ORDINANCE REPEALING CHAPTER 2 "ADMINISTRATION", ARTICLE VII "STATE OF EMERGENCY", SECTION 2-191 THROUGH SECTION 2-193 AS SET FORTH IN THE CODE OF ORDINANCES OF LIBERTY COUNTY, FLORIDA; ESTABLISHING ARTICLE VII, CIVIL EMERGENCIES, 2-191 THROUGH 2-196; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE ADMINISTRATION AND MAINTENANCE OF A MUNICIPAL COMPREHENSIVE EMERGENCY MANAGEMENT PLAN; PROVIDING FOR ACTIVATION AND EXTENSION OF STATE OF EMERGENCY; ACTIVATION OF DISASTER PLANS; CLARIFYING AND DESIGNATING EMERGENCY POWERS OF THE CHAIRMAN, LIBERTY COUNTY BOARD OF COUNTY COMMISSIONERS (EXECUTIVE DIRECTOR) DURING EMERGENCIES AND DISASTERS; PROVIDING EXPENDITURES MADE DURING EMERGENCY ACTIVITIES BE DEEMED TO BE FOR DIRECT PROTECTION AND BENEFIT OF THE INHABITANTS OF THE COUNTY; PROVIDING FOR A HOLD HARMLESS AGREEMENT TO ENTER AND REMOVE STORM GENERATED DEBRIS FROM PRIVATE AND GATED COMMUNITIES; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Liberty County Board of County Commissioners finds that there is a necessity for clear and concise rules and regulations providing for emergency and disaster planning, response, and other actions required in the event of a natural or manmade disaster in order to protect and safeguard the safety, health, and welfare of the citizens of Liberty County; and

WHEREAS, Liberty County Board of County Commissioners desires to establish a Municipal Comprehensive Emergency Management Plan, administered and maintained by the Board of County Commissioners, in accordance with county and state guidelines, for the effective administration and management of emergency and disaster preparedness, response, recovery, and mitigation; and

WHEREAS, Board of County Commissioners desires to clarify and designate the emergency powers and duties of the Chairman, during emergencies and disasters and to authorize certain actions relating thereto;

BE IT ORDAINED BY THE COUNTY of Liberty, FLORIDA:

SECTION 1. That Article VII, "State of Emergency", of Chapter 2, "Administration" of the Code of Ordinances of the Liberty County, Florida, is hereby repealed and shall be of no further force or effect.

SECTION 2. That Article VII, "Civil Emergencies", of Chapter 2, "Administration" of the Code of Ordinances of the Liberty County, Florida, is hereby created as follows:

ARTICLE VII. CIVIL EMERGENCIES

Sec. 2-191 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the content clearly indicates a different meaning.

Abandoned vehicle shall mean any vehicle meeting the definitions of "Junked, Abandoned Property" as defined in Article II, of Chapter 14, sec. 14-16 through 14-17:

- a. In a wrecked, inoperative, junked, or partially dismantled condition upon any public property of this county; or
- b. On any roadway of this county without the consent of the authority having jurisdiction thereof; or
- c. Left, stored, or abandoned upon the property of another without the consent of the owner of the property.

County shall mean Liberty County.

Derelict vessel shall mean any vessel that is left, stored, or abandoned:

- a. In a wrecked, junked, or substantially dismantled condition upon any public waters of this county
- b. At any port of this county without the consent of the agency having jurisdiction; or
- c. Docked or grounded at or beached upon the property of another without the consent of the owner of the property.

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Disaster means the actual occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from a natural or human-made causes including but not limited to, fire, flood, hurricane, tornado, ice/snow storm, wind, oil spill, earthquake, explosion, water contamination, utility failure, hazardous materials or radiological incidents, epidemic, air contamination, blight, drought, infestation, or hostile military action terrorist activities, riots, or civil disorders.

Emergency or local emergency means any accidental, natural, or human-made event including but not limited to flood, conflagration, hazardous materials dispersal, hurricanes, tornado, earthquake, or explosion within the limits of the city resulting in an imminent threat of death or injury of persons, or the destruction of property, to such an extent that extraordinary measures must be taken to protect the public health, safety, and welfare.

Municipal Comprehensive Emergency Management Plan shall mean the Liberty County's comprehensive all-hazard plan emphasizing action in the four areas of the emergency management cycle; preparedness, response, recovery, and mitigation,. The national incident management system (NIMS) is used in the plan to manage and mitigate emergencies.

State shall mean State of Florida.

Weapon means a firearm of any type, size or configuration; cutting instrument of any type, size, or configuration; tear gas gun or chemical weapon or device; electric weapon or device; or any other device or object not commonly considered a weapon but which, in its use, intended use, or threatened use, is capable of causing injury to a person; e.g., rock, bottle, stick, club, bat, etc.

Sec. 2-192. Administration and maintenance of an active Municipal Comprehensive Emergency Management Plan in accordance with federal, state, and county guidelines.

A Municipal Comprehensive Emergency Management Plan for Liberty County shall be administered and maintained by the Chairman (executive director) for the purpose of the management of emergency and disaster preparedness, response, recovery, and mitigation in accordance with current federal, state, and county guidelines.

Sec. 2-193. Authority to declare and extend a state of emergency; activation of disaster plans.

When it is determined that any human-made or natural disaster or emergency has

occurred or that the occurrence or threat of one is imminent and requires immediate and expeditious action to protect the lives and property of the citizens and to provide for the continued operation of essential services, The EM Director and the board of County Commissioners authorized to declare a state of emergency. A declaration of a state of emergency shall activate the disaster emergency plans applicable to the county and shall be the authority and guidelines for emergency measures as well as authorize the use or distribution of any supplies, equipment, materials, or facilities assembled or arranged to be made available pursuant to such plans.

- a. An emergency declared under this article shall terminate after seventy-two (72) hours from the issuance thereof, however the declaration may be extended to five (5) days by the Board of county Commissioners
- b. In the event a disaster is not declared or time limitations expire, the board of County Commissioners may declare or extend a state of emergency until such disaster or emergency no longer exists.

Sec. 2-194. Clarifying and designating powers of the Chairman of the board of County Commissioners (executive director) during emergencies and disasters.

- a. General Powers. The chairman (executive director) has the power to invoke any or all of the following provisions during a declared state of emergency or disaster. Should the chairman deem it necessary to invoke any of the following provisions, a written notice will be made to the local news media for immediate dissemination to the public.
 1. *Alcoholic beverages.* No person shall consume any alcoholic beverages in a public street or place which is publicly owned or in any motor vehicle driven or parked thereon which is within a duly designated restricted area.
 2. *Weapons.* No person shall carry or possess any weapon, as defined in Section 2-191 of this ordinance, in a public place or upon the property of another; such possession shall be *prima facie* evidence of an intent to violate the provisions of this section.
 3. *Restricted areas.* No person shall enter any area designated by the city manager or his designee as a restricted area unless in the performance of official duties or with written permission from the city manager, or his

designated representative, or such person shall prove residence therein.

4. *Curfews.* No person shall be allowed in the public or private streets or places throughout the city or in any designated sections of the same during the hours in which the city manager has declared a curfew, except for the provision of designated, essential services, such as fire, utilities, police, emergency medical services and hospital services, including the transportation of patients, utility emergency repairs, and emergency calls by physicians. The provisions of this subsection shall not apply to government employees in the performance of essential services or while in the service of protecting the life, health, property, welfare or public peace of the community.
- b. During a state of emergency, the procedures and formalities otherwise required of the county by law may be waived by the chairman (executive director) and he/she may authorize actions pertaining to the following as necessary.
 1. Performing public work and taking whatever action is necessary to ensure the health, safety, and welfare of the community;
 2. Entering into contracts;
 3. Suspending bid provisions for a period not to exceed six months from the declaration of the emergency;
 4. Employment of permanent and temporary workers;
 5. Utilization of volunteer workers;
 6. Rental of equipment;
 7. Acquisition and distribution of supplies, materials, and facilities;
 8. Additional appropriation and expenditure of funds as needed for the emergency;
 9. Implementing emergency personnel policies;
 10. Activating and/or executing the statewide mutual-aid system and/or interlocal agreements;
 11. Determining a threat to public health and safety that may result from the generation of widespread debris throughout the County, that such debris constitutes a hazardous environment for all modes of movement and transportation of the residents as well as emergency aid and relief services,

endangerment to all properties in the County, an environment conducive to breeding disease and vermin, and greatly increased risk of fire, and that it is in the public interest to collect and remove disaster debris from all property within the County, whether publicly-owned lands, privately-owned lands, both public and private roads and easements, including lands and roads located within any private, gated community to eliminate an immediate threat of additional damage to improved property and to promote economic recovery of the community at large and the health and safety of the community at large;

12. Authorize the county or their contracted agent right of access to private roads and easements and/or gated communities as needed by emergency vehicles such as, but not limited to, police, fire, medical care, debris removal, utility repairs, and sanitation to alleviate immediate threats to public health and safety;
13. Authorize the removal of debris and wreckage resulting from a major disaster from all property whether public lands, public or private roads, or gated communities for a safe and sanitary living or functioning condition;
14. Authorize the removal of derelict vessels pursuant to current Statutes of the State of Florida and in conjunction with the Florida Fish and Wildlife Conservation Commission;
15. Authorize the removal of abandoned vehicles pursuant to current Statutes of the State of Florida and in conjunction with law enforcement of the city, county, and state.

Sec. 2-194. Emergency response costs.

Any expenditure made in conjunction with emergency activities, including mutual aid agreements and interlocal agreements, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the county.

Sec 2-195. Responsibility for debris removal.

The county, their designee, or contractor will be responsible for removing any wide spread debris generated by a disaster on public lands, public or private roadways, or roadways

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in gated communities that is determined to be a public threat to health or safety, as determined by the city manager. The city is not responsible for any debris that is generated by anyone other than the resident of the property. A contractor shall be responsible for removal and disposal of all debris and wreckage generated by such contractor.

Sec. 2-196. Hold harmless agreement.

- a. This ordinance shall provide to indemnify and hold harmless the United States Government, the State of Florida, the County of Liberty, the City of Bristol, and their employees, agencies, agents, contractors, and subcontractors, for damages of any type whatsoever, either to property or to persons situated thereon, by obtaining a right of entry permit and agreement from private and gated communities prior to removing disaster-generated debris from the property.
- b. The chairman or his designee shall provide and update a Right-of- Entry Permit every five years and shall maintain a record of such agreement.
- C. The Right-of- Entry Permit and agreement shall be in substantially the same form as the following.:

RIGHT OF ENTRY PERMIT AND AGREEMENT

Property Address/Description _____

Name (Owner or Tenant) _____

City _____

County _____

State _____

Date _____

Right of Entry

I certify that I am the owner, or an owner's authorized agent, of the property described above. I grant, freely and without coercion, the right of access and entry to said property to Liberty County , its agents, contractors, subcontractors, for the purpose of demolishing, removing and/or clearing any or all disaster generated debris of whatever nature from the above described property.

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Hold Harmless

I understand that this permit is not an obligation upon the government to perform debris removal. I agree to indemnify and hold harmless the United States Government, the Federal Emergency Management Agency (FEMA), the State of Florida, the County of Liberty, the City of Bristol, and any of their agencies, agents, contractors, and subcontractors, for damages of any type whatsoever, either to the above-described property or to persons situated thereon. I release, discharge, and waive any action, either legal or equitable, that might arise by reason of any action of the above entities, while removing disaster-generated debris from the property. I will mark any sewer lines, septic tanks, water lines, and utilities located on the described property.

Duplication of Benefits

Most homeowner's insurance policies have coverage to pay for removal of disaster-generated debris. I understand that Federal law (42 United States code 5155 et seq.) requires me to reimburse the Liberty County the cost of removing the disaster-generated debris to the extent covered in my insurance policy. I also understand that I must provide a copy of the proof/statement of loss from my insurance company to Liberty County. If I have received payment, or when I receive payment, for debris removal from my insurance company, or any other source, I agree to notify and send payment and proof/statement of loss to Liberty County. I understand that all disaster related funding, including that for debris removal from private property, is subject to audit.

For the consideration and purposes set forth herein, I hereby acknowledge this agreement by my dated signature below.

Signed this _____ day of _____, 2 _____.

(Owner or Owners – All must sign)

(Witness)

Print Name

Print Name

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Signature

Signature

Print Name

Signature

Name of Insurance Company:

Policy Number:

SECTION 3. All ordinances or parts thereof in conflict herewith are hereby repealed.

SECTION 4. This ordinance shall take effect upon its passage and publication as required by law.

AUTHENTICATED THIS 6th DAY OF January, 2009

Albert Butcher
Albert Butcher, Chairman

Robert Hill
Robert Hill, Clerk of Court