

LEE COUNTY, FLORIDA

ORDINANCE NO. 87-1

AN ORDINANCE DESIGNATING THE CHAIRPERSON OF THE BOARD OF COUNTY COMMISSIONERS, OR IN HIS/HER ABSENCE, VICE-CHAIRPERSON; OTHER BOARD MEMBER(S) PRESENT OR COUNTY ADMINISTRATOR OR HIS/HER DESIGNEE, IN THIS SUCCESSION, AS THE OFFICIAL WITH AUTHORITY TO DECLARE A STATE OF LOCAL EMERGENCY IN THE EVENT OF A NATURAL OR MAN-MADE EMERGENCY OR THE IMMINENT THREAT THEREOF; AUTHORIZING SUCH OFFICIAL TO TAKE CERTAIN EMERGENCY MEASURES RELATING THERETO; PROVIDING PENALTIES; TERRITORY EMBRACED; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Lee County area is vulnerable to a variety of natural or man-made hazards which result or may result in emergencies causing substantial injury or harm to the population or substantial damage to or loss of property; and

WHEREAS, Chapter 252, Florida Statutes, provides the Board of County Commissioners the authority to declare a state of local emergency and take actions necessary to ensure the safety and well being of its residents, visitors and property during emergencies caused by these hazards; and

WHEREAS, under certain conditions, a quorum of the Board of County Commissioners may not be available to declare a state of local emergency; and

~~WHEREAS, Chapter 252, Florida Statutes, provides the authority to~~
waive procedures and formalities otherwise required of political subdivisions in order to take whatever action is necessary to ensure the health, safety and welfare of the community; and

WHEREAS, it is the intent of Lee County to take reasonable action to deal with emergencies to help preserve the lives and property of the people of Lee County when a quorum of the Board of County Commissioners is physically unable to meet.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE

It is the intent of the County to designate certain officials with the authority to declare a state of local emergency in the event a natural or man-made emergency threatens Lee County and to authorize certain actions to respond to the emergency when a quorum of the Board of County Commissioners is physically unable to meet.

SECTION TWO

When a quorum of the Board of County Commissioners is physically unable to meet, the Chairperson, or the Vice-Chairperson in the Chairperson's absence, or any other Board member or members in the absence of the Chairperson or Vice Chairperson, or the County Administrator or his/her designee in the absence of all of the Board members, is hereby designated and empowered to declare a state of local emergency when immediate and expeditious action is required to protect the lives and property of Lee County.

SECTION THREE

A. For the purpose of this Ordinance, "Emergency" means any significant occurrence, whether accidental, natural, caused by man, in war or peace, which results or may result in substantial injury or harm to persons or substantial damage to or loss of property (Chapter 252.34(2), Florida Statutes).

B. For the purpose of this Ordinance, "Absence of a Quorum" means that three or more County Commissioners are not physically present in Lee County and are physically unable to meet at a specified location for the purpose of declaring an emergency and approving documents to that effect.

SECTION FOUR

A state of local emergency shall be declared by written proclamation and signed by the Chairperson, or the Vice Chairperson in his/her absence, or any other Board member present, or by the County Administrator or his/her designee in the absence of all of the Board members. The state of local emergency shall continue until the Chairperson, Vice-Chairperson, Board member or in their absence, the County Administrator or his/her designee, find that the threat or danger no longer exists and/or until an emergency meeting of a quorum of the Board of County Commissioners is convened and terminate the state of local emergency by written proclamation.

SECTION FIVE

Nothing in the Ordinance shall be construed to limit the authority of the Board of County Commissioners to declare, extend or terminate a state of local emergency or take any action prescribed herein when sitting in regular or special session.

SECTION SIX

A. Any person, firm, company or corporation who refuses to comply with or violates any section of this Ordinance, or the emergency measures which may be made effective pursuant to this Ordinance, shall be guilty of a misdemeanor of the second degree, and upon conviction for such offense, shall be punished by a fine not to exceed Five-Hundred Dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the Lee

County Jail, or both, in the discretion of the Court hearing the case.

Each day of continued non-compliance or violation shall constitute a separate offense. In addition to this penalty, any licensee of Lee County found guilty of violating any provision of this Ordinance or the emergency measures which may be made effective according to this Ordinance, may have his/her license suspended or revoked by the Board of County Commissioners of Lee County, Florida.

B. Nothing herein contained shall prevent the County from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this Ordinance or the emergency measures which may be made effective according to this Ordinance. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

SECTION SEVEN

All territory within the legal boundaries of Lee County, Florida, including all unincorporated and incorporated areas, shall be embraced by the provisions of this Ordinance.

SECTION EIGHT

In the event this Ordinance conflicts with any other ordinance or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION NINE

This ordinance shall take effect immediately upon receipt of official acknowledgement from the Office of Secretary of the State of Florida that this Ordinance has been duly filed with said office.

SECTION TEN

The provisions contained in Chapter 252, Florida Statutes (1985), "State Emergency Management Act" are hereby incorporated by reference and made a part of this ordinance in their entirety.

DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, this 14th day of January, 1987.

THE FOREGOING ORDINANCE was offered by Commissioner Wallace who moved its adoption. The motion was seconded by Commissioner Slisher and, upon being put to a vote, the vote was as follows:

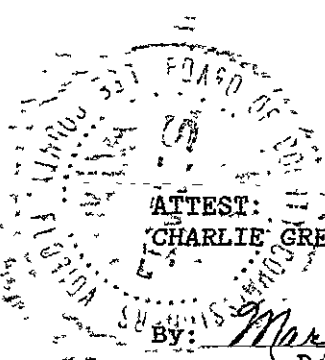
PORTER J. GOSS	<u>AYE</u>
BILL FUSSELL	<u>AYE</u>
CHARLES BIGELOW	<u>AYE</u>
MARY ANN WALLACE	<u>AYE</u>
DON SLISHER	<u>AYE</u>

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: Bill Fussell
Chairperson

APPROVED AS TO FORM:

By: [Signature]
Lee County Attorney's Office



ATTEST:
CHARLIE GREEN, CLERK

By: Mary Cement
Deputy Clerk

(0010D)