

ORDINANCE NO. 4, 2013

AN EMERGENCY ORDINANCE CONCERNING EMERGENCY MANAGEMENT AND AUTHORIZING THE MAYOR TO ENTER INTO CONTRACTS FOR FLOOD RESPONSE AND RECOVERY

WHEREAS, pursuant to state law, including but not limited to C.R.S. § 24-33.5-701, et seq. and § 31-15-401, the Town is authorized to declare and respond to local disasters and emergencies; and

WHEREAS, the Board of Trustees desires to establish emergency management responsibilities and procedures for the Town; and

WHEREAS, the Board of Trustees desires to temporarily authorize the Mayor to enter into certain contracts for materials and services for the purpose of flood relief and recovery;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAMESTOWN, COLORADO:

Section 1. The Board of Trustees hereby adopts the following provisions regarding emergency management, which provisions may be referred to as the “Emergency Management Ordinance of the Town of Jamestown:”

Emergency Management

- Section 1. Purpose.
- Section 2. Definitions.
- Section 3. Preparedness and coordination.
- Section 4. Disaster declaration powers.
- Section 5. Line of succession.
- Section 6. Emergency meetings.
- Section 7. Conflicting ordinances, orders, rules and regulations suspended.
- Section 8. Town non-liability designation.

Section 1. Purpose.

The purpose of this Ordinance is to establish emergency management authorities, responsibilities, and procedures for the Town. This Ordinance shall not affect the jurisdiction of any local disaster agency maintained by Boulder County within the Town and its authority to serve the Town in accordance with the “Colorado Disaster Emergency Act,” C.R.S. § 24-33.5-701, et seq., as amended from time to time.

Section 2. Definitions.

As used in this Ordinance, the definitions set forth in C.R.S. § 24-33.5-703, as amended from time to time, shall apply. The definition of disaster shall be as set forth in C.R.S. § 24-33.5-703(3), as amended from time to time, and

shall include any other declared disaster that requires the aid and the assistance of local, state or federal agencies.

Section 3. Preparedness and coordination.

The Mayor his or her designee shall be responsible for disaster preparedness and coordination of disaster response for the Town. The Mayor or his or her designee shall serve as a liaison officer to facilitate the cooperation and protection of the Town in the work of disaster prevention, preparedness, response, and recovery.

Section 4. Disaster declaration powers.

A. The Mayor, as the principal executive officer for the Town, shall have the power to declare that a state of local disaster exists when he or she is of the opinion that a disaster or extraordinary emergency event has occurred or the threat of such event is imminent.

B. The declaration of local disaster shall be in writing and shall describe the nature of the disaster, the area threatened and the conditions which have brought it about, and the conditions, if any, that would remedy it. The Mayor shall cause the declaration to be filed with the Town Clerk and shall forward a copy to the Boulder County Clerk and Recorder and the State Division of Emergency Management. The Mayor or his or her designee shall be responsible for publication and dissemination of the information to the public.

C. The issuance of a declaration declaring a state of disaster or emergency shall automatically empower the Mayor to exercise any and all of the disaster and emergency powers permitted by state and local law.

D. The Mayor shall convene the Board of Trustees to exercise its legislative powers as the situation demands and shall receive reports and evaluate and enact policy and other incident support as required.

E. A state of local disaster shall remain in effect until the Board of Trustees or Mayor declares that the threat of danger has passed or that the local disaster or emergency conditions no longer exist. However, a state of local disaster shall not be continued or renewed for a period in excess of seven days unless the Board of Trustees approves a longer duration. The Board of Trustees may, by motion, terminate a state of local disaster or emergency at any time, and the Mayor or his or designee shall immediately issue a notice effecting the same. Any declaration continuing or terminating a state of local disaster or emergency shall be filed with the Town Clerk, and a copy shall be forwarded to the Boulder County Clerk and Recorder and the State Division of Emergency Management.

F. Subsequent to the declaration of a disaster, the Mayor may exercise any and all powers granted by applicable local or state law, including:

1. By written order suspend any Town ordinance or resolution that prescribes procedures for conduct of Town business if strict compliance would in any way prevent, hinder, or delay necessary action

in coping with the disaster or emergency, provided that such suspension of any ordinance or resolution is confirmed at the earliest practicable time by the Board of Trustees.

2. Make and issue written rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster, provided such rules and regulations are confirmed at the earliest practicable time by the Board of Trustees.

3. Requisition necessary personnel, material, or supplies of any Town department, division, or agency.

4. Transfer the direction, personnel, or functions of Town departments for the purpose of performing or facilitating emergency services.

5. Subject to any applicable legal requirements to provide compensation for services or for taking or use of property and to the principles set forth in C.R.S. § 24-33.5-711 and Articles 1 to 7 of Title 38, C.R.S., all as amended from time to time, to commandeer or utilize any private property necessary to cope with the disaster or emergency.

6. Exercise all powers permitted by Town ordinances and resolutions and state law to require emergency services of any Town officer or employee and command the aid of as many people in the Town as he or she deems necessary in the execution of his or her duties. To the extent permitted by law, such persons may be entitled to the privileges, benefits and immunities provided by state law for civil defense workers.

Section 5. Line of succession.

If the Mayor is unable to perform the duties or functions set forth in this Ordinance, the powers and duties conferred upon the Mayor shall be performed in descending order, as follows: by the Mayor Pro Tem, by the Board of Trustees member most senior in length of service, by the Board of Trustees member whose last name begins with a letter that is the closest to the beginning of the alphabet.

Section 6. Emergency meetings.

A. Upon the declaration of a disaster by the Mayor, an emergency meeting of the Board of Trustees may be called in order to protect the public health, safety, or welfare of the residents of the Town.

B. The requirement for twenty-four hours' posting of notice of the meeting as required by C.R.S. § 24-6-402(2)(c) may be waived by majority vote of a quorum present at such emergency meeting as the first item of business.

C. At such emergency meeting, any action within the police power of the Board of Trustees necessary for the immediate protection of the public

health, safety, or welfare may be taken, provided that any action taken at an emergency meeting shall be effective only until the next regular or special meeting of the Board of Trustees. At such regular or special meeting the emergency issue shall be included in the notice posted pursuant to C.R.S. § 24-6-402(2)(c). At such subsequent meeting the Board of Trustees may ratify any emergency action taken. If any emergency action taken is not ratified, it shall be deemed to be rescinded.

Section 7. Conflicting ordinances, orders, rules and regulations suspended.

Any ordinances, resolutions, orders, rules and regulations promulgated during proclaimed state of emergency shall take precedence over existing ordinances, resolutions, rules and regulations if a conflict arises.

Section 8. Town non-liability designation.

To the extent permitted by law and except in the case of willful and wanton misconduct, neither the Town nor any of its agencies, agents, employees, or representatives, while engaging in any disaster response activities, while complying with or attempting to comply with the provisions of this Ordinance, or with any rules or regulations promulgated pursuant to the provisions of this Ordinance, shall be liable for the death or injury to persons or damage to property as a result of such activities. The provisions of this Ordinance shall not affect the right of any person to receive benefits which would otherwise be available under the worker's compensation law, or under any pension law, nor the right of such person to receive any benefit or compensation under any act of Congress or the General Assembly of the State.

Section 2. Upon the effective date of this ordinance, and until April 30, 2014, notwithstanding any Town ordinance, resolution, rule, regulation or policy to the contrary, the Mayor shall have the authority on behalf of the Town to enter into contracts for the purchase of materials and services of up to \$25,000 for the purpose of flood response, recovery and rebuilding relating to Town services (whether provided directly or through intergovernmental agreement) and Town-owned buildings, properties, streets, utilities and infrastructure if funds for said purchases are available and appropriated. Nothing herein shall authorize the Mayor to sell or convey any Town-owned property; provided however, the Mayor may enter into temporary license agreements for the use of Town-owned property for flood response, recovery and rebuilding purposes. Nothing herein shall authorize the Mayor to borrow money or incur indebtedness on behalf of the Town or to expend or contract to expend any money, incur any liability, or enter into any contract which, by its terms, involves the expenditures of money in excess of the amounts appropriated. Any contract authorized pursuant to Section 2 of this Ordinance shall be signed by the Mayor and attested by the Town Clerk. The Board of Trustees, by subsequent ordinance, may shorten, extend, or amend the contracting authority granted to the Mayor pursuant to this Section 2.

Section 3. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declares it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.


Section 4. All other ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. The Board of Trustees herewith finds, determines and declares that this ordinance is genuinely and urgently necessary for the immediate preservation of the public health, safety and welfare because the Town experienced torrential rainfall and massive flooding beginning on September 11, 2013 and continuing for several days thereafter, with vast areas of public and private property inundated, public infrastructure providing water, sewer, and power temporarily cut off if not permanently destroyed, many local roads and ~~dozens of~~ bridges damaged or destroyed, many residents dislocated and evacuated, and many homes damaged or destroyed and an urgent need exists to define and clarify responsibilities for emergency management response. The Board of Trustees further finds that destruction of property and roads in and around the Town makes it difficult for the Board of Trustees to expeditiously conduct meetings and finds it necessary to authorize the Mayor to enter into certain contracts for flood relief, recovery and rebuilding. Therefore, the Board of Trustees herewith further finds, determines and declares that it is necessary for this ordinance to take effect immediately upon adoption, provided the same has been adopted and signed by the Mayor and approved by three-fourths of the entire Board of Trustees.

Section 6. All actions heretofore taken (not inconsistent with the provisions of this ordinance) by the Mayor, Trustees, Town Clerk, officers and employees of the Town and otherwise take by the Town directed toward flood relief, recovery and rebuilding are hereby ratified, approved and confirmed.

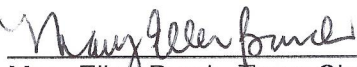
INTRODUCED, READ, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE AND ORDERED PUBLISHED BY TITLE ONLY this 7th day of October, 2013.

TOWN OF JAMESTOWN, COLORADO



Tara Schoedinger, Mayor

ATTEST:



Mary Ellen Burch, Town Clerk