

1 ALACHUA COUNTY  
2 BOARD OF COUNTY COMMISSIONERS  
3

4 **ORDINANCE NO. 2016-\_\_\_\_**  
5

6 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS  
7 OF ALACHUA COUNTY, FLORIDA, AMENDING CHAPTER 27 OF  
8 THE ALACHUA COUNTY CODE OF ORDINANCES, ENTITLED  
9 "EMERGENCIES," ARTICLE I, ENTITLED "IN GENERAL,"  
10 AMENDING DEFINITIONS AND CREATING DEFINITIONS OF  
11 LOCALIZED AND GENERAL COUNTY EMERGENCY;  
12 ESTABLISHING STATUTORY AUTHORITY; ESTABLISHING A  
13 PROCESS FOR DECLARATIONS OF STATES OF EMERGENCY AND  
14 DESIGNATION OF AN OFFICIAL AUTHORITY TO ACT DURING  
15 DECLARED EMERGENCIES; ESTABLISHING POWERS AND  
16 DUTIES OF THE OFFICIAL AUTHORITY; ESTABLISHING POWERS  
17 AND DUTIES OF THE BOARD; ESTABLISHING POWERS AND  
18 DUTIES OF THE COUNTY MANAGER; ESTABLISHING THE  
19 POSITION OF EMERGENCY MANAGEMENT DIRECTOR AND THE  
20 POWERS AND DUTIES OF THE DIRECTOR; PROHIBITING  
21 EXORBITANT OR EXCESSIVE PRICING DURING DECLARED  
22 EMERGENCIES; PROVIDING FOR REPEALING CLAUSE,  
23 MODIFICATION AT PUBLIC HEARING, SEVERABILITY,  
24 INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.  
25

26 WHEREAS, Section 252.38, Florida Statutes, provides that the safeguarding of the life  
27 and property of its citizens is an innate responsibility of the governing body of each political  
28 subdivision of the state; and

29 WHEREAS, the County adopted its initial Emergency Management ordinance on January  
30 7, 1986, pursuant to Ordinance 86-1; and

31 WHEREAS, because of the existing and continuing possibility of the occurrence of  
32 natural, man-made and technological disasters or emergencies and destruction resulting  
33 therefrom, and in order to ensure the readiness of Alachua County to adequately address such  
34 disasters and generally provide for the protection of the public health, safety, and welfare, as well  
35 as to preserve the lives and property of the people of Alachua County, the County now desires to  
36 amend its Emergency Management ordinance.

1 NOW, THEREFORE, BE IT DULY ORDAINED BY THE BOARD OF COUNTY  
2 COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:

3 SECTION 1. Chapter 27, entitled “EMERGENCIES”, Article I, entitled “IN GENERAL,  
4 of the Code of Alachua County, Florida is hereby amended as follows:

5 **Sec 27.01. Definitions.**

6 As used in this Article the following words and terms shall have the meanings  
7 respectively ascribed.

8  
9 (1) Alachua County Emergency Management means the organization created in  
10 accordance with the provisions of F.S. §§ 252.31—252.91 to discharge the emergency  
11 management responsibilities and functions of Alachua County, directed by the Emergency  
12 Management Director, subject only to the direction and control of the Board acting through the  
13 County Manager.

14  
15 (2) Board means the Alachua County Board of County Commissioners.

16  
17 (3) County Manager means the County Manager duly appointed by the Alachua  
18 County Board of County Commissioners or, in the Manager’s absence, any individual  
19 designated, in writing, to act in his/her stead during the course of that absence.

20  
21  
22 ~~(4)~~(4) Disaster means any natural, technological, or civil emergency that causes damage  
23 of sufficient severity and magnitude to result in a declaration of a state of emergency by ~~a~~  
24 county Alachua County, the Governor, or the President of the United States. Disasters shall be  
25 identified by the severity of resulting damage, as follows:

26  
27 a. Catastrophic disaster means a disaster that will require Alachua County to  
28 seek massive state and federal assistance, including immediate military involvement.

29  
30 b. Major disaster means a disaster that will likely exceed ~~local~~ Alachua  
31 County’s capabilities and require a broad range of state and federal assistance.

32  
33 c. Minor disaster means the disaster that is likely to be within the response  
34 capabilities of ~~local government~~ Alachua County and to result in only a minimal need for state or  
35 federal assistance.-

36  
37 ~~(2)~~(5) - Emergency means any occurrence, or threat thereof, whether natural,  
38 technological or manmade, in war or in peace, which results or may result in substantial injury or  
39 harm to the population or substantial damage to or loss of property.

1 | ~~(3)(6)~~—Emergency management means the preparation for, the mitigation of, the  
2 response to, and the recovery from emergencies and disasters. Specific emergency management  
3 responsibilities include, but are not limited to:

4  
5 a. Reduction of vulnerability of people and communities of this state to  
6 damage, injury, and loss of life and property resulting from natural, technological, or manmade  
7 emergencies, catastrophes or hostile military or paramilitary action.

8  
9 b. Preparation for prompt and efficient response and recovery to protect lives  
10 and property affected by emergencies, rescue, care, and treatment of persons victimized or  
11 threatened by disasters.

12  
13 c. Response to emergencies using all systems, plans, and resources necessary  
14 to preserve adequately the health, safety, and welfare of persons or property affected by the  
15 emergency.

16  
17 d. Recovery from emergencies by providing for the rapid and orderly start of  
18 restoration and rehabilitation of persons and property affected by emergencies.

19  
20 e. Provision of an emergency management system embodying all aspects of  
21 pre-emergency preparedness and post emergency response, recovery, and mitigation.

22  
23 f. Assistance in anticipation, recognition, appraisal, prevention, and  
24 mitigation of emergencies which may be caused or aggravated by inadequate planning for, and  
25 regulation of, public and private facilities and land use.

26  
27 ~~(4) Local emergency management agency means an organization created in~~  
28 ~~accordance with the provisions of F.S. §§ 252.31—252.91 to discharge the emergency~~  
29 ~~management responsibilities and functions of a political subdivision.~~

30  
31 ~~(7) General County Emergency means an emergency which affects the entire county.~~  
32 ~~Examples of county-wide emergencies include, but are not limited to, hurricanes, tropical storms,~~  
33 ~~large flood events, and acts of war or sedition.~~

34  
35 ~~(8) Localized County Emergency means an emergency that affects only a small part~~  
36 ~~of the county. Examples of localized emergencies include, but are not limited to, small plane~~  
37 ~~crashes, hazardous material spills, wildfires and leaking gas mains.~~

38  
39 ~~(59) Manmade emergency means an emergency caused by an action against persons or~~  
40 ~~society, including, but not limited to, enemy attack, sabotage, terrorism, civil unrest, or other~~  
41 ~~action impairing the orderly administration of government.~~

42  
43 ~~(610) Natural emergency means an emergency caused by a natural event, including, but~~  
44 ~~not limited to, a hurricane, storm, fire, flood, severe wave action, drought, or earthquake.~~  
45

1 | (11) Plan means the Alachua County Comprehensive Emergency Management Plan or  
2 | its successor, as adopted by resolution by the Board from time to time, and approved by the  
3 | Florida Division of Emergency Management.

4 |  
5 | (712) Technological emergency means an emergency caused by a technological failure  
6 | or accident, including, but not limited to, an explosion, transportation accident, radiological  
7 | accident, or chemical or other hazardous material incident.

8 |  
9 | (813) Volunteer means contributing service, equipment or facilities to the emergency  
10 | management agency without remuneration or without formal agreement or contract of hire.  
11 | Persons engaged in such services have the same immunities as persons and employees of the  
12 | county performing similar duties.

13 |  
14 | **Sec. 27.02. ~~Penalty~~Penalties.**

15 | Any person convicted of a violation of, or failure to comply with, any of the provisions of  
16 | this chapter shall be punished for a violation of this Code. In addition to the foregoing, and after  
17 | reasonable due process considerations, nothing herein shall prohibit the ~~board of county-~~  
18 | ~~commissioners~~Board or its designee from also suspending or revoking any license or permit  
19 | previously issued by the ~~board~~County to any violator. Nothing herein shall prevent the ~~board-~~  
20 | Board from taking such other lawful action ~~in any court of competent jurisdiction~~ as is necessary  
21 | to prevent or remedy any refusal to comply with, or violation of, this chapter or the emergency  
22 | measures which may be made effective pursuant hereto.

23 |  
24 | **Sec. 27.03. ~~Authority; P~~urpose of chapter.**

25 |  
26 | Chapter 252, Florida Statutes, authorizes the waiver of procedures and formalities otherwise  
27 | required of political subdivisions to take whatever prudent action is necessary to ensure the  
28 | health, safety, and welfare of the community in the event of a state of emergency. In accordance  
29 | with and pursuant to this authority, the Board hereby establishes emergency management  
30 | regulations to provide effective and orderly governmental control and coordination of emergency  
31 | operations. It is the intent of this Article to ensure that preparations of the County will be  
32 | adequate to deal with, reduce vulnerability to, and to recover from emergencies, or threats  
33 | thereof, in order to safeguard the life and property of its citizens, the county to designate a  
34 | county official to declare ~~a local~~states of emergency and issue orders in the event of a ~~natural or~~  
35 | ~~manmade~~ disaster or emergency, or the imminent threat thereof, and to authorize certain actions  
36 | relating thereto.

37 |  
38 | **Sec. 27.04. - Territorial jurisdiction.**

39 | This chapter shall be applicable and enforceable throughout the entire geographical area of  
40 | the county.

41 |  
42 | **Sec. 27.05. - Chapter to be liberally construed.**

43 | This chapter shall be liberally construed in order to carry out the purposes hereof effectively.  
44 | Such purposes are deemed to be in the best interest of the public health, safety, and welfare of  
45 | the citizens and residents of the county.

1 **Sec. 27.06. - Conflicting provisions.**

2 In the event this chapter conflicts with any other ordinance of the county or other applicable  
3 law, the more restrictive shall apply.  
4

5 **Sec. 27.07. - Declarations of local state of emergency; general; localized -- Procedure--**  
6 **Authority.**

7 ~~Chapter 252, Florida Statutes, authorizes the waiver of procedures and formalities otherwise~~  
8 ~~required of political subdivisions to take whatever prudent action is necessary to ensure the~~  
9 ~~health, safety, and welfare of the community in the event of a state of emergency. The chairman~~  
10 ~~of the board of county commissioners, the vice chairman in his absence, or the county~~  
11 ~~administrator, or his designee, in the absence of the chairman and vice chairman may declare a~~  
12 ~~local state of emergency whenever such person shall determine that a natural or manmade~~  
13 ~~disaster or emergency has occurred, or that the occurrence or threat of one is imminent and~~  
14 ~~requires immediate and expeditious action.~~

15  
16 (1) A state of emergency shall be declared by proclamation of an official authority as  
17 designated in this section. The duration of a state of emergency shall be limited to seven days;  
18 however, it may be extended, as necessary, in seven day increments by the same procedure as set  
19 forth in this section. Upon finding that the threat no longer exists, the board, or, if a quorum of  
20 the board is unable to meet, an official authority, may, by proclamation, terminate the state of  
21 emergency in the same manner as declaration.

22  
23 (2) A proclamation declaring a state of emergency shall activate the Plan and shall be  
24 the authority for use or distribution of any supplies, equipment, materials, and facilities  
25 assembled or arranged to be made available pursuant to such Plan.

26  
27 (3) If a state of emergency is declared in the county, the County Manager may  
28 request state assistance or invoke emergency-related mutual-aid assistance where the  
29 circumstances warrant such action.

30  
31 (4) Declaration of general emergency. A general state of emergency may only be  
32 declared by a special meeting of the Board. If, after reasonable effort, a special emergency  
33 meeting cannot be convened, then a state of emergency may be proclaimed by the Official  
34 Authority. The Official Authority shall be the Board Chair, or, in the absence of the Chair, the  
35 Vice-Chair, or, in the absence of both the Chair and Vice-Chair, any available commissioner. In  
36 the event neither the Chair, nor the Vice-Chair, nor any other commissioner can be located, the  
37 Official Authority shall be the County Manager, or the next available assistant county manager,  
38 or the next available county officer, official or employee who has been identified in the order of  
39 succession as provided herein shall be the Official Authority.

40  
41 (5) Declaration of localized emergency. The Board hereby designates the County  
42 Manager as the Official Authority during a Localized County Emergency, and authorizes the  
43 County Manager to carry out all emergency management functions required by such emergency.  
44 In the event the County Manager cannot be located, the Official Authority shall be the next  
45 available assistant county manager, or the next available county officer, official or employee  
46 who has been identified in the order of succession as provided herein. The duration of each  
47 localized state of emergency shall be no longer than that necessary to ensure the health, safety

1 and welfare of the population, but in no event shall such declaration exceed seven days. A  
2 localized state of emergency may be extended in increments of up to seven days pursuant to the  
3 procedure set forth in Subsection (4).

4  
5  
6 (6) Order of Succession. The County Manager shall identify the specific order of  
7 succession and shall advise the Board of this succession annually, and whenever any changes are  
8 made to the order of succession.

9  
10 (7) Nothing in this chapter shall be construed to limit the authority of the ~~board of~~  
11 ~~county commissioners~~Board to declare or terminate a ~~local~~ state of emergency and take any  
12 action authorized by law when sitting in regular or special session. Nothing in this chapter shall  
13 be construed to limit, modify, or abridge the authority of the President of the United States of  
14 America, or the governor of the state, to proclaim martial law or exercise any other powers  
15 vested in him under the constitution, statutes, or common law of the United States of America, or  
16 the state, independent of or in conjunction with any federal disaster and emergency management  
17 provisions of Part I, Chapter 252, Florida Statutes.

18  
19 **Sec. 27.08. ~~Same—Procedure; termination of state of emergency Official Authority;~~**  
20 **general powers and duties..**

21 ~~A local state of emergency shall be declared by proclamation of the chairman of the board,~~  
22 ~~or the vice chairman in his absence, or the county administrator in the absence of the chairman~~  
23 ~~and vice chairman. The local state of emergency shall continue until the chairman, or vice~~  
24 ~~chairman in his absence, or the county administrator in the absence of the chairman and vice~~  
25 ~~chairman, determines that the threat or danger no longer exists and/or until an emergency~~  
26 ~~meeting of a quorum of the board can take place and formally terminate the local state of~~  
27 ~~emergency by proclamation.~~

28  
29 (1) In addition to any other powers conferred by law, rule, regulation or other  
30 ordinances, upon the declaration of a state of emergency, an Official Authority, as designated in  
31 Section 27.07, may impose by executive order any or all of the following restrictions:

32  
33 a. Suspend or limit the sale, dispensing, or transportation of alcoholic  
34 beverages, firearms, explosives, and combustibles, or;

35  
36 b. Prohibit or regulate any demonstration, parade, march, vigil, or  
37 participation therein from taking place on any public right-of-way or upon any public property;

38  
39 c. Prohibit or regulate the sale or use of gasoline, kerosene, naphtha, or any  
40 other explosive or flammable fluids or substances altogether, except by delivery into a tank  
41 properly affixed to an operable vehicle;

42  
43 d. Prohibit or regulate the participation in or carrying on of any business  
44 activity and prohibit or regulate the keeping open of places of business, places of entertainment,  
45 and any other places of public assembly;

1 e. Prohibit or regulate travel upon any public street, highway, or upon any  
2 other public property. Persons in search of medical assistance, food, or other commodity or  
3 service necessary to sustain the well-being of themselves or their families, or some member  
4 thereof, may be exempted/excepted from such prohibition or regulation;

5  
6 f. Impose a curfew upon all or any portion of the county, thereby prohibiting  
7 persons from being on public streets, highways, parks, or other public places during the hours the  
8 curfew is in effect;

9  
10 g. Prohibit state and/or local business licensees, vendors, merchants, and any  
11 other person operating a retail business from charging more than the normal average retail price  
12 for any goods, materials, or services sold during a declared state of local emergency, except  
13 when the wholesale price or the cost of obtaining the merchandise is increased as a result of the  
14 local emergency. The average retail price, as used herein, is defined to be that price which is the  
15 average of any two prices for similar goods, material, or services sold during the 12 months  
16 immediately preceding the declared state of emergency; and

17  
18 h. Prohibit any person, firm, or corporation from using public fresh water  
19 supplies for any purpose other than cooking, drinking, or bathing.

20  
21 i. Declare certain areas off limits.

22  
23 j. Direct or compel the evacuation of all or part of the population from any  
24 affected or threatened part of the county.

25  
26 (2) The executive orders of an official authority may exempt, from all or part of any  
27 restrictions, physicians, nurses, and ambulance operators performing medical services; on-duty  
28 employees of hospitals and other medical facilities; on-duty military personnel; bona fide  
29 members of the news media; personnel of public utilities maintaining essential public services;  
30 county authorized and requested firefighters, law enforcement officers and emergency response  
31 personnel; and such other classes of persons as may be essential to the preservation of public  
32 order or necessary to serve safety, health, and welfare needs of the people within the county.

33  
34 (3) Pursuant to F.S. § 252.46(2), all executive orders and emergency rules imposed  
35 and enacted by an official authority pursuant to this article shall be reduced to writing as soon as  
36 possible, filed with the office of the clerk to the Board, and concurrently posted prominently  
37 upon the premises then serving as the headquarters of county governmental operations. Further,  
38 copies of all such executive orders and emergency rules shall be delivered, as soon as possible to  
39 representatives of the print and electronic news media and all appropriate law enforcement  
40 officers and other appropriate government administration officials.

41  
42 (4) Content of orders and rules. All executive orders and emergency rules issued  
43 under this section shall indicate the nature of the emergency, the threatened area or areas of the  
44 county, and the conditions creating the disaster or threat. The content of such orders shall be  
45 promptly disseminated to the general public and to the governing bodies of the applicable  
46 municipalities within Alachua County and contiguous counties.

1  
2 (5) In ordering and promulgating any executive order, the official authority shall rely  
3 on the advice and input from available county staff, as well as state and federal  
4 disaster/emergency management officials. Such executive orders shall be limited to those  
5 necessary to eliminate or contain conditions that threaten the health, safety, or welfare of the  
6 citizens of the county  
7

8 **Sec. 27.09. - ~~Disaster emergency plans.~~**

9 ~~A proclamation declaring a local state of emergency shall activate the disaster emergency plans~~  
10 ~~applicable to the county and shall be the authority for use or distribution of any supplies,~~  
11 ~~equipment, materials, and facilities assembled or arranged to be made available pursuant to such~~  
12 ~~plans.~~  
13

14 **Sec. 27.10. - Emergency measures Board; general powers and duties.**

15 (1) ~~In addition to any other powers conferred by law, rule, regulation, or other~~  
16 ~~ordinances, upon the declaration of a local state of emergency pursuant to this chapter, the~~  
17 ~~chairman, or the vice chairman in his absence, or the county administrator, or his designee, in the~~  
18 ~~absence of the chairman and vice chairman, may order and promulgate any emergency measures~~  
19 ~~to be effective during the period of a duly proclaimed local state of emergency, with such~~  
20 ~~limitations and conditions as he may deem appropriate in order to protect the health, safety, and~~  
21 ~~welfare of the community, as well as to preserve the lives and property of the people of the~~  
22 ~~county. In ordering and promulgating the subject emergency measures, the chairman, or in his~~  
23 ~~absence the vice chairman, or the county administrator in the absence of both the chairman and~~  
24 ~~vice chairman, shall rely on the advice and input from available county staff, as well as state and~~  
25 ~~federal disaster/emergency management officials. Such emergency measures shall be limited to~~  
26 ~~those necessary to eliminate or contain conditions that threaten the health, safety, or welfare of~~  
27 ~~the citizens of the county.~~  
28

29 (2) ~~The board of county commissioners~~Board shall, in addition to any other powers  
30 conferred by law, rule, regulation or other ordinances, have the power and authority to waive the  
31 procedures and formalities otherwise required by law pertaining to:  
32

- 33 a. The performance of public work and taking whatever prudent action is  
34 necessary to ensure the health, safety and welfare of the community.
- 35
- 36 b. Entering into contracts.
- 37
- 38 c. Incurring of obligations.
- 39
- 40 d. Employment of permanent and temporary workers.
- 41
- 42 e. Utilization of volunteer workers.
- 43
- 44 f. Rental of equipment.
- 45
- 46 g. Acquisition and distribution, with or without compensation, of supplies,  
47 materials, and facilities.



1  
2 h. Appropriation and expenditure of public funds.

3  
4 (32) The ~~board of county commissioners~~Board shall, in addition to any other powers  
5 conferred by law, rule, regulation or other ordinances, have the power and authority to:

6  
7 a. Determine that a threat to public health and safety may result from the  
8 generation of widespread debris throughout the county, using any of the following criteria:

9  
10 1. That such debris constitutes a hazardous environment for modes of  
11 movement and transportation of the residents as well as emergency aid and relief services;

12  
13 2. That such debris may endanger properties in the county;

14  
15 3. An environment conducive to breeding disease and vermin;

16  
17 4. Greatly increased risk of fire; and

18  
19 5. That it is in the public interest to collect and remove disaster debris  
20 from property whether public or private lands, or public or private roads, ~~and within gated~~  
21 ~~communities~~ to eliminate any immediate threat to life, public health and safety;

22  
23 6. To reduce the threat of additional damage to improved property;  
24 and

25  
26 7. To promote economic recovery of the community at large.

27  
28 b. With the consent of the property owner, authorize the county or its  
29 contracted agents the right of access to private property and roads or gated communities as  
30 needed by emergency vehicles such as, but not limited to, police, fire, medical care, debris  
31 removal, and sanitation to alleviate immediate threats to public health and safety and to provide  
32 emergency repairs to vital infrastructure assets.

33  
34 c. With the consent of the property owner, authorize the removal of debris  
35 and wreckage resulting from a major disaster from property whether public or private lands,  
36 public or private roads, or within gated communities for safe and sanitary living or functioning  
37 conditions.

38  
39 d. Authorize the removal of derelict vessels from public water bodies  
40 pursuant to current Statutes of the State of Florida and in conjunction with the Florida Fish and  
41 Wildlife Conservation Commission.

42  
43 e. Authorize the removal of abandoned vehicles pursuant to current Statutes  
44 of the State of Florida and in conjunction with law enforcement of the county and state.  
45

1 f. Authorize the temporary suspension of the enforcement of the Alachua  
2 County Code, where the emergency is of such nature that immediate action outside the Code is  
3 required.  
4

5 **Sec. 27.10. - County Manager; general powers and duties.**

6 The County Manager shall, in addition to any other powers conferred by law, rule,  
7 regulation or other ordinances, have the authority to take appropriate emergency measures  
8 without further Board action. Appropriate measures include, but are not limited to:  
9

10 (1) Appropriate and expend funds; make contracts; obtain and distribute equipment,  
11 materials, and supplies for emergency management purposes; provide for the health and safety of  
12 persons and property, including emergency assistance to the victims of any emergency; and  
13 direct and coordinate the development of emergency management plans and programs in  
14 accordance with the policies and plans set by the federal and state emergency management  
15 agencies.  
16

17 (2) Appoint, employ, remove, or provide, with or without compensation,  
18 coordinators, rescue teams, fire and police personnel, and other emergency workers.  
19

20 (3) Establish, as necessary, a primary and one or more secondary emergency operating  
21 centers to provide continuity of government and direction and control of emergency operations.  
22

23 (4) Assign and make available for duty the offices and agencies of the county, including  
24 employees, property or equipment thereof relating to firefighting, engineering, rescue, health,  
25 medical and related services, police, transportation, construction, and similar items that are  
26 services for emergency operation purposes, as the primary emergency management forces of the  
27 county for development within or outside the political limits of the county.  
28

29 (5) Perform public work in taking whatever prudent action is necessary to insure the  
30 health, safety and welfare of the community;  
31

32 (6) Utilize all available resources of the county government as reasonably necessary  
33 to cope with the disaster emergency, including emergency expenditures;  
34

35 (7) Make provisions for availability and use of temporary emergency housing and  
36 emergency warehousing of materials;  
37

38 (8) Establish shelters in addition to, or in place of, those provided for in the County's  
39 Plan;  
40

41 (9). Enter into contracts;  
42

43 (10) Incur obligations;  
44

45 (11) Employ permanent and temporary workers;  
46

47 (12) Utilize voluntary workers;

1  
2       (13) Rent equipment;

3  
4       (14) Acquire and distribute, with or without compensation, supplies, materials, and  
5 facilities;

6  
7       (15) Authorize expenditure of public funds.

8  
9       (16) Acquire merchandise, equipment, vehicles, or property needed to alleviate the  
10 emergency, and;

11  
12       (17) In the absence of a quorum of the board, absence of the Chair, absence of the Vice  
13 Chair and absence of any other county commissioner, the County manager may call on the  
14 National Guard or other law enforcement divisions, in consultation with the Alachua County  
15 Sheriff, and request state and federal assistance as necessary to assist in the mitigation of the  
16 emergency, or to help maintain law and order, rescue assistance, and traffic control.

17  
18 Nothing within this section shall be construed to limit the usual powers and duties of the County  
19 Manager as conferred on him by the Board and under Alachua County's Charter.

20  
21 **~~Sec. 27.10.5. – Price gouging.~~**

22       ~~During the state of local emergency, it shall be unlawful and an offense against Alachua~~  
23 ~~County, for any person, firm, corporation, or entity operating within the county, to charge an~~  
24 ~~unconscionable price for rental or lease of any dwelling unit or self storage facility, or~~  
25 ~~commodities such as any materials, merchandise, goods, or services necessary for consumption~~  
26 ~~or use as a direct result of the emergency. It is prima facie evidence that a price is~~  
27 ~~unconscionable if:~~

28  
29       ~~(1) — The amount charged represents a gross disparity between the price of the~~  
30 ~~commodity or rental or lease of any dwelling unit or self storage facility that is the subject of the~~  
31 ~~offer or transaction, and the average price at which that commodity or dwelling unit or self~~  
32 ~~storage facility was rented, leased, sold, or offered for rent or sale in the usual course of business~~  
33 ~~during the 30 days immediately prior to a declaration of a state of local emergency, and the~~  
34 ~~increase in the amount charged is not attributable to additional costs incurred in connection with~~  
35 ~~the rental or sale of the commodity or rental or lease of any dwelling unit or self storage facility,~~  
36 ~~or national or international market trends; or~~

37  
38       ~~(2) — The amount charged grossly exceeds the average price at which the same or~~  
39 ~~similar commodity was readily obtainable in the trade area during the 30 days immediately prior~~  
40 ~~to a declaration of a state of local emergency, and the increase in the amount charged is not~~  
41 ~~attributable to additional costs incurred in connection with the rental or sale of the commodity or~~  
42 ~~rental or lease of any dwelling unit or self storage facility, or national or international market~~  
43 ~~trends.~~

1 **Section 27.11. – Emergency Management Director; general powers and duties.**  
2

3 (1) There is established the position of Emergency Management Director, which, for  
4 the purpose of this Section shall be referred to as Director. The Director shall supervise the day-  
5 to-day operations of the Emergency Management Division. The Director shall be designated by,  
6 serve at the pleasure of and be subject to the direction and control of, the County Manager. The  
7 Director shall have those responsibilities as designated by the County Manager consistent with  
8 Section 27.10, and those enumerated in F.S.§252.38 for directors of County emergency  
9 management agencies, including, but not limited to direct responsibility for the structure,  
10 administration, and operation of the Emergency Management Division; coordination of  
11 emergency management activities, services, and programs within the County; and shall serve as  
12 a liaison to the State Division of Emergency Management, or its successor, and to other local  
13 emergency management agencies and organizations.

14 (2) The Director or designee shall monitor and advise the Chair and the Manager of  
15 any threat, emergency or disaster that may pose a risk to the lives and safety of the population of  
16 Alachua County, and the protective actions the County may take to safeguard life and property,  
17 which actions may include compelling the evacuation of all or part of the population from the  
18 affected or threatened area within the County.

19 (3) Upon declaration of a state of emergency, the Director or designee will serve as  
20 the County Coordinating Officer and shall direct all activities of the Emergency Operations  
21 Center.

22 **Section 27.12 Imposition or demand of exorbitant or excessive price during shortages**  
23 **created during declared emergencies.**  
24

25 (1) Findings of fact. The Board does hereby find:  
26

27 a. During periods of local and state emergency, sources of fuel, medicine,  
28 food, building supplies or other necessities are sometimes destroyed, damaged or otherwise  
29 severely restricted in supply.  
30

31 b. During periods of local and state emergency unscrupulous opportunists  
32 may take advantage of the citizens of the county who require the above described necessities to  
33 sustain themselves by requiring the payment of excessive or unconscionable prices to provide  
34 services and various commodities needed by the victims of a natural or manmade disaster.  
35

36 c. The board finds it appropriate and in the interest of the health, safety and  
37 welfare of the citizens of the county to protect potential victims of unscrupulous pricing practices  
38 from those that would take advantage of citizens needing services and commodities as a result of  
39 a natural or manmade disaster.  
40

41 (2) As used in this section:  
42

43 a. Commodity means any goods, services, materials, merchandise, supplies,  
44 equipment, resources, or other article of commerce, and includes, without limitation, food, water,

1 ice, chemicals, petroleum products, and lumber necessary for consumption or use as a direct  
2 result of the emergency.

3  
4 b. It is prima facie evidence that a price is unconscionable if:

5  
6 1. The amount charged represents a gross disparity between the price  
7 of the commodity or rental or lease of any dwelling unit or self-storage facility that is the subject  
8 of the offer or transaction and the average price at which that commodity or dwelling unit or self-  
9 storage facility was rented, leased, sold, or offered for rent or sale in the usual course of business  
10 during the 30 days immediately prior to a declaration of a state of emergency, unless the increase  
11 in the amount charged is attributable to additional costs incurred in connection with the rental or  
12 sale of the commodity or rental or lease of any dwelling unit or self-storage facility, or regional,  
13 national or international market trends; or

14  
15 2. The amount charged grossly exceeds the average price at which the  
16 same or similar commodity was readily obtainable in the trade area during the 30 days  
17 immediately prior to a declaration of a state of emergency, unless the increase in the amount  
18 charged is attributable to additional costs incurred in connection with the rental or sale of the  
19 commodity or rental or lease of any dwelling unit or self-storage facility, or regional, national or  
20 international market trends.

21  
22 (3) Prohibition against unconscionable prices.

23  
24 a. Upon a declaration of a state of emergency by the governor and/or upon  
25 declaration of a state of emergency pursuant to this chapter, it is a violation of this section for a  
26 person or his or her agent or employee to rent or sell or offer to rent or sell at an unconscionable  
27 price within the area for which the state of emergency is declared, any essential commodity,  
28 including but not limited to, supplies, services, provisions or equipment that is necessary for  
29 consumption or use as a direct result of the emergency. This prohibition remains in effect until  
30 the direct declaration expires or is terminated.

31  
32 b. It is a violation of this section for any person to impose unconscionable  
33 prices for the rental or lease of any dwelling unit or self-storage facility during a period of  
34 declared state of emergency.

35  
36 c. A price increase approved by an appropriate government agency shall not  
37 be in violation of this section.

38  
39 d. This section shall not apply to sales by growers, producers, or processors  
40 of raw or processed food products, except for retail sales of such products to the ultimate  
41 consumer within the area of the declared state of emergency.

42  
43 e. During a declared emergency and when there is an allegation of price  
44 gouging against the person, failure to possess a business tax receipt pursuant to Chapter 205,  
45 Florida Statutes, constitutes reasonable cause to detain the person, provided that the detention  
46 shall only be made in a reasonable manner and only for a reasonable period of time sufficient for

1 an inquiry into the circumstances surrounding the failure to possess a tax receipt. During a  
2 declared emergency, this subsection does not apply to religious, charitable, fraternal, civic,  
3 educational, or social organizations.

4  
5 (4) Enforcement.

6  
7 1. All law enforcement agencies, including but not limited to the Alachua  
8 County Sheriff's Office, the Gainesville, Alachua and High Springs Police Departments are  
9 hereby authorized to take all necessary legal measures to curtail violations of this section.

10  
11 2. Any person subject to any violation of this section shall be entitled to seek  
12 such relief or remedies as are provided for in chapter 501, part II, F.S., or other laws of the state.

13  
14 3. Nothing in this section creates a private cause of action in favor of any  
15 person damaged by a violation of this section.

16  
17 (5) Incorporation of § 501.160, F.S., and ch. 501 et seq., Florida Deceptive and  
18 Unfair Trade Practices Act. All sections and provisions of § 501.160, F.S., and ch. 501, part II,  
19 F.S., known as the Florida Deceptive and Unfair Trade Practices Act, are hereby incorporated by  
20 reference.

21  
22 (6) Penalties. If prosecuted pursuant to this section, a person shall be punished for a  
23 violation of this Code. If action is pursued civilly, any person found to have violated this section  
24 shall be subject to the penalties prescribed in § 501.164, F.S., in addition to all other remedies  
25 provided by the Florida Deceptive and Unfair Trade Practices Act. Each transaction made in  
26 violation of this section shall be considered a separate offense.

27  
28 SECTION 2. Repealing Clause. All ordinances or portions thereof in conflict herewith  
29 are, to the extent of such conflict, hereby repealed.

30 SECTION 3. Modification. It is the intent of the Board of County Commissioners that  
31 the provisions of this ordinance may be modified as a result of considerations that may arise  
32 during public hearings. Such modifications shall be incorporated into the final version of the  
33 ordinance adopted by the Board and filed by the Clerk to the Board.

34 SECTION 4. Severability. If any word, phrase, clause, paragraph, section or provision of  
35 this ordinance or the application hereof to any person or circumstance is held invalid or  
36 unconstitutional, such finding shall not affect the other provisions or applications of the  
37 ordinance which can be given effect without the invalid or unconstitutional provisions or

1 application, and to this end the provisions of this ordinance are declared severable.

2 SECTION 5. Inclusion in the Code. It is the intent of the Board of County  
3 Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this  
4 ordinance shall become and be made a part of the Code of Ordinances of Alachua County,  
5 Florida; that the section of this ordinance may be renumbered or re-lettered to accomplish such  
6 intent and that the word “ordinance” may be changed to “section”, “article”, or other appropriate  
7 designation.

8 SECTION 6. Effective Date. This Ordinance shall take effect on the tenth (10<sup>th</sup>) day  
9 following its adoption.

10 DULY ADOPTED in regular session, this \_\_\_ day of \_\_\_\_\_, 2016.

11  
12 BOARD OF COUNTY COMMISSIONERS OF  
13 ALACHUA COUNTY, FLORIDA  
14

15  
16 ATTEST:

17 BY: \_\_\_\_\_  
18 Robert Hutchinson, Chair

19 \_\_\_\_\_  
20 J.K Irby, Clerk

21 APPROVED AS TO FORM

22  
23 \_\_\_\_\_  
24 County Attorney

25 (SEAL)  
26  
27