CHAPTER ___ EMERGENCY MANAGEMENT

SECTION 1. AUTHORITY

Pursuant to NCGS 166A-19 and Chapter 153A, and other applicable law, Caldwell County hereby establishes this Ordinance.

SECTION 2. INTENT AND PURPOSE

(a) The Office of Emergency Management exists to ensure the complete and efficient utilization of all resources of the County in the event of Disaster.

(b) The Office of Emergency Management is the coordinating agency for all activity in connection with emergency management within the County; and will be the agency through which the Board exercises its authority and discharges its responsibilities during states of disaster or local emergency.

(c) This Chapter does not relieve any County department or agency of the responsibilities or authority given to it by State law or by local ordinance, nor will it adversely affect the work of any volunteer agency organized for relief in disaster situations.

(d) This Chapter shall not abridge or modify the authority of the Governor or his or her delegates to implement emergency measures during declared states of disaster.

(e) The Office of Emergency Management is the central coordinating agency for activities and programs relating to emergency and disaster mitigation, preparedness, response and recovery among agencies and officials of the County and with similar agencies and officials of other counties, the state and federal agencies, the City of Lenoir, the Towns of Granite Falls, Hudson, Sawmills, Cajahs Mountain, Gamewell, Village of Cedar Rock, and with other private and quasi-official organizations.

SECTION 3. DEFINITIONS

The following definitions shall apply in the interpretation of this Chapter unless the context clearly indicates or requires a different meaning:

Attack means a direct or indirect, actual, or threatened, assault against the County, its government, or its environs, or against the State or nation, by the forces of a hostile nation or the agents thereof, including but not limited to assault by bombing, conventional, radiological, or nuclear, chemical, or biological warfare, sabotage, cyber-attack or other impending or actual calamity.

Board means the Caldwell County Board of Commissioners.

County means Caldwell County, North Carolina.

Disaster means an occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made accidental, military, or paramilitary cause.

Emergency means any man-made disaster including any condition following an attack by an enemy or foreign nation upon the United States resulting in substantial damage or property or injury to persons and may include the use of bombs, missiles, shell fire, or nuclear, radiological, chemical, or biological means or other weapons or by overt paramilitary actions; terrorism, foreign and domestic; cyber incidents; and any industrial, nuclear, or transportation accident, explosion, conflagration, power failure, resources shortage, or other condition such as sabotage, oil spills, and other injurious environmental contaminations that threaten or cause damage to property, human suffering, hardship, or loss of life; and any natural disaster including any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, communicable disease of public health threat, or other natural catastrophe resulting in damage, hardship, suffering or possible loss of life; and otherwise as defined in NCGS 166A-19.3(6), or other applicable statutes.

Emergency Management means the governmental function which coordinates and integrates all activities to build, sustain, and improve the capability to prepare for, protect against, respond to, recover from, or mitigate against threatened or actual natural disasters, acts of terrorism or other man-made disasters. This includes plans and preparations for minimizing the adverse effect of any kind of Disaster, including prevention, mitigation, warning, response, movement, shelter, emergency assistance and recovery. Any activity that is the primary responsibility of the military forces of the United States is not included.

Emergency Management Forces means the employees, equipment, and facilities of all County departments, boards, councils, and institutions, acting in further in furtherance of the purposes of this Chapter and includes all volunteer personnel, equipment and facilities contributed by or obtained from volunteer persons or agencies while acting in the capacity of emergency management volunteers.

Emergency Management Volunteer means any County or agency contributing a service, equipment, or facilities to an emergency management agency without remuneration and assigned to participate in the emergency management activity.

Hazardous Materials means any material defined as a Hazardous Substance in 29 CFR 1910.120.

Hazardous Materials Incident or Hazardous Materials Emergency means an uncontrolled release or threatened release of a hazardous material requiring assistance to contain, control and clean up the release.

Incident Command System (ICS) means the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure, designed to aid in domestic incident management activities.

Mutual Aid Agreements means written agreements between the County and other governments or entities, including, but not limited to, the furnishing or exchange of such supplies, equipment, facilities, personnel, and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items; and on such terms and conditions as deemed necessary.

National Incident Management System (NIMS) means a system prescribed by the Department of Homeland Security under the direction of Presidential Directive #5 which strengthens response capabilities through a balance between flexibility and standardization, and use of common doctrine, terminology, concepts, principles, and processes. The purpose of NIMS is to provide a consistent nationwide approach for federal, state, and local governments to work effectively and efficiently together to prepare for, prevent, respond to, and recover from domestic incidents, regardless of cause, size, or complexity.

NCGS means the North Carolina General Statutes.

Regulations means plans, programs, and other emergency procedures deemed essential to emergency management.

Responsible Party means a person or entity who directly or indirectly causes the release of a hazardous material, creating a hazardous materials incident, and who shall be liable for all reasonable costs incurred in responding to and mitigating the incident. If the Responsible Party cannot be determined or is unable to pay, the owner of, or person in possession of, hazardous materials at the time of the incident is liable for the costs.

State means the State of North Carolina.

State Law means the laws, regulations, and rules of North Carolina.

SECTION 4. ORGANIZATION AND APPOINTMENTS

(a) Emergency Management consists of the following:

1. The Office of Emergency Management within the Emergency Services Department of County Government, under the direction of the Board, through the County Manager, as authorized by NCGS 166A-19.15. The Emergency Manager works through the Director of Emergency Services.

The assistants and other employees as are deemed necessary by the Board for the proper functioning of the agency shall be appointed.

2. The employees and resources of all County departments, boards, institutions, and councils. The same shall participate in the emergency management activities. Duties assigned to the County departments shall be the same as or like the normal duties of the departments, where possible.

3. Volunteer personnel and agencies offering service to and accepted by the County.

(b) The County Manager shall appoint an Emergency Manager who is well versed and trained in planning operations involving the activities of many different agencies which will operate to protect the public health, safety, and welfare in the event of Disaster.

(c) The Emergency Manager designates deputy managers to assume the emergency duties of the Emergency Manager in the event of absence or disability.

SECTION 5. EMERGENCY POWERS AND DUTIES

(a) The Emergency Manager shall promulgate local emergency management plans and must be approved by the Board, and which are activated whenever a local state of emergency is declared by the Board or Chair pursuant to local ordinance and NCGS 166A-19, or when the Governor of the State declares a state of disaster in all or any part of the County. The local programs and plans must be in accordance with the policies and standards set by the State.

(b) During states of declared disaster or local emergency, the Board may delegate to the Emergency Manager the power to implement additional plans as are necessary for the efficient administration of state or federal disaster plans and for the preservation of public health, safety, and welfare.

(c) During states of declared disaster or local emergency, the Emergency Manager is authorized to utilize all available County resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of County agencies for the purpose of performing or facilitating emergency services in consultation with the County Manager or designee.

SECTION 6. EMERGENCY MANAGER DUTIES AND RESPONSIBILITES

(a) The Emergency Manager shall report to the Board, through the Emergency Services Director and County Manager, regarding all phases of emergency management activity. The Emergency Manager is responsible for the planning, coordination, and operation of emergency management activities in the County. The Emergency Manager shall maintain communication with the state and federal

authorities and the authorities of nearby political subdivisions to ensure the most effective operation of the emergency management plans.

(b) No person shall be employed or associated in any capacity in any emergency management agency established under this Chapter if the person:

1. Advocates or has advocated a change by force or violence in the constitutional form of the government of the United States; or

2. Advocates or has advocated the overthrow of any government in the United States by force or violence; or

3. Has been convicted of any subversive act against the United States; or

4. Is under indictment or information charging any subversive act against the United States.

(c) Duties of the Emergency Manager include, but are not limited to:

1. Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the County for emergency management purposes; and

2. Developing and coordinating plans for the immediate use of all facilities, equipment, manpower, and other resources of the County for the purpose of minimizing or preventing damage to persons and property; and protecting or restoring governmental services and public utilities necessary for the public health, safety, and welfare; and

3. Negotiating and concluding agreements with owners or persons in control of real property for the use of buildings and properties for emergency management purposes, pursuant to the agreements designating suitable buildings as public shelters; and

4. Educating the populace through public information programs about procedures required for the protection of its persons and property in case of disaster, as defined herein; and

5. Conducting public exercises to ensure efficient operation of the emergency management forces and to familiarize residents with emergency management regulations, procedures, and operations; and

6. Coordinating the activity of other public and private agencies engaged in any emergency management activities and implementing state disaster procedures; and

7. Negotiating agreements with other political subdivisions for mutual aid assistance, for approval by the Board, providing such agreements are consistent with the state emergency management program and plans.

SECTION 7. EMERGENCY MANAGEMENT PLANS

(a) Comprehensive emergency management plans shall be adopted and maintained by resolution of the Board. In the preparation of these plans, the services, equipment, facilities, and personnel of all existing departments and agencies shall be fully utilized. When comprehensive emergency management plans are approved, each County department or agency shall perform those functions assigned to it by these plans and always maintain a current state of readiness. The basic emergency operation plan shall have the full effect of local law whenever a State of Emergency or Disaster has been declared.

(b) Emergency Plans must describe the positions within the disaster organization, including lines of succession. In each instance, the responsible person shall designate and file, with the Office of Emergency Management, a current list of 3 people who are successors. The list must be in order of succession and designate people most capable of carrying out all duties and functions assigned to the position. The Emergency Manager will review and must concur on all changes in positions or responsibilities.

(c) Each service chief and department head designated in the basic plan is responsible for carrying out designated duties and functions. Duties include the organization and training of assigned employees and volunteers. Each chief formulates an operating procedure to implement the plan.

(d) Amendments to these plans must be submitted to the Office of Emergency Management. The Emergency Manager may submit proposed amendments and recommendations to the Board. The amendments shall take effect as provided by the Board.

(e) When a skill required for an emergency or disaster relief function is not available within local government, the Emergency Manager is authorized to seek assistance beyond local government resources. Duties of a supervisory nature include implicit authority to carry out the ancillary duties necessary before and after the occurrence of an emergency or disaster for the fulfillment of functions authorized by this Chapter. Services from persons other than government employees may be accepted by local government on a volunteer basis. Such citizens are enrolled as emergency management volunteers subject to approval of the department heads or service chiefs affected.

SECTION 8. HAZARDOUS MATERIALS

(a) The intent and purpose of this Section is to establish the duties of the Office of Emergency Management related to hazardous materials emergencies. Such incidents include, but are not limited to, spills, accidents, illegal dumping, and other releases or threatened releases of hazardous materials requiring control. The Office of Emergency Management has the authority to summarily remove, abate, or remedy hazardous material emergencies within the jurisdiction of the County that are, or potentially are, a threat to public safety.

(b) In the event the County forms a Hazardous Materials Team, the Emergency Manager has the authority to designate another person to coordinate the operations of the team.

(c) Liability for a hazardous material incident lies with the Responsible Party who shall be responsible for all reasonable costs incurred in responding to and mitigating the incident.

SECTION 9. NATIONAL INCIDENT MANAGEMENT SYSTEM RECOGNITION AND COMPLIANCE

(a) The County recognizes the National Incident Management System (NIMS) and adopts the principles and policies of the NIMS to ensure the complete and efficient utilization of all the County's resources to combat disasters.

(b) NIMS principles and policies must be followed by everyone involved during emergencies to provide a comprehensive approach to incident management. The Incident Command System (ICS) is used within the NIMS framework for the handling of any large scale or hazardous materials incident.

(c) The Office of Emergency Management, with guidance from the NIMS Integration Center (NIC), is the coordinating agency for all activity in connection with NIMS.

SECTION 10. NO COUNTY OR PRIVATE LIABILTY

(a) All functions and actions related to emergency management by the County are governmental functions for the protection of public health, safety, and welfare.

(b) The County, its authorized agents and representatives and any individual, receiver, firm, partnership, corporation, association, or trustee, including agents thereof, who in good faith comply with or attempt to comply with this Chapter or rules, or regulations promulgated pursuant to the provisions of this Chapter, shall be liable for the death of or injury to persons, or for damage to property as a result of the activity.

(c) Any person owning or controlling real estate or other premises who voluntarily, and without compensation, grants to the County the right to inspect, designate and use the whole or any part or parts of the real estate for the purpose of sheltering

persons during an actual, impending or practice disaster situation shall not be civilly liable for the death of or injury to any persons on or about the real estate under the license, privilege or permission, or for loss of or damage to the property of the persons.

SECTION 11. VIOLATIONS

Any Person violating this Chapter, or any Section thereof, shall be guilty of a Class 3 misdemeanor and shall be fined not more than $500.00, or imprisoned for not more than 30 days, or both. Each occurrence of a violation shall be treated as a separate occurrence.

SECTION 12. CONFLICTING ORDINANCES, ORDERS, RULES, AND REGULATIONS SUSPENDED

Whenever a declared state of emergency or disaster exists, the provisions of this Chapter shall supersede all local rules and ordinances inconsistent therewith and to the extent permitted by applicable law.