

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LANCASTER COUNTY, NEBRASKA**

DRAFT

**IN THE MATTER OF AUTHORIZING)
THE CHAIR, VICE CHAIR, AND OTHER)
COMMISSIONERS TO DECLARE A)
DISASTER OR EMERGENCY PURSUANT)
TO NEB. REV. STAT. § 81-829.50)**

RESOLUTION No. _____

WHEREAS, Neb. Rev. Stat. § 81-829.50 provides that a local emergency may be declared only by a person who by resolution has been authorized and designated by the governing board of a local government to determine that an emergency within the scope of his or her authorization exists;

WHEREAS, for purposes of the Emergency Management Act, Neb. Rev. Stat. §§ 81-829.36 through 81-829.75 (“Act”), local government means a county, village, or city of any class;

WHEREAS, for purposes of the Act, an “Emergency” means any event or the imminent threat thereof causing serious damage, injury, or loss of life or property resulting from any natural or manmade cause which, in the determination of the person authorized by resolution by the governing board of a local government, requires immediate action to accomplish the purposes of the Act and to effectively respond to the event or threat of the event;

WHEREAS, for purposes of the Act, a “Disaster” means any event or the imminent threat thereof causing widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause;

WHEREAS, pursuant to Neb. Rev. Stat. §§ 22-155 and 23-101, the County of Lancaster is a county of the State of Nebraska;

WHEREAS, Neb. Rev. Stat. § 23-103 provides that the powers of a county as a body corporate or politic shall be exercised by a county board;

WHEREAS, the Lancaster County Board of County Commissioners (“Board”) is the governing

board of the County of Lancaster (“County”); and

WHEREAS, the Board wishes to authorize the Chair, Vice Chair, or other Commissioner of the Board, as provided herein, to declare a disaster or emergency for purposes of the Act when the Chair, Vice Chair, or other Commissioner of the Board, as the case may be, finds that conditions defined as a Disaster or an Emergency exist in the County;

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. The Chair of the of the Board shall be authorized to declare that a local emergency exists in the County pursuant to Neb. Rev. Stat. § 81-829.50 when the Chair finds that conditions defined as a Disaster or an Emergency exist in the County. If, after reasonable attempts to contact the Chair of the Board have failed, then the Vice Chair of the Board shall be authorized to act in lieu of the Chair of the Board for purposes of this Resolution. If, after reasonable attempts to contact both the Chair of the Board and the Vice of the Board have failed, then any Commissioner of the Board shall be authorized to act in lieu of the Chair of the Board for purposes of this Resolution. The Commissioner so authorized shall be referred to as the “Authorized Commissioner” for purposes of this Resolution.
2. A declaration that a local emergency exists shall be embodied in a resolution signed by the Authorized Commissioner. The resolution shall be given prompt and general publicity and shall be filed promptly with the Lancaster County Clerk and the Nebraska Emergency Management Agency. The resolution shall be brought before the Board for ratification at the Board’s next regularly scheduled meeting.
3. A resolution adopted pursuant to this Resolution shall be effective to:
 - a. Activate the response and recovery aspects of any and all applicable County emergency operations plans and to authorize the furnishing of aid and assistance under such plans; and

- b. Allow emergency expenditures, entering into contracts, and incurring obligations for emergency management purposes regardless of existing statutory limitations and requirements pertaining to appropriation, budgeting, levies, or the manner of entering into contracts, PROVIDED that any such expenditure, contract, or obligation in excess of or in violation of existing statutory limitations or requirements first shall be approved by a vote of the Board before any such expenditure, contract, or obligation is undertaken. For purposes of attaining the approval of the Board for any such expenditure, contract, or obligation, the Authorized Commissioner may convene an emergency meeting of the Board pursuant to Neb. Rev. Stat. § 84-1411(5).

DATED this ____ day of _____, 2019.

BY THE BOARD OF COUNTY COMMISSIONERS
OF LANCASTER COUNTY, NEBRASKA

APPROVED AS TO FORM
this ____ day of _____, 2019.

For PATRICK F. CONDON
Lancaster County Attorney

81-829.50. Local emergency; declared; principal executive officer of a local government; effect; interjurisdictional emergency management organization.

(1) A local emergency may be declared only by the principal executive officer of a local government who finds that conditions defined as a disaster or an emergency exist or by a person who by resolution has been authorized and designated by the governing board of a local government to determine that an emergency within the scope of his or her authorization exists. A copy of the resolution shall be filed with the Nebraska Emergency Management Agency to be effective. The proclamation shall continue in effect until the principal executive officer finds that the disaster or emergency has been dealt with to the extent that those conditions no longer exist. The local governing body by resolution may terminate a local state of emergency proclamation at any time, and upon such termination the principal executive officer shall terminate the proclamation. Any order or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed promptly with the clerk of the local government and the Nebraska Emergency Management Agency.

(2) The effect of a declaration of a local emergency shall be to activate the response and recovery aspects of any and all applicable city, village, county, or interjurisdictional emergency operations plans and to authorize the furnishing of aid and assistance under such plans.

(3) No interjurisdictional emergency management organization or official thereof may declare a local emergency unless expressly authorized by the agreement pursuant to which the organization functions, but an interjurisdictional emergency management organization shall provide aid and services in accordance with the agreement and emergency operations plan pursuant to which it functions.

Source: Laws 1973, LB 494, § 15; Laws 1996, LB 43, § 30.

81-829.51. Local government; school district; educational service unit; emergency expenditures; vote of governing body; when.

(1)(a) In the event of a disaster, emergency, or civil defense emergency, each local government may make emergency expenditures, enter into contracts, and incur obligations for emergency management purposes regardless of existing statutory limitations and requirements pertaining to appropriation, budgeting, levies, or the manner of entering into contracts.

(b) In the event of a disaster, emergency, or civil defense emergency, each school district or educational service unit may make emergency expenditures, enter into contracts, and incur obligations for emergency management purposes and to minimize the disruption to education services regardless of existing statutory limitations and requirements pertaining to appropriation, budgeting, or the manner of entering into contracts.

(2) If any such expenditure, contract, or obligation will be in excess of or in violation of existing statutory limitations or requirements, then before any such expenditure, contract, or obligation is undertaken it shall be approved by a vote of the governing body of such local government, school district, or educational service unit. The governing body may not vote its approval unless it has secured a copy of the proclamation as provided in section 81-829.50 from the city, village, county, or interjurisdictional emergency management director serving such local government, school district, or educational service unit. For school districts and educational service units, the proclamation shall be secured from the county in which the school district or principal office of the educational service unit is located.

Source: Laws 1951, c. 315, § 10(2), p. 1081; R.R.S.1943, § 81-829.23; Laws 1973, LB 494, § 16; Laws 1996, LB 43, § 31; Laws 2015, LB283, § 5.