

Section 33-15-17 makes it clear that the Civil Defense Director exercises power under the control and direction of the governing authority that hired the director; and, in the absence of a stated term in a contract the person appointed as Civil Defense Director serves until removed by the appointing authority. In effect, the Director serves at the will and pleasure of the board of supervisors and may be removed in their discretion. Op.Atty.Gen. No. 93-0173, Jones, April 7, 1993.

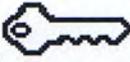
Section 33-15-17 authorizes the County Board of Supervisors, under its emergency management powers, to regulate the mooring of vessels inside the corporate limits of municipalities located within the county. Op.Atty.Gen. No. 94-0361, Meadows, July 15, 1994.

Under Section 33-15-17 a county board of supervisors may impose a curfew that could include all municipalities within the county, without the municipalities having to adopt their own curfew. Op.Atty.Gen. No. 94-0268, Smith, June 2, 1994.

The Harrison County Board of Supervisors, under its emergency powers, may act through its local organization for emergency management, to order the evacuation of boats from marinas along the coast line of Harrison County in the event of an emergency, such as a hurricane. Op.Atty.Gen. No. 98-0560, Meadows, Sept. 4, 1998.

### 3. Construction with other laws

Emergency Management Law authorizing counties and municipalities to enter contracts and incur obligations necessary to combat disaster and assist victims governs in a declared state of emergency and is not to be read in pari materia with statute governing public purchases when an emergency exists in regard to the purchase of any commodities or repair contracts. *Bolivar County v. Wal-Mart Stores, Inc.* (Miss. 1999) 797 So.2d 790, rehearing denied.

Counties  116; Municipal Corporations  235; Public Contracts  123

Despite the declaration of emergency after Hurricane Katrina, the Harrison County Board of Supervisors does not have authority to exercise discretion in the awarding of compensation increases to the Tax Assessor and/or his deputies, where the language of Section 27-3-52 is mandatory, and orders and regulations under Section 33-15-17 may only be issued to protect life and property. Op.Atty.Gen. No. 2005-0551, Meadows, November 14, 2005, 2005 WL 3775659.

### 4. Interlocal agreements

DeSoto County has ample authority to enter into interlocal agreements with the municipalities within the county for emergency management purposes. Whether or not this will render DeSoto County eligible for federal emergency management funds calls for the interpretation of federal law. Op.Atty.Gen. No. 2001-0759, Chamberlin, December 20, 2001.

#### 5. Separation of powers

A county supervisor serving in an executive position (such as a Emergency Management Director), would be a violation of the separation of powers doctrine. Further, if a person enters into office in a separate branch of government, he automatically vacates his prior office. Op.Atty.Gen. No. 2002-0106, Walley, March 15, 2002.

#### 6. Conflict of interest

Mississippi Const. Art. 4, § 109 and § 25-4-105(2) prohibit a board of supervisors from authorizing an employment contract with a member of the board of supervisors for the position of compensated or uncompensated emergency management director as authorized in § 33-15-17(a). Op.Miss. Ethics Comm. No. 02-019-E

#### 7. Immunity

In a state of emergency due to a crisis in medical care, and declared by the Governor, the state and the county and its board of supervisors, employees and agents are entitled to full immunity as provided by Section 33-15-21. Those individuals not covered by the Emergency Management Act, arguably such as the doctors, would not be entitled to the protection of full immunity. In such an emergency, the provisions of Sections 33-15-17(b) and 33-15-11(b)(16) may possibly be invoked to provide such immunity. Op.Atty.Gen. No. 2003-0054, Meadows, January 30, 2003.

#### 8. Travel expenses

The Director of Harrison County's Emergency Management Agency is not prohibited from accepting airfare, hotel, and meals from the government of the Bahamas to attend a conference on hurricanes and hurricane recovery, and if such travel is considered by the county to be county business, it would be subject to any county-adopted travel policies and appropriate approval thereunder. Op.Atty.Gen. No. 2006-0027, Meadows, February 8, 2006, 2006 WL 1900685.

#### 9. Equipment rental

In light of the declaration of emergency relating to Hurricane Katrina and the authority contained in Section 33-15-17(b), the City of Long Beach is authorized to pay city firemen for the use of their privately owned four wheelers in accordance with rates approved by FEMA and the governing authorities of the municipality. Op.Atty.Gen. No. 2006-00370, McCreary, August 11, 2006, 2006 WL 2789795.

Miss. Code Ann. § 33-15-17, MS ST § 33-15-17

Current through End of 2013 Regular Session and 1st & 2nd Ex. Sessions

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END OF DOCUMENT



## Cindy Russell

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**From:** Charlie McVea <cmcvea@dwwattorneys.com>  
**Sent:** Tuesday, January 28, 2014 11:18 AM  
**To:** Casey Vaughan  
**Cc:** jpugh@gautier-ms.gov; adamcolledge@aol.com; councilmanward1@gautier-ms.gov; councilmanward2@gautier-ms.gov; councilmanward4@gautier-ms.gov; councilmanward5@gautier-ms.gov; councilwomanatlarge@gautier-ms.gov; gollottd@bellsouth.net; Jfjones1@cableone.net; marymartincouncilwomanatlarge@yahoo.com; mayor@gautier-ms.gov; Rusty Anderson; sabell@gautier-ms.gov; Cindy Russell; Celeste Laws; Amy St. Pe  
**Subject:** RE: update  
**Attachments:** Westlaw\_Document\_11\_11\_31.rtf

After some additional discussion with Eddie Williams this morning, we have a better plan. The statute was recently amended to deal with scenarios just like this. See the highlighted text within section (d) authorizing the Mayor to declare a state of emergency. I am preparing the declaration now. I will send it out to everyone, but only the Mayor will execute. He can then scan it in or fax it to me. The Mayor will keep the original and return it to the City upon his return. The Council at the next scheduled Council meeting will either approve or disapprove the continued state of emergency.

Mayor,

Please be on standby for the next 15 minutes. Your declaration will be delivered via email shortly.

Thanks to everyone for their patience.  
Charlie

W. Charles McVea  
Dogan & Wilkinson, PLLC  
734 Delmas Avenue  
P.O. Box 1618  
Pascagoula, MS 39567  
(228) 762-2272  
(228) 762-3223 Fax

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**From:** Casey Vaughan [mailto:councilmanward3@gautier-ms.gov]  
**Sent:** Monday, January 27, 2014 9:32 PM  
**To:** Charlie McVea  
**Cc:** <jpugh@gautier-ms.gov>; <adamcolledge@aol.com>; <councilmanward1@gautier-ms.gov>; <councilmanward2@gautier-ms.gov>; <councilmanward4@gautier-ms.gov>; <councilmanward5@gautier-ms.gov>; <councilwomanatlarge@gautier-ms.gov>; <gollottd@bellsouth.net>; <Jfjones1@cableone.net>; <marymartincouncilwomanatlarge@yahoo.com>; <mayor@gautier-ms.gov>; Rusty Anderson; <sabell@gautier-ms.gov>; Cindy Russell; Celeste Laws  
**Subject:** Re: update

Charlie,

Thank you for the information. I am in town and can be available whenever is good for the rest. I spoke with Hurley and he said he would be available too.

Thanks,  
Casey

On Jan 27, 2014, at 8:36 PM, "Charlie McVea" <[cmcvea@dwwattorneys.com](mailto:cmcvea@dwwattorneys.com)> wrote:

Good evening all,

Attached is the statute controlling special call meetings. The problem we presently have is some of our council and staff are in Jackson for the Municipal conference. This is the case for most if not all cities on the coast. However, to address this matter, upon receipt of a declared state of emergency, I will circulate among you via email to confirm our desire to declare the same. I will request the Mayor give me permission to sign on his behalf.

Also, please identify which council members are in Jackson versus those reachable in the City. Another possibility would be to have all council members email a written consent to hold a special call meeting. If we have a quorum, we can meet and declare a state of emergency and I will again with the permission of the Mayor sign on his behalf.

Please understand that either approach is not strictly compliant with the statute and if challenged could result in an inability to obtain government funding. This is the case for our surrounding cities as well. We will do the best we can with what we are given.

Please standby for further updates. Hunker down and stay warm.

Charlie

W. Charles McVea  
Dogan & Wilkinson, PLLC  
734 Delmas Avenue  
P.O. Box 1618  
Pascagoula, MS 39567  
(228) 762-2272  
(228) 762-3223 Fax

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**From:** Casey Vaughan [<mailto:councilmanward3@gautier-ms.gov>]  
**Sent:** Monday, January 27, 2014 6:13 PM  
**To:** <[jpugh@gautier-ms.gov](mailto:jpugh@gautier-ms.gov)>  
**Cc:** <[adamcolledge@aol.com](mailto:adamcolledge@aol.com)>; <[councilmanward1@gautier-ms.gov](mailto:councilmanward1@gautier-ms.gov)>; <[councilmanward2@gautier-ms.gov](mailto:councilmanward2@gautier-ms.gov)>; <[councilmanward3@gautier-ms.gov](mailto:councilmanward3@gautier-ms.gov)>; <[councilmanward4@gautier-ms.gov](mailto:councilmanward4@gautier-ms.gov)>; <[councilmanward5@gautier-ms.gov](mailto:councilmanward5@gautier-ms.gov)>; <[councilwomanatlarge@gautier-ms.gov](mailto:councilwomanatlarge@gautier-ms.gov)>; <[gollottd@bellsouth.net](mailto:gollottd@bellsouth.net)>; <[Jfjones1@cableone.net](mailto:Jfjones1@cableone.net)>; <[marymartincouncilwomanatlarge@yahoo.com](mailto:marymartincouncilwomanatlarge@yahoo.com)>; <[mayor@gautier-ms.gov](mailto:mayor@gautier-ms.gov)>; Rusty Anderson; <[sabell@gautier-ms.gov](mailto:sabell@gautier-ms.gov)>; Charlie McVea; Cindy Russell  
**Subject:** Re: update

Jason,

In reference to your text message update regarding the state and county planning to make an emergency declaration effective at 8:00 a.m. don't this mean we have to do the same thing?

Thanks,  
Casey Vaughan

On Jan 27, 2014, at 4:57 PM, "Jason Pugh" <[jpugh@gautier-ms.gov](mailto:jpugh@gautier-ms.gov)> wrote:

Mayor and Council,

This is an update to inform you that after the latest weather briefing, we are going to close City Hall through Wednesday. Only essential personnel will be required to come in. Ocean Springs, Moss Point and Jackson County, along with the Pascagoula School District have all issued statements closing their offices until Thursday due to the inclement weather as well.

If you receive any calls from residents about trash pickup, Waste Pro has confirmed to me by telephone that they are definitely closed tomorrow; they will make a determination about Wednesday's pickup sometime after noon tomorrow. As of now, they will be picking up Tuesday's trash on Wednesday. They have advised that they will issue a press release after they meet tomorrow on this topic. This is the latest information I have. If it changes, I will let you know.

We have issued a press release explaining this and will post it on city maintained web sites.

**Jason D. Pugh**

Human Resources Director

City of Gautier

3330 Hwy. 90

Gautier, MS 39553

Office (228) 497-8000

Cell (228) 219-6194

Fax (228) 497-9984

email: [jpugh@gautier-ms.gov](mailto:jpugh@gautier-ms.gov)

<Westlaw\_Document\_20\_25\_41.doc>

**PROCLAMATION OF EXISTENCE OF A LOCAL EMERGENCY**  
(by Jackson County Board of Supervisors)

**WHEREAS,** Jackson County Board of Supervisors does hereby find that conditions of extreme peril to the safety of persons and property have arisen within said County, caused by Winter Weather Event commencing on or about 0800 hrs on the 28<sup>th</sup> day of January 2014; and

**WHEREAS,** the aforesaid conditions of extreme peril warrant and necessitate the proclamation of the existence of a local emergency in order to provide for the health and safety of the citizens and the protection of their property within the affected jurisdiction;

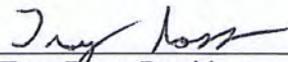
**NOW, THEREFORE, IT IS HEREBY PROCLAIMED** that in accordance with Section 33-15-17(d), Mississippi Code of 1972, as amended, a local emergency now exists throughout said County; and shall be reviewed every seven (7) days until such local emergency is no longer in effect and proclaimed terminated by the Board of Supervisors of the County of Jackson, State of Mississippi.

**IT IS FURTHER PROCLAIMED AND ORDERED** that all County agencies and departments shall render all possible assistance and discharge their emergency responsibilities as set forth in the County Emergency Operations Plan.

DATE: 1/27/14

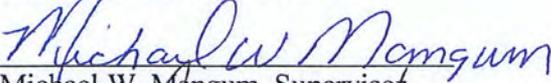
ATTEST: 

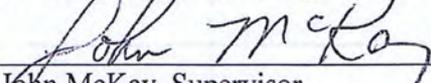
\_\_\_\_\_  
Chancery Clerk for Jackson  
County Board of Supervisors  
State of Mississippi

  
\_\_\_\_\_  
Troy Koss, President  
Jackson County Board of Supervisors

  
\_\_\_\_\_  
Barry Cumbest, Supervisor

\_\_\_\_\_  
Melton Harris, Supervisor

  
\_\_\_\_\_  
Michael W. Mangum, Supervisor

  
\_\_\_\_\_  
John McKay, Supervisor





There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

**ORDER NUMBER 023-2014**

**IT IS HEREBY ORDERED** by the Mayor and Members of the Council of the City of Gautier, Mississippi, pursuant to the Mississippi Codes Annotated, 1972 & Title 21, Chapter 19, Section 11 and based on all evidence and testimony presented at the public hearing, including the Planning and Economic Development Department's discussion paper, that the property owned by – Norman E. Thompson (Deceased), 3824 Kendale Drive, Lot #63 Northwood Hills Subdivision and made the subject of this public hearing, to be a menace to public health, safety and welfare.

Based on these findings, the Mayor and Members of the Council hereby approve and authorize abatement proceedings as recommended by the Planning and Economic Development Department – Norman E. Thompson (Deceased), 3824 Kendal Drive, PIDN 86026063.000, Lot #63 Northwood Hills Subdivision, Deed Bk 636, Page 355.

**IT IS FURTHER ORDERED** that the City is authorized to cleanup and secure subject property.

**IT IS FURTHER ORDERED** that the City Manager and City Clerk are authorized to execute any and all documents necessary.

Motion was made by **Councilwoman Martin** seconded by **Councilman Anderson** and the following vote was recorded:

AYES:           Gordon Gollott  
                  Mary Martin  
                  Johnny Jones  
                  Hurley Ray Guillotte  
                  Casey Vaughan  
                  Rusty Anderson  
                  Adam Colledge

NAYS:           None

---

MAYOR

ATTEST:

---

CITY CLERK

**Passed and Adopted** by the Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of February 4, 2014.

**CITY OF GAUTIER  
MEMORANDUM**

**To:** Samantha Abell, City Manager  
**From:** Joe Belles, Code Enforcement Officer  
**Through:** Patty Huffman, Grants and Project Manager  
Chandra Nicholson, Planning and Economic Development Director  
**Date:** January 13, 2014  
**Subject:** 3824 Kendale Drive Gautier, Mississippi 39553.  
Conduct public hearing to determine if the property or parcel of land is a menace to the public health, safety and welfare of the community.

---

**REQUEST:**

Pursuant to the Mississippi Codes Annotated, 1972 § Title 21, Chapter 19, Section 11, the City of Gautier, the Mayor and City Council will conduct a public hearing and receive public comment(s) regarding staff's recommendation to clean this private property and render the structure safe by securing all windows and doors.

**BACKGROUND:**

An initial telephone complaint from a neighbor concerned with code violations was reviewed and substantiated by code enforcement and a code violation file was opened against the property in July 2009. Code enforcement has dealt with repeated minor code violations since July 2009. The most recent case was reopened when the Crime Prevention Officer requested code enforcement clean and secure the property as neighbors have complained at neighborhood watch meetings repeatedly. Code enforcement learned the owner was deceased (December 2, 2006) and began working with the appointed executor Ms. Wendy Neary and the appointed attorney Michael J Vallette, to correct the minor recurring violations. Initially both individuals would respond and correct the violations when requested. In May 2012, code enforcement contacted Ms. Wendy Neary concerning code violations and Ms. Neary responded by informing code enforcement she was no longer the appointed executor of the property. Code enforcement has sent four letters to the appointed attorney and the last three have not received a reply. In addition, telephone calls to the attorney's office have not been answered. The 2011 and 2012 taxes remain unpaid by the estate; however, the appointed attorney Michael J. Vallette, for the last four years has redeemed the most delinquent taxes to prevent a tax sale of the property. The vacant property continues to show signs of disrepair with visible signs of decaying wood surfaces noticeable from the public right-of-way.

Property owners in the vicinity remain concerned with the visible appearance of this overgrown property and the unsecured/unsafe structure. Neighbors are concerned for the health, safety and welfare of their neighborhood. Code enforcement informed the owners by letter on December 9, 2012, the property would be recommended for a public hearing if not in compliance by January 6, 2014. On January 4, 2014, the Mayor and City Council set a public hearing date of February