

COMMONWEALTH OF KENTUCKY
CALLOWAY COUNTY
ORDINANCE NO. 18-0619 A

AN ORDINANCE relating to ensuring continuity of government for the local government of Calloway County, Kentucky.

Be it ordained by the fiscal court of county of Calloway, Commonwealth of Kentucky:

WHEREAS, the Fiscal Court of Calloway County has the authority pursuant to the provisions of KRS Chapter 39D to enact an ordinance providing for the continuity of government during a state of emergency; and,

WHEREAS, the Fiscal Court of Calloway County is dedicated to establishing, in advance of an emergency situation, a framework of preparedness and action that County leaders may follow to rapidly re-establish governing capability and essential services following a disruptive event that affects County facilities or officials

NOW, THEREFORE, be it ordained by the Fiscal Court of Calloway County, Kentucky that:

SECTION I: DEFINITIONS

As used in this ordinance, unless context otherwise indicates, the following definitions shall be in effect:

“Emergency interim successor” means a person designated in this ordinance if an officer is unavailable, to exercise the powers and discharge the duties of that office until a successor is appointed or elected and qualified as provided by law, or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

“Office” includes all local offices, the powers and duties of which are defined by law. An **“officer”** is a person who holds an office.

“Unavailable” means that during a state of emergency either 1) a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge all of the duties of the office, or 2) that the lawful incumbent of the office and any duly authorized deputy are absent or unable to exercise all of the powers and discharge all of the duties of the office.

SECTION 2: SCOPE

This ordinance describes and sets forth procedures for addressing three types of disruptive situations:

1. Loss of use of a governmental facility (i.e. damage to a building or essential infrastructure, etc.);
2. The absence or inability to function of an elected official;
3. The loss of available services due to equipment or systems damage or failure (i.e. information technology (IT) systems failure, etc.).

SECTION 3: ALTERNATE FACILITIES PLAN

In the event that a Calloway County governmental facility becomes damaged or otherwise unable to house or adequately support the operation of any or all government office functions normally in that facility, the office(s) affected, or a portion thereof, may move to another suitable facility until the normal facility is again usable or until other, longer-term plans are made. Tentative plans and suggestions for suitable facilities are as follows. County officers are encouraged to further develop plans for how their operations could be quickly moved into one of these facilities and services resumed, to include pre-planning of space utilization, moving procedures, backup of equipment, etc.. Governmental offices and operations shall resume in their original location as soon as is practical for them to do so.

The situation will dictate circumstances in which replacement facilities should be sought; in general, when an administrative function would be interrupted for more than two business days or a public-safety function for more than two hours, this Plan shall be activated. If there is a county-wide disaster or emergency, then immediate implementation of the Plan shall begin. For administrative functions, at least basic operations shall be re-established in 12 hours or less if at all possible.

The facilities lists below assume that limited disruption has occurred; i.e. that only one building or one office in a building needs to find new quarters. If a larger-scale disruption occurs, then only partial allocation of available space may be possible.

Also, in general, the listings below are in order of preference for each office and the order in which temporary facilities should be sought in the event the need arises.

Calloway County Courthouse (Judge-Executive's Office, Fiscal Court, Treasurer's Office, PVA, County Clerk's Office):

1. The Courthouse Annex (former Post Office Building);
2. Calloway County Judicial Center;
3. Weaks Center;
4. Emergency Operations Center at Murray State University; or
5. Other suitable quarters that may be made available by Murray State University or the City of Murray, or other suitable and available spaces within or without of Calloway County.

Calloway County Public Safety Office (Sheriff's Office):

1. The 911-Dispatch Center will be quickly transferred to another suitably-equipped facility until longer-term arrangements can be made. Similar facilities exist at:
 - a. The City of Murray's 911 Center;
 - b. Murray State University's Public Safety Office; or
 - c. The Post 1 facility of the Kentucky State Police.

Any such alternate facility shall dispatch other responders that the Sheriff's Office would otherwise dispatch, which includes Calloway County Fire-Rescue, etc., or make arrangements for these agencies.

2. Law-enforcement operations shall move to any available and suitable facility, such as:
 - a. Shared space at Murray Police Department and/or Murray State University Police Department;
 - b. The Calloway County Courthouse;
 - c. The Calloway County Courthouse Annex (former Post Office);
 - d. The Calloway County Judicial Center; or
 - e. Other suitable quarters that may be made available by Murray State University or the City of Murray, or other suitable and available spaces within or without of Calloway County.
3. Tax-collection and administrative operations shall move to another suitable facility until the Sheriff's Office is again usable or until other, longer-term plans are made. Suitable facilities may include:

- a. The Calloway County Courthouse;
- b. The Calloway County Courthouse Annex (former Post Office);
- c. The Calloway County Judicial Center; or
- d. Other suitable quarters that may be made available by Murray State University or the City of Murray, or other suitable and available spaces within or without of Calloway County.

Calloway County Jail (Jailor's Office):

Other than the old jail, there is no backup secure facility suitable to house prisoners in Calloway County. Prisoner operations would need to be moved to another county. The Jailor's administrative functions could be temporarily moved to coincide with movement of prisoners, or should be established in Calloway County at:

1. The Calloway County Courthouse;
2. The Calloway County Courthouse Annex (former Post Office);
3. The Calloway County Judicial Center;
4. The Calloway County Sheriff's Office; or
5. Other suitable quarters that may be made available by Murray State University or the City of Murray, or other suitable and available spaces within or without of Calloway County.

The Calloway County Coroner's Office:

If the Coroner's typical office becomes unsuitable or unavailable, the Coroner's Office shall be moved to:

1. The Calloway County Courthouse;
2. The Calloway County Courthouse Annex (former Post Office);
3. The Calloway County Judicial Center;
4. The Calloway County Sheriff's Office; or
5. Other suitable quarters that may be made available by Murray State University or the City of Murray, or other suitable and available spaces within or without of Calloway County.

SECTION 4: CONTINUITY OF GOVERNMENTAL LEADERSHIP PLANS:

State law provides for interim appointment and eventual replacement election for an elected official who becomes permanently unavailable, such as through death or permanent incapacity. However, there may be need for a rapid temporary replacement process for an official who is unavailable during an emergency event. KRS 39D.030 and KRS 39D.040 direct local governing bodies to enact ordinances or orders for the prompt filling of offices and employees during times of disaster and emergency if the filling of these vacancies is not otherwise provided for by law. The KRS direct that not fewer than 3 nor more than 7 interim successors for each position be designated. Emergency interim successors, in the order of their succession as listed hereinbelow, shall have the full power to exercise all powers and discharge all duties of the office and to commit its resources during a time of emergency or disaster if the person normally exercising the position is unavailable, but shall immediately relinquish such power if the person normally exercising the position again becomes available. If the preceding emergency successor becomes available, he or she shall resume the duties being performed by the following successor, unless he or she chooses to permit the following successor to remain in the position until relieved. In other, non-emergency but urgent situations when the officer may be out of town but available for consultation or having left advance directives, a duly authorized deputy may exercise the authority of the office to an extent limited by the office holder.

The listed county officials below may, of their own accord or at the request of the Judge-Executive, provide to the office of the Judge-Executive a list of planned successors as outlined hereinabove, which shall be kept on file in that office in case the office holder becomes unavailable. A list so filed may be modified at any time by the county official, in his or her sole discretion. Alternatively, if a county official has not provided such a list, then the default listing set forth hereinbelow shall control. In either event, it shall be the duty of the county official to ensure that his or her potential successors have taken the appropriate oath for the office to which they might succeed.

The following gives the default listing of planned emergency interim successors, in order, if the elected official becomes disabled or absent during a declared emergency or disaster event:

Calloway County Judge-Executive:

1. The Deputy Judge-Executive, or, if there is more than one Deputy Judge-Executive, the Chief Deputy Judge-Executive. In the event that there are multiple Deputy Judge-Executives and the Chief Deputy Judge-Executive is unable to serve as emergency interim successor, then the Deputy Judge-Executive having served the longest in that capacity shall assume the role of emergency interim successor, and so forth unless and until there are no Deputy Judge-Executives available to serve as such.
2. The Magistrate who has served the longest on the Fiscal Court. If more than one Magistrate has served an identical longest length, then the one who received the largest

number of votes at the last election in which both were candidates shall be the first successor, and the other the second.

3. The Magistrate who has served the second-longest on the Fiscal Court.
4. The Magistrate who has served the third-longest on the Fiscal Court.

Members of the Fiscal Court of Calloway County (Magistrates):

1. The Calloway County Judge-Executive or his designee.
2. In the event the Judge-Executive is unavailable, then this succession shall follow the same plan as set forth above.

Calloway County Treasurer:

1. The Deputy Treasurer.
2. The Calloway County Judge-Executive or his designee.
3. In the event that both the Deputy Treasurer and the Judge-Executive are unavailable, then this succession shall follow the same plan as set forth above.

Calloway County PVA:

1. The Chief Deputy PVA.
2. The Assistant Chief Deputy PVA.
3. The Deputy PVA having served the longest in that role.

Calloway County Clerk:

1. The Chief Deputy County Clerk.
2. The Assistant Chief Deputy County Clerk.
3. The Deputy County Clerk having served the longest in that role.

Calloway County Sheriff:

1. The Chief Deputy Sheriff.

2. The Assistant Chief Deputy Sheriff, or, if no Assistant Chief Deputy Sheriff has been appointed by the Sheriff, the next highest-ranking Deputy Sheriff. If there are two or more Deputies holding the next highest rank, then the Deputy Sheriff having served the longest in that role.
3. The next highest-ranking Deputy Sheriff, or, if there are two or more Deputies holding the next highest rank, then the Deputy Sheriff having served the longest in that role.

Calloway County Jailer:

1. The 1st Chief Deputy Jailer.
2. The 2nd Chief Deputy Jailer.
3. The next highest-ranking Deputy Jailer, or, if there is no further ranking delineation, then the Deputy Jailer having served longest in that role.

Calloway County Coroner:

1. The Chief Deputy Coroner.
2. The next highest-ranking Deputy Coroner, or, if there is no Deputy Coroner available to act as emergency interim successor, the Calloway County Sheriff or his designee shall so act.
3. In the event the Sheriff is unavailable, then this succession shall follow the same plan as set forth above for the office of Sheriff.

Calloway County Road Supervisor:

1. The Assistant Road Supervisor.
2. The Road Department Head Mechanic.
3. The Calloway County Judge-Executive or his designee.

Calloway County Attorney:

1. The 1st Assistant County Attorney.
2. The 2nd Assistant County Attorney.
3. The 3rd Assistant County Attorney, or, if there is no 3rd or subsequent Assistant County Attorney, the Commonwealth's Attorney for the Judicial Circuit shall so act.

SECTION 5: VALIDITY AND EFFECT:

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance which shall continue in full force and effect, and, to this end, the provisions of this ordinance are hereby declared to be severable. This ordinance shall take effect and be in full force and effect as of _____, 2018. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

The Clerk of the Court is directed to publish this ordinance or a lawful summary hereof in a local newspaper, to obtain proof of publication thereof and to file said proof in the minutes of this Court.

Passed on the first reading 15th day of May 2018.

[Signature]
Larry Elkins
Calloway County Judge Executive

Eddie Hale
Magistrate District 1

Tim Todd
Magistrate District 2

Don Cherry
Magistrate District 3

Johnny Gingles
Magistrate District 4

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