

CHAPTER 9

EMERGENCY AND DISASTER PLANNING AND RESPONSE

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SECTION 9-1 PURPOSE AND DECLARATION OF POLICY

This Ordinance is enacted to set out and clarify the authority of the City of Oshkosh and its officers and employees with regard to emergency and disaster situations. It is intended to grant as broad a power as permitted by statutory and constitutional authority.

SECTION 9-2 DECLARATION OF EMERGENCY AND EMERGENCY POWERS

Declaration of Emergency. Notwithstanding any other provision of law to the contrary, the Common Council for the City of Oshkosh may declare by resolution or ordinance an emergency existing within the City of Oshkosh whenever conditions arise by reason of war, conflagration, flood, heavy snow storm, blizzard, catastrophe, disaster, riot or civil commotion, acts of God, and including conditions, without limitation because of enumeration, which impair transportation, food or fuel supplies, medical care, fire, health or police protection or other vital facilities of the city. If the Common Council is unable to meet with promptness, the City Manager is hereby authorized to declare a state of emergency by proclamation. The proclamation shall be subject to ratification, alteration, modification or repeal by the Common Council as soon as that body can meet, but the subsequent action taken by the Common Council shall not affect the prior validity of the proclamation. The period of the emergency shall be limited by the ordinance or resolution to the time during which the emergency conditions exist or are likely to exist.

Appointment of Emergency Management Coordinator. The Chief of the Oshkosh Fire Department or his/her designee shall be the Emergency Management Coordinator for the City of Oshkosh. The City Manager shall appoint at least two (2) Deputy Coordinators who shall have the authority and power to act in the absence of the Coordinator.

Authority to act. During a state of emergency, the Common Council by ordinance or resolution, or in their absence the City Manager by proclamation, shall have the authority to legislate for whatever is necessary and expedient for the health, safety, welfare and good order of the city. This shall include, without limitation by enumeration, the authority to bar, restrict or remove all unnecessary traffic, both vehicular and pedestrian, from all local highways.

Emergency Powers of the City Manager. In addition to those powers conferred upon the City Manager in the previous sections, during a state of emergency, the City Manager, in consultation with the Emergency Management Coordinator and other City staff, shall exercise all executive and general administrative emergency powers, including but not limited to all of the following:

- (1) The power to direct emergency response activities by City departments.
- (2) The power to execute contracts for the emergency construction or repair of public improvements, when the delay of advertising and public bidding might cause serious loss or injury to the City, upon following the procedures of Section 9-5 regarding emergency procurements.
- (3) The power to purchase or lease goods and services deemed necessary to the City's emergency response or for the repair of City facilities, or both, upon following the procedures of Section 9-5 regarding emergency procurements.
- (4) The power to lease real property, or structures, or both, that are deemed necessary for the continued operation of City government.
- (5) The power to promulgate rules and orders to implement and clarify the proclamation exercising emergency power.
- (6) The power to delegate any or all of these duties to appropriate City personnel.

Actions taken pursuant to the grant of authority contained in this ordinance shall be subject to ratification, alteration, modification or repeal by the Common Council as soon as that body can meet, but the subsequent action taken by the Common Council shall not affect the prior validity of the action taken.

SECTION 9-3 DUTIES OF THE EMERGENCY MANAGEMENT COORDINATOR

The Emergency Management Coordinator shall be responsible for the performance and supervision of performance of all duties in connection with coordinating and carrying out the City's role in furnishing services in the event of declaration of a state of emergency. The powers and duties of the Emergency Management Coordinator are pursuant to Chapter 166 Wisconsin Statutes. The Emergency Management Coordinator shall be responsible to the City Manager.

- (1) The Emergency Management Coordinator shall:
 - (A) assist the City Manager in the exercise of emergency powers.
 - (B) act in coordination with the State and other governmental agencies as may be necessary to plan and implement a joint jurisdiction emergency planning and disaster services plan and mutual aid arrangements.
 - (C) Request the City Manager / City Council when appropriate to declare a state of emergency.
 - (D) Control and direct emergency training activities.
 - (E) Maintain a liaison with other municipal, state, regional and federal disaster services agencies.
 - (F) Marshal, after the declaration of a state of emergency, all necessary personnel, equipment and supplies from any department of the City to aid in carrying out the emergency operations plan.
 - (G) Prepare under the direction of the City Manager and in consultation with the appropriate City staff, all necessary emergency proclamations, rules, and orders and implement the emergency operations plan.
 - (H) Coordinate the drafting of proposed mutual aid agreements.
 - (I) Assume other emergency responsibilities as assigned by the City Manager or City Council.
 - (J) recommend for adoption by the City Council an emergency operations plan for the City and recommend for adoption by the City Council mutual aid plans and agreements which are deemed essential for the plan. The Emergency Management Coordinator shall make continuing studies of the need for amendments and improvements in such plans.

SECTION 9-4 OPERATIONAL ORGANIZATION

The Emergency Operational Plan Development Team of the City shall consist of municipal officers and employees who may be designated by the City Manager. This team shall work under the direction and supervision of the Emergency Management Coordinator to assist the Coordinator in the performance of those functions enumerated within this ordinance. Plans of organization shall substantially conform to recommendations of the federal government and the State Office of Emergency Management.

SECTION 9-5 EMERGENCY PROCUREMENTS

Notwithstanding any provision of this Code to the contrary, upon declaration of a state of emergency the City Manager or the City Manager's designees may procure by purchase or lease, such goods and services as are deemed necessary for the City's emergency response effort. This emergency procurement of goods or services may be made in the open market without filing a requisition or estimate and without advertisement or compliance with requirements for public bidding for immediate delivery or furnishing. A full written account of emergency procurements made during this emergency, together with a requisition for

the required materials, supplies, equipment, or services, shall be submitted to the City Manager within 30 days after their procurement, and shall be open to public inspection for such period as required by applicable City ordinance and State Statutes. The City Manager shall, within three months of the conclusion of the emergency, formally communicate these emergency expenditures in a full written account to the City Council.

SECTION 9-6 TEMPORARY EMERGENCY LOCATIONS

Designation of emergency temporary locations. Whenever during a state of emergency it becomes imprudent, inexpedient or impossible to conduct the affairs of local government at the regular or usual place or places thereof, the Common Council may meet at any place within or without the territorial limits of the City of Oshkosh on the call of the Mayor or his or her successor, and shall proceed to establish and designate by ordinance, resolution or other manner, alternate or substitute sites or places as the emergency temporary locations of government where all, or any part, of the public business may be transacted and conducted during the emergency situation. Such alternate or substitute site or places may be within or without the territorial limits of the City of Oshkosh. If practicable, they shall be the sites or places designated as the emergency temporary locations of government in the current emergency management plan.

Exercise of governmental authority. While the public business is being conducted at an emergency temporary location, the Common Council and officers of the City of Oshkosh shall have, possess and exercise, at such location, all of the executive, legislative, administrative and judicial powers and functions conferred upon such body and officers under state law. Such powers and functions, except judicial, may be exercised in the light of the exigencies of the emergency situation without regard to or compliance with time-consuming procedures and formalities prescribed by law and pertaining thereto. All acts of such body and officers shall be as valid and binding as if performed within the territorial limits of the City of Oshkosh.

Priority of legislation. This section shall control notwithstanding any statutory, charter or ordinance provision to the contrary or in conflict herewith.

SECTION 9-7 SUCCESSION TO OFFICES/DEPARTMENT POSITIONS

Declaration of policy. Because of the possible unavailability or incapacity of local officials/Department Heads during an emergency, it is determined and declared to be necessary to assure the continuity and effective operation of the City of Oshkosh in the event of an emergency, by providing for additional persons who can temporarily exercise the powers and discharge the duties of these positions.

"Emergency interim successor" means a person designated under this section, if the officer/Department Head is unavailable, to exercise the powers and discharge the duties of the position 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 position.

"Unavailable" means that during a state of emergency resulting from any cause, either a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the lawful incumbent of the office and his or her duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the position.

Emergency interim successors. Subject to such regulations as the City Manager may issue, local officials and all Department Heads for the City of Oshkosh shall designate by title, if feasible, or by named person, emergency interim successors and specify their order of succession. The Officer/Department Head shall review and revise, as necessary, designations made pursuant to this section to ensure their current status. The Officer/Department Head shall designate a sufficient number of persons so that there will be not less

than 2 nor more than 5 deputies or emergency interim successors or any combination thereof at any time. If any Officer/Department Head of any political subdivision or his or her deputy provided for pursuant to law is unavailable, the powers of the office shall be exercised and duties shall be discharged by his or her designated emergency interim successors in the order specified. The emergency interim successor shall exercise the powers and discharge the duties of the office to which designated until such time as a vacancy which may exist is filled in accordance with the constitution or statutes or until the officer or his or her deputy or a preceding emergency interim successor again becomes available to exercise the powers and discharge the duties of the position.

Status and qualifications of designees. No person shall be designated or serve as an emergency interim successor unless he or she is eligible under the constitution and statutes to hold the office to which powers and duties he or she is designated to succeed, but no constitutional or statutory provision prohibiting local or state officials from holding another office shall be applicable to an emergency interim successor.

Formalities of taking office. Emergency interim successors shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. No person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he or she succeeds, shall be required to comply with any other provision of law relative to taking office.

SECTION 9-8 POLICE POWER OF POLICE CHIEF / POLICE OFFICERS

The Police Chief and his/her designees shall have authority to suppress any tumult or disorder and to order all individuals, groups or companies to leave the neighborhood of any disturbance or emergency scene, and to command from the inhabitants of the City all needful assistance; officers shall also have authority to go upon and enter any property or premises and to do whatever may reasonably be necessary to protect the health, safety, welfare and good order of the inhabitants of the City of Oshkosh. This shall include, without limitation by enumeration, the authority to bar, restrict or remove all unnecessary traffic, both vehicular and pedestrian, from all local highways.

SECTION 9-9 POLICE POWER OF FIRE CHIEF / RESCUE SQUADS

The Fire Chief, Emergency Management Coordinator and their designees shall have authority to suppress any tumult or disorder and to order all individuals or companies to leave the neighborhood of any fire or first aid scene, and to command from the inhabitants of the city all needful assistance for the suppression of fires and in the preservation of property exposed to fire; the officers above enumerated shall also have authority to go upon and enter any property or premises and to do whatever may reasonably be necessary in the performance of their duties while engaged in the work of extinguishing any fire or performing any duties incidental thereto. Such officers shall also have authority to go upon and enter any property or premises and do whatever may reasonably be necessary in the performance of their duties while engaged in the work of aiding persons or minimizing the loss to property at a first aid scene.

SECTION 9-10 NO LIMITATION ON GENERAL POLICE POWERS

Nothing within this Chapter shall be construed to limit in any way the general police powers and authority of the City of Oshkosh, its Officers, and Officials.

SECTION 9-11 EFFECTIVE DATE AND TERMINATION OF EMERGENCY POWERS

Proclamations, rules, and orders issued pursuant to this ordinance shall be effective upon issuance and shall remain in effect until withdrawn by the Council, City Manager or other issuing authority. However, those proclamations, rules, and orders shall be withdrawn by the Council, City Manager, or other issuing authority, and those persons acting pursuant to this Chapter shall cease to exercise emergency powers at such time as the conditions giving rise to the emergency cease.

SECTION 9-12 PENALTY FOR VIOLATION OF EMERGENCY PROCLAMATION, RULE OR ORDER

Any person, adult or juvenile, violating a proclamation of emergency, a subsequent proclamation exercising emergency powers, a rule, or order, which proclamation, rule or order is issued pursuant to the provisions of this ordinance, or any order or directive given by a peace officer or designated emergency services personnel acting pursuant to this ordinance shall upon conviction thereof, be punished by a forfeiture of not less than \$275.00 nor more than \$1000.00, together with the costs of prosecution, and in default of payment thereof, by imprisonment in the County Jail for a period of not to exceed sixty (60) days. Each day of violation shall constitute a separate offense. In addition to the penalties herein provided, appropriate legal or equitable action may be commenced to enjoin any person from violating any of the provisions of this section.

SECTION 9-13 SEVERABILITY

The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held invalid or unconstitutional or if the application of this Ordinance to any person or circumstances is held invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance.