

CITY OF MADISON, WISCONSIN

AN ORDINANCE \_\_\_\_\_

PRESENTED October 11, 2005

REFERRED Public Safety Review Board;  
Board of Estimates

RULES SUSPENDED \_\_\_\_\_

PUBLIC HEARING \_\_\_\_\_

ID NUMBER \_\_\_\_\_

Amending Section 3.21 to establish powers and duties for the Emergency Management Coordinator of the City, and relocating and renumbering Section 23.47 entitled "Emergency Proclamation" as Section 3.025.

Drafted by: Carolyn S. Hogg  
Assistant City Attorney

Date: October 5, 2005

Fiscal Note:

SPONSORS: Mayor Cieslewicz

DRAFTER'S ANALYSIS: The City's emergency management ordinances are out-dated. This ordinance brings the regulations up-to-date and makes them consistent with Chapter 166 of the Wisconsin Statutes, as required. Among other things, the ordinance extends emergency management from civil defense issues only to all forms of unforeseen disasters; creates the position of Coordinator of Emergency Management and describes his/her duties; requires the creation of an emergency management plan; creates an Emergency Management Planning Staff Team to work with the Coordinator; and provides for the exercise of extraordinary emergency authority by the Coordinator and the Mayor in the event a state of emergency is proclaimed.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Section 3.21 entitled "Civil Defense Commission" of the Madison General Ordinances is amended to read as follows:

**"3.21 CIVIL DEFENSE COMMISSION EMERGENCY MANAGEMENT.**

(1) Policy and Purpose.

- (a) ~~Civil defense shall mean~~ Emergency Management requires the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to minimize and repair injury and damage resulting from disaster of all kinds, including enemy action and natural or unforeseen disasters, it being necessary to:
  - 1. ~~Establish a local civil defense organization~~ emergency management plan.
  - 2. Provide for the exercise of necessary powers during emergencies resulting from disaster; and
  - 3. Provide for cooperation and mutual assistance between this City and other political divisions.
  - 4. Collaborate with private individuals and entities for the purpose of preparing for, responding to and recovering from such disasters and emergencies.

- (b) It is further declared to be the purpose of this ordinance and the policy of the City that all ~~civil defense~~ emergency management functions of the City shall be carried out pursuant to this ordinance and the emergency management plan developed hereunder, by Dane County as part of a county-wide civil defense emergency management program, and to the maximum extent practicable. Existing services and resources of this City shall be used as needed. All of this shall be carried out within the framework of the County Civil Defense Ordinance Chapter 166 of the Wisconsin Statutes.

Approved as to form:

Michael P. May, City Attorney

- (2) Definitions. In this chapter,
- (a) "Biological agent" means any of the following:
    - 1. A select agent that is a virus, bacterium, rickettsia, fungus, or toxin that is specified under 42 CFR 72, Appendix A.
    - 2. A genetically modified microorganism or genetic element from an organism under Sub. (a) that is shown to produce or encode for a factor associated with a disease
    - 3. A genetically modified microorganism or genetic element that contains nucleic acid sequences coding for a toxin under Sub. (a) or its toxic subunit.
    - 4. An agent specified by the State of Wisconsin department of health and family services by rule.
  - (b) "Bioterrorism" means the intentional use of any biological, chemical, or radiological agent to cause death, disease, or biological malfunction in a human, animal, plant, or other living organism in order to influence the policy of a governmental unit or to intimidate or coerce the civilian population.
  - (c) "Chemical agent" means a substance that has chemical properties that produce lethal or serious effects in plants or animals.
  - (d) "Civil defense" means all measures undertaken by or on behalf of the state and its subdivisions: to prepare for and minimize the effect of enemy action upon the civilian population.
  - (e) "Emergency" means either:
    - 1. The imminence or existence of a major disaster or catastrophe resulting from enemy attack, sabotage, or other hostile action or by fire, flood, earthquake, or other natural or unforeseen causes which are clearly beyond the control of normal government services, personnel, equipment and facilities; or
    - 2. When a state of emergency has been proclaimed by the governor of the state or the Mayor or designee hereunder or by the Common Council as provided in Section 3.025, M.G.O.
  - (f) "Emergency management" includes "civil defense" and means all measures undertaken by or on behalf of the state and its subdivisions:
    - 1. to prepare for and minimize the effect of enemy action and natural or unforeseen disaster upon the civilian population;
    - 2. to effectuate emergency repairs to, or the emergency restoration of, vital public utilities or facilities destroyed or damaged by such action or disaster;
    - 3. to develop and implement a plan to ensure the continuity of normal governmental operations during an emergency.
    - 4. to assist as appropriate the civilian population in the recovery from an emergency.
  - (g) "Emergency Management Coordinator" shall mean "Head of Emergency Management Services" as that term is used in Chapter 166 of the Wisconsin Statutes.
  - (h) "Enemy action" means hostile action by a foreign power which threatens the security of this City or a portion thereof.
  - (i) "Incident command system" means a functional management system established to control, direct, and manage the roles, responsibilities, and operations of all of the agencies involved in a multi-jurisdictional or multi-agency emergency response.
  - (j) "National incident command system" (NIMS) is a national approach to an incident command system providing an integrated system with uniform processes, protocols and procedures for emergency response at every level of government.
  - (k) "Public health emergency" means the occurrence or imminent threat of an illness or health condition that meets all of the following criteria:
    - 1. Is believed to be caused by bioterrorism or a novel or previously controlled or eradicated biological agent.
    - 2. Poses a high probability of any of the following:
      - a. A large number of deaths or serious long-term disabilities among humans.
      - b. a high probability of widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of people.
  - (l) "Radiological agent" means radiation or radioactive material at a level that is dangerous to human health.

- (m) "State of emergency" means the interim of time between the imminence of or the beginning of an emergency or the issuance of the proclamation declaring an emergency by either the governor; County Executive of Dane County; Mayor or designee hereunder; the Common Council; or other official as authorized under Section 3.025, M.G.O. and a terminating proclamation is issued by such official declaring the period of extreme emergency to be at an end.
- ~~(2)(3)~~ Civil Defense Liaison Emergency Management Coordinator.
  - (a) There is hereby created a position of liaison representative to Emergency Management Coordinator who shall serve as the link between the Common Council and the Mayor and the Dane County Board and the City and State and Dane County Offices of Civil Defense Emergency Management as well as between the City and private individuals and/or entities for emergency management purposes. who S/he shall be appointed by the Mayor, subject to confirmation of the Common Council and who shall be directly responsible to the Mayor and the Common Council shall have responsibility in matters concerning the City's civil defense emergency management as set forth in this ordinance.
- ~~(3)~~ Civil Defense Director.
  - (a) ~~Appointment.~~ The Director of Civil Defense for Dane County shall serve as Civil Defense Director for the City of Madison.
  - (b) ~~Duties and Authority of Director.~~ The Director Emergency Management Coordinator shall have the powers and duties set forth in Subsection (4), below. S/he shall be the executive head coordinator of the civil defense emergency management for the City and shall have direct responsibility for organizing, administering, training and operating civil defense emergency management within the framework of the Dane County Civil Defense Plan as approved by the State and Federal Governments, City's emergency management plan and shall serve as the signatory for the City in civil defense emergency management matters during a state of emergency in the absence or unavailability of the Mayor.
- (4) Powers and Duties of the Emergency Management Coordinator.
  - (a) The Emergency Management Coordinator shall develop and promulgate emergency management plans consistent with state plans, direct the emergency management program and perform such other duties related to emergency management as are required by the Common Council. The emergency management plan shall require the use of the incident command system and NIMS, as appropriate, by all emergency response agencies, including the local health department as defined in sec. 250.021(4), Wis. Stats., during a state of emergency declared by the Governor under sec. 166.03(1)(b)1., Wis. Stats., or by the Mayor or Common Council hereunder, or by the Common Council under Sec. 3.025 of the Madison General Ordinances or in any other multi-jurisdictional or multi-agency emergency response.
  - (b) The Emergency Management Coordinator shall coordinate and schedule City emergency management training programs and exercises, direct participation in emergency management programs and exercises ordered by the adjutant general of the State of Wisconsin and the Dane County director of emergency management, and advise the Dane County director of emergency management on City emergency management programs and submit to him or her such reports as he or she requires.
  - (c) In addition, the Emergency Management Coordinator shall be responsible for performance of the following activities:
    - 1. Develop an organized and comprehensive emergency plan for the City.
    - 2. Assess risks and potential risks and hazards.
    - 3. Serve as a resource to organize, train, and equip emergency responders and emergency management staff.
    - 4. Support incident command system.
    - 5. Serve as Emergency Operation Center director.
    - 6. Review City agency plans to ensure plans are coordinated, current and comprehensive.
    - 7. Serve as staff advisor to the Mayor on emergency management matters.
    - 8. Keep the Mayor apprised of the preparedness status and emergency management needs.
    - 9. Coordinate City planning and preparedness activities.
    - 10. Prepare and maintain a resource inventory.
    - 11. Ensure City plan is coordinated with other state and local government plans.

12. Coordinate periodic emergency exercises.
  13. Perform as necessary liaison with the state emergency management staff and other local emergency management personnel.
  14. Coordinate with organized volunteer groups and businesses regarding emergency operations.
  15. Prepare the City to manage emergencies from mitigation and preparedness to response and recovery.
  16. Direct the activities of the Emergency Management Planning Staff Team.
- (5) Emergency Management Planning Staff Team.
- (a) Membership.  
The Emergency Management Planning Staff Team shall consist of the following individuals or their designees: City Attorney, City Engineer, Comptroller, Fire Chief, Police Chief, Street Superintendent, Director of Motor Equipment, Building Inspection Director, Director of Public Health, Forestry Supervisor. With approval of the Mayor, the Planning Team may be expanded to include other City agency heads.
  - (b) Duties Performed Under the Direction of the Emergency Management Coordinator.
    1. Develop an organized and comprehensive emergency plan for the City.
    2. Assess risks and potential risks and hazards.
    3. Prepare and maintain a resource inventory.
    4. Coordinate with organized volunteer groups and businesses regarding emergency operations.
    5. Prepare the City to manage emergencies from mitigation and preparedness to response and recovery.
- ~~(4)~~ (6) Utilizing Existing Services and Resources.
- (a) Resources. ~~In preparing and executing the Civil Defense Program emergency management plan,~~ the services, equipment, supplies and facilities of the existing departments and agencies of the City shall be utilized to the maximum extent practicable; and the officers and personnel of all such departments and agencies are directed to cooperate with and extend such service and facilities as are required of them by the ~~Civil Defense Director~~ Emergency Management Coordinator.
  - (b) Management Services. ~~Specific assignments to various departments for civil defense emergency management purposes shall be made in accordance with Annex C (Command and Control) of the Madison civil defense emergency management plan as approved by the Common Council.~~
  - (c) Management Cooperation. All Department and Division heads shall assist the Emergency Management Coordinator in the development of the emergency management plan to ensure the safety and welfare of the general public and the continuity of normal governmental operation during a state of emergency.
  - (d) Contracting Powers. The Emergency Management Coordinator is empowered to enter into contracts to purchase or provide goods and services consistent with the mission of Emergency Management, as authorized by the Emergency Management Plan approved by the Common Council and in accordance with all adopted budgetary restrictions and authorizations.
- ~~(5)~~(7) Emergency Regulations. ~~Whenever necessary, to meet an civil defense emergency for which adequate regulations have not been adopted by the Common Council, the Common Council and/or the Mayor, and in his absence, the Civil Defense Director, pursuant to Sec. 3.025, M.G.O., may issue a proclamation to promulgate and serve such orders, rules and regulations relating to the conduct of persons and the use of property as shall be necessary to protect the public's health and safety and to protect lives and property and to insure the cooperation necessary for civil defense emergency management activities. Such proclamation shall be in accordance with Section 3.025, M.G.O. Dane County Civil Defense ordinances, and State of Wisconsin Statutes and may be rescinded by the Common Council at any time.~~
- (6) (8) Mutual Aid Agreements. The Director of Civil Defense Emergency Management Coordinator may, subject to the approval of the Common Council, enter into mutual aid agreements with other political subdivisions. Copies of such agreements shall be filed with the City Clerk and the State Director of Civil Defense Adjutant General.

(7) (9) Declaration of Emergencies.

- (a) Upon the declaration of a state of emergency by the Governor, by the Mayor, or in the absence of the Mayor, by the Civil Defense Director President of the Common Council or the individual designated under Sec. 3.025, M.G.O., in the absence of the Mayor, or by the Common Council under Sec. 3.025, M.G.O. of a state of emergency, the Civil Defense Director Emergency Management Coordinator shall disseminate all proclamations as to the existence of such state of emergency and shall issue such disaster warnings or alerts as shall be required in the civil defense emergency management plan.
- (b) The civil defense organization shall take action in accordance with the civil defense plan only after the declaration of an emergency and the issuance of official disaster warnings. Such state of emergency shall continue until terminated by the issuing authority, provided that any such declaration not issued by the Governor may be terminated at the discretion of the Common Council.
- (c) During the continuance of a state of emergency, proclaimed as set forth herein, the Emergency Management Coordinator may contract with any person to provide equipment and services on a cost basis to be used in disaster relief and/or commandeer materials, services and property in the public interest and safety. Such authority to contract shall be limited to the provision of goods and services necessary to stop further damage and/or to maintain basic municipal services and/or infrastructures. Contracts in excess of ten thousand dollars (\$10,000) shall require approval of the Mayor.
- (d) Upon the completion of the work described in Par. (c) and the termination of the state of emergency, the Emergency Management Coordinator shall make a complete report of the work to the Mayor and the Common Council, stating in detail the items of cost and the total cost of doing the work. The City Clerk shall publish the report as a part of the proceedings of the Common Council.

(10) City Security. No person shall be employed or associated in any capacity in any emergency management services under this Section who advocates a change by force or violence in the constitutional form of government of the United States or this state or who has been convicted of or is under indictment or information charging any subversive act against the United States.

(8) Oath of Civil Defense Personnel. Each person appointed by the Mayor to the Civil Defense Commission, each person employed in the Civil Defense Office and all Civil Defense Volunteers, shall take an oath which shall be substantially as follows:

"I, \_\_\_\_\_ do solemnly swear (or affirm) that I will support the Constitution of the United States and the state of Wisconsin against all enemies, foreign and domestic; that I will bear true faith and allegiance and that I will well and faithfully discharge the duties I have entered or am about to enter.

"And I do further swear (or affirm) that I do not advocate nor am I a member or affiliate of any political party or organization that advocates the overthrow of the Government of the United States or of this state by force or violence; and that during such time as I am affiliated with the Madison Civil Defense Organization I will not advocate nor become a member or an affiliate of any political party or organization that advocates the overthrow of the Government of the United States by force or violence.

"And I do further swear (or affirm) that I have not been convicted of, nor am I under indictment or information charging any subversive act against the United States.

\_\_\_\_\_  
Signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Notary Public, Dane County, Wisconsin  
My Commission expires \_\_\_\_\_."

(11) Emergency Management Funds. Such money deemed necessary for the carrying out of the purposes of this ordinance, except as otherwise specifically provided, shall be disbursed in the manner prescribed for the disbursement of public funds, excepting in case of a state of emergency proclaimed as provided herein. In which event the Mayor may disburse such reasonable and necessary contingency funds within his/her discretion for emergency government purposes without the signature or countersignature of any other City officer or compliance with any other ordinance. Upon the completion of the work and the termination of the state of emergency, the Mayor shall make a complete report of the work to the Common Council, stating in detail the items of cost and

the total cost of doing the work. The City Clerk shall publish the report as a part of the proceedings of the Common Council.

(12) Enforcement. It shall be the duty of every emergency government committee established pursuant to this Section and the Emergency Management Coordinator, Department Heads, officers, agents, employees and all other City and emergency government personnel to execute, enforce and obey such lawful orders rules and regulations as may be issued by the Mayor during a state of emergency.

(13) Penalty. Any person who willfully refuses to comply with any lawful order of the Mayor during a state of emergency, shall upon conviction by a court of record forfeit sum not exceeding \$200."

2. Section 23.47 is hereby repealed, and recreated and renumbered as Section 3.025 as follows:

**"3.025 EMERGENCY PROCLAMATION.**

- (1) Notwithstanding any other provision of law to the contrary the Common Council is empowered to declare, by ordinance or resolution, an emergency existing within the city 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 services of the City. 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.
- (2) The emergency power of the Common Council conferred under Subsection (1) includes the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, welfare and good order of the city in the emergency and includes without limitation because of enumeration the power to:
  - (a) Bar, restrict or remove all unnecessary traffic, both vehicular and pedestrian, from the local highways notwithstanding any provision of Chapter 12, Madison General Ordinances, or Chapters 341 to 349, Wis. Stats., or any other provisions of law.
  - (b) Impose a curfew upon all or any portions of the City thereby requiring all persons in such designated curfew areas to remove themselves forthwith from the public streets, alleys, parks or other public places. Physicians, nurses and ambulance operators performing medical services, bona fide members of the news media, personnel of public utilities maintaining essential public services and firemen and City authorized or requested law enforcement officers and personnel may be exempted from such curfew.
  - (c) Order the closing of any business establishments anywhere within the City for the period of the order within the City. Emergency, such businesses to include, without limitation because of enumeration, those selling intoxicating liquor, fermented malt beverages, gasoline or firearms.
  - (d) Call upon regular and auxiliary law enforcement agencies and organizations within or without the City of Madison to assist in preserving and keeping peace and order within the City.
- (3) If, because of the emergency conditions, the Common Council is unable to meet with promptness, the Mayor or, in the event of her/his inability to act, the president of the Council or other successor as determined under Section 3.02(3), shall exercise by proclamation all of the powers conferred upon the Common Council under Subsec. (1) or (2) which within the discretion of the Mayor or the Mayor's successor appear necessary and expedient for the purposes herein set forth. The proclamation shall be subject to ratification, alteration or repeal by the Common Council as soon as the Common Council can meet, but the subsequent action by the Common Council shall not affect the prior validity of the proclamation.
- (4) The proclamation, ordinance, or resolution declaring an emergency under Subsec (1), (2) or (3) shall be effective upon its issuance and its dissemination to the public by appropriate news media.
- (5) Any person who willfully fails or refuses to comply with any lawful order or duly authorized law enforcement officers or personnel charged with the enforcement of such proclamation of emergency shall be subject to a forfeiture of not more than five hundred dollars (\$500) for each offense.
- (6) Each portion of this section is deemed severable and if any provision is held to be unconstitutional or invalid for any reason, such decision shall not affect any portion of this section other than the portion or portions affected by such decision.

- (7) This section shall supersede all other provisions of the Madison General Ordinances in conflict with this section."

EDITOR'S NOTE: Section 23.47 currently reads as follows:

**"23.47 EMERGENCY PROCLAMATION.**

- (1) Notwithstanding any other provision of law to the contrary the Common Council is empowered to declare, by ordinance or resolution, an emergency existing within the city 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 services of the City. 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.
- (2) The emergency power of the Common Council conferred under Subsection (1) includes the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, welfare and good order of the city in the emergency and includes without limitation because of enumeration the power to:
  - (a) Bar, restrict or remove all unnecessary traffic, both vehicular and pedestrian, from the local highways notwithstanding any provision of Chapter 12, Madison General Ordinances, or Chapters 341 to 349, Wis. Stats., or any other provisions of law.
  - (b) Impose a curfew upon all or any portions of the City thereby requiring all persons in such designated curfew areas to remove themselves forthwith from the public streets, alleys, parks or other public places. Physicians, nurses and ambulance operators performing medical services, bona fide members of the news media, personnel of public utilities maintaining essential public services and firemen and City authorized or requested law enforcement officers and personnel may be exempted from such curfew.
  - (c) Order the closing of any business establishments anywhere within the City for the period of the emergency, such businesses to include, without limitation because of enumeration, those selling intoxicating liquor, fermented malt beverages, gasoline or firearms.
  - (d) Call upon regular and auxiliary law enforcement agencies and organizations within or without the City of Madison to assist in preserving and keeping peace and order within the City.
- (3) If, because of the emergency conditions, the Common Council is unable to meet with promptness, the Mayor or, in the event of her/his inability to act, the president of the Council or other successor as determined under Section 3.02(3), shall exercise by proclamation all of the powers conferred upon the Common Council under Subsec. (1) or (2) which within the discretion of the Mayor or the Mayor's successor appear necessary and expedient for the purposes herein set forth. The proclamation shall be subject to ratification, alteration or repeal by the Common Council as soon as the Common Council can meet, but the subsequent action by the Common Council shall not affect the prior validity of the proclamation.
- (4) The proclamation, ordinance, or resolution declaring an emergency under Subsec (1), (2) or (3) shall be effective upon its issuance and its dissemination to the public by appropriate news media.
- (5) Any person who willfully fails or refuses to comply with any lawful order or duly authorized law enforcement officers or personnel charged with the enforcement of such proclamation of emergency shall be subject to a forfeiture of not more than five hundred dollars (\$500) for each offense.
- (6) Each portion of this section is deemed severable and if any provision is held to be unconstitutional or invalid for any reason, such decision shall not affect any portion of this section other than the portion or portions affected by such decision.
- (7) This section shall supersede all other provisions of the Madison General Ordinances in conflict with this section."