

**AN ORDINANCE  
TO REPEAL AND RECREATE CHAPTER 56 “EMERGENCY  
GOVERNMENT” OF THE CITY OF WATERTOWN GENERAL  
ORDINANCES**

**SPONSOR: ALDERPERSON RAETHER  
COMMITTEE: PUBLIC SAFETY**

**WHEREAS**, the Emergency Management Director having reviewed the City of Watertown Code and having found significant deficiencies in the area of Emergency Management;

**WHEREAS**, the Emergency Management Director having made recommendations to the Public Safety Committee and Common Council of ways in which to correct said deficiencies in the ordinances;

**WHEREAS**, the Common Council having found and determined that further regulation of anticipated emergencies is necessary in order that the health, safety and welfare of all persons in the City, residents and visitors alike, may be protected;

**NOW, THEREFORE**, the Mayor and Common Council of the City of Watertown, Wisconsin, do ordain as follows:

**SECTION 1.** CHAPTER 56 SECTION 56-1thru 56-4 of the Municipal Code of Watertown, Wisconsin, is hereby repealed and recreated to read as follows:

**56.01 - DEFINITIONS.**

The words, terms and phrases, when used in this chapter, shall have the meanings as defined in Wis. Stat. Chap. 323 and as amended in the same.

**56.02 - PURPOSE.**

- (1) The purpose of this Chapter is to prepare the City to cope with emergencies resulting from a disaster, or the imminent threat of a disaster, and to establish protocol for emergency management conferring certain powers and duties of the Common Council and others specified in this Chapter.
- (2) Unless otherwise specified by law, the role of any City department or agency in an emergency declared under this Chapter is to assist City government and City public safety agencies in responding to a disaster or the imminent threat of a disaster.

**EMERGENCY MANAGEMENT ORGANIZATION**

**56.03 - LINES OF SUCCESSION FOR EMERGENCY DECLARATIONS.**

- (1) **EXERCISE OF COMMON COUNCIL POWERS SUBJECT TO DISASTER** If because an emergency condition exists and the full Common Council is unable to meet with promptness,

the mayor or acting mayor shall exercise by proclamation all of the powers conferred upon the governing body under 323.11 that appear necessary and expedient. 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. Any proclamations so declared shall be subject to ratification, alteration, modification or repeal by the Common Council as soon as it can meet.

- (2) MAYOR. The Mayor is empowered to declare an emergency, as emergency is defined in this Chapter.
- (3) ALTERNATES.
  - (a) In the absence of the Mayor, alternates in the line of succession as outlined in Watertown Municipal Code section 410-31(B) are as follows:
    1. The Fire Chief.
    2. The Police Chief.

#### 56.04 – EMERGENCY MANAGEMENT DIRECTOR.

- (1) APPOINTMENT; Pursuant to Ch. 166, Wis. Stats., the City of Watertown hereby appoints the Fire Chief as Emergency Management Director to develop an emergency management program consistent with the state plan of emergency management, as expressed in Ch. 323, Wis. Stats., and any subsequent amendments thereto.
- (2) DUTIES AND RESPONSIBILITIES. The duties and responsibilities of the Emergency Management Director, pursuant to § 323.15, Wis. Stats., shall be to:
  - (a) Develop and promulgate emergency management plans for the City.
  - (b) Coordinate and assist in the development of emergency management plans within the City.
  - (c) Direct the City Emergency Management Programs.
  - (d) Direct City-wide emergency management training and exercises.
  - (e) Provide City departments with the information necessary to aid each entity with complying with the National Incident Management System (NIMS) requirements.
  - (f) Develop and maintain effective relationships with government, private and voluntary agencies with interests within the City.
  - (g) Develop and implement public information and public relations activities.
  - (h) Advise the county head(s) of all emergency management planning for the County on local emergency management programs.
  - (i) Direct and coordinate all City emergency management activities during a state of emergency.
  - (j) Perform such other duties relating to emergency management as may be required by the Common Council.
  - (k) Submit to the county head(s) of emergency management any reports he or she requires.

- (3) In the event the City Emergency Management Director is absent, the City Emergency Management Director will designate a Deputy Director and they shall assume all duties and responsibilities of the Emergency Management Director until the Emergency Management Director is available.

#### 56.05 EMERGENCY DECLARATIONS AND POWERS.

##### (1) DECLARATION OF AN EMERGENCY.

- (a) The Common Council may, under § 323.11, Wis. Stats., declare, by ordinance or resolution, an emergency existing within the City whenever conditions arise by reason of a disaster or an imminent threat of a disaster, as defined in this Chapter, which exists or is likely to exist.
- (b) The Mayor may, under Wis. Stat. sec. 323.14(4)(b), declare an emergency by proclamation if it appears necessary and expedient and Common Council is unable to meet promptly. Such proclamation shall comply with all the requirements of sub. (a) listed above and is subject to ratification, alteration, modification, or repeal by resolution as soon as the Common Council can meet. The Mayor may proclaim:
  - i. Whatever is necessary and expedient for the health, safety, protection, and welfare of persons and property within the city in the emergency; including the power to bar, restrict, or remove all unnecessary traffic from the highways, notwithstanding any provision of Chs. 341 to 349, Wis. Stats., and their succession chapters.
  - ii. To facilitate recovery following a disaster, the Mayor, or when applicable his/her alternate, may suspend required permits, price controls, or other restrictions pursuant to the authority granted under §§ 323.14(3), (4), 59.03 and 59.04, Wis. Stats.
- (c) A state of emergency shall not exceed 60 days, unless the state of emergency is extended by ordinance or resolution of the Council. The existing declaration of emergency may be revoked at the discretion of the City Council by ordinance or resolution.

- (2) **POWERS OF EMERGENCY MANAGEMENT DIRECTOR.** During a state of emergency declared by the Governor or the City, the City Emergency Management Director may obtain supplies, equipment, and services or contract with any person to provide equipment and services on a cost basis to be used to respond to a disaster or the imminent threat of a disaster.
- (3) **INITIAL EMERGENCY MEASURES.** All emergency measures taken by the Emergency Management Director prior to the issuance of an official proclamation of emergency, or prior to any decision of the Council not to issue such proclamation, shall be legal and binding upon the City.
- (4) **EXPENDITURES.** Any expenditure made in connection with such emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City.
- (5) **EMERGENCY BIDDING.** In a formally declared City emergency, the Director of Emergency Management may proceed with the emergency bidding process, such that the

needs of the community in a city-declared disaster may be met in a timely manner while still complying with state and federal law.

- (6) **EMERGENCY HIRING.** In a formally declared City emergency, the City may implement an expedited hiring process. The intent of this process is to bring into City service temporary employees that may be needed on a limited-term basis specifically to aid in the recovery from a City declared disaster without regard to current hiring processes in place by resolution, ordinance, policy, or collective bargaining agreements during the declared event.
- (7) **APPLICANT'S AGENT.** The City Emergency Management Director shall have the authority to execute, for and on behalf of the City, applications, assurances and agreements as and for emergency federal financial assistance available through the Federal Emergency Management Agency, the Department of Housing and Urban Development, the President's Disaster Relief Fund and other resources. The Director shall be referred to in this capacity as "the applicant's agent." The authority granted to the said Director in this section shall be subject to the Director's securing prior approval for her/his actions from the Emergency Management Committee except where the nature of the emergency, disaster or enemy action is such as to create an exigency which requires the immediate execution of the aforesaid duties in light of applicable federal standards.

#### **56.06- UTILIZATION OF RESOURCES AND FACILITIES; RESPONSIBILITIES AND ACTION OF DEPARTMENT PERSONNEL.**

- (1) **POLICY.** In preparing and executing the Emergency Management Program, 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 heads and personnel of all such departments and agencies are directed to cooperate, and extend such services and facilities as are required of them.
- (2) **RESPONSIBILITY.** In order to assure that in an emergency all of the facilities of the existing City government are expanded to the fullest to meet such emergency, department and agency heads assigned to specific responsibilities and Emergency Support Functions under the City Emergency Response Plan will fulfill emergency and non-emergency duties as prescribed in the plan, including reporting to the Emergency Operations Center to carry out assigned duties.
- (3) **CONTINUITY OF OPERATIONS.** In the event that the emergency prevents the utilization of existing city facilities, the Common Council shall take actions to designate temporary locations for government operations.
  - (a) The Common Council may meet at any place within or without the territorial limits of the City on the call of the Mayor or the alternate in the line of succession as provided in subd. **56.05(4)**. The Common Council shall establish and designate, by ordinance, resolution or other manner, alternate or substitute sites or places as the emergency temporary locations for regular government operations. If practicable, regular government operations shall take place at the sites or places designated as the emergency temporary locations of government in the current emergency management plan, such as the continuity of government/continuity of operations plan.
  - (b) While the public business is being conducted at an emergency temporary location, the Common Council and other officers of the City shall have, possess and exercise, at such location, all of the executive, legislative, administrative and judicial powers and functions

conferred upon the Council and officers under State law. All government powers and functions, except judicial, may be exercised in light of the requirements of the emergency situation without regard to or compliance with time-consuming procedures and formalities prescribed by law and pertaining thereto. All acts of the Common Council and officers shall be valid and binding as if performed within the territorial limits of their City.

#### 56.07 - CITY EMERGENCY RESPONSE PLAN.

- (1) **DEVELOPMENT AND MAINTENANCE.** Under the direction of the Common Council, the Emergency Management Director shall be responsible for ensuring the development and maintenance of the City Emergency Response Plan, which shall provide for the effective mobilization of all of the resources of the City both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization, powers and duties, and staff of the emergency organization.
- (2) **COMPLIANCE.** The plan shall comply with applicable local, State and Federal planning criteria. The plan shall contain an analysis of the risks faced by the City, assign functional responsibilities to City departments and personnel, and assign lines of succession for the members of the emergency organization.
- (3) **EMERGENCY SUPPORT FUNCTIONS.** The plan shall include the functions assigned to City agencies or departments and it shall be the responsibility of each Department head to develop and maintain a department plan to fulfill the roles and responsibilities in the City Emergency Operations Plan and appoint coordinators who shall report to the Emergency Operations Center and carry out assigned duties, as appropriate.

#### 56.08 - NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)/INCIDENT COMMAND SYSTEM.

The City of Watertown will comply with the National Incident Management Systems (NIMS) requirement in all phases (i.e., mitigation, preparedness, response, recovery) of its emergency management program, as detailed by the Federal and State government, in order to facilitate and effectively coordinate an emergency management system and in order to remain eligible for grant funding. As part of becoming compliant with the NIMS, the City of Watertown adopts the approved Incident Command System (ICS) for use in emergency management plans and in all emergency operations, which includes all response agencies, including local health departments.

#### 56.09 - SUBSTANCE RELEASE.

- (1) **PURPOSE.** The purpose of this Section is to prohibit dangerous material discharges and to enable the City of Watertown to require reimbursement from those responsible who possess or control a hazardous substance that is released or who causes the release of a hazardous substance thereby resulting in the response to and incurring of costs by the responding agency(ies).
- (2) **DEFINITIONS.** For the purposes of this section, the following definitions apply:
  - (a) **Hazardous Substance.** Any substance set forth in subd. (4), the release of which creates a hazard, potential hazard, public nuisance or has a deleterious effect on the environment.

- (b) Responsible Party. Any person or entity who was, at the time of the release, responsible for, or in possession of, or in a position of control of a dangerous or hazardous substance, or any vehicle, container, or property used for the transport, conveyance, holding or storage of same and furthermore, including any person or entity in control of property onto which or from which the dangerous or hazardous substance matter was or may be released. For purposes of this section the term "entity" shall mean any firm, corporation, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity.
- (3) **FINANCIAL RESPONSIBILITY.** The cost of hazardous material responses shall be the responsibility of the party, agency, entity, or person which created the condition requiring the hazardous materials response. The actual cost of the response shall be charged to the party, agency, entity, or person according to the following schedule:
- (a) Staff time, including the hourly rate for fringe benefits, of the staff involved in the response.
  - (b) A charge for response by the HAZMAT vehicle based on standardized equipment rates or rates previously determined and charged in the past, or the cost to operate the vehicle, depreciation and other factors bearing on the cost of activating the equipment.
  - (c) The replacement cost of all consumable supplies used in the response and the actual cost of any charges incurred by the Team, including the cost of decontamination of equipment and removal and disposal of hazardous materials.
  - (d) A use charge for reusable equipment, in an amount determined by the Common Council based on the operating cost of the equipment, its depreciation and other factors bearing on its cost.
- (4) **PROHIBITED DISCHARGES.** No person, firm, or corporation shall discharge or cause to be discharged, leaked, leached, or spilled upon any public street, alley, or public property, or onto the ground, surface waters, sub-surface waters, or aquifers, or on any private property within the City of Watertown, except those areas specifically licensed for waste disposal or landfill activities and to receive such materials, any explosive, flammable, toxic, or combustible solid, liquid, or gas, any radioactive material at or above Nuclear Regulatory Commission Restriction levels, etiologic agents, or any solid, liquid, or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid, or gas having a deleterious effect on the environment.
- (5) **CONTAINMENT, CLEAN-UP AND RESTORATION,** Any person, firm, or corporation in violation of subd. (4) shall, upon direction of the appropriate federal or state agency and/or the Emergency Management Director, begin immediate actions to contain, clean up, and remove to an approved repository the offending material(s) and restore the site to its original condition, with the offending person, firm, or corporation being responsible for all expenses incurred. Should any person, firm, or corporation fail to engage the necessary staff and equipment to comply or to complete the requirements of this section, the Emergency Management Director may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the City of Watertown and its cooperating agencies.

- (6) **SITE ACCESS.** Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to Emergency Management officers, their designees, and to City Police Department personnel for the purpose of evaluating the threat to the public and monitoring containment, clean up, and restoration activities.
- (7) **PUBLIC PROTECTION.** Should any prohibited discharge occur that threatens the life, safety, or health of the public at, near, or around the site of a prohibited discharge, where the situation is so critical that immediate steps must be taken to protect life or property, the incident commander or unified command on the scene of the emergency may order an evacuation of the area or take other appropriate protective steps for a period of time until the Common Council, Wisconsin Department of Natural Resources, or other appropriate federal or state agency can take appropriate action.
- (8) **ENFORCEMENT.** The Director of Emergency Management and his or her designees, as well as the Police Department officers, shall have authority to issue citations or complaints under this Section.
- (9) **CIVIL LIABILITY.** Any person, firm, or corporation in violation of this section shall be liable to the City of Watertown for any expenses incurred by the City, including costs and expenses incurred by City/ HAZMAT Team member agencies or loss or damage sustained by the City by reason of such violations.
- (10) **PENALTIES.** Any person, firm, or corporation in violation of this section shall forfeit to the City, upon conviction thereof, the general penalty described in Watertown Municipal Code section 1-4, plus the costs of prosecution, and in default of payment thereof, such alternate as the Court may order. Each day of violation shall constitute a separate offense. If a spill is voluntarily reported to the City Emergency Management Director, the forfeiture shall be waived, subject to the other costs as laid out in this ordinance.
- (11) **ENFORCEMENT.** The City Attorney's Office shall be empowered to pursue any and all legal action to effect payment as herein provided for under subd. (5), (8), (9), and (10), including representation of non-City agency members of the HAZMAT Team. In the event of a conflict of interest, a non-City agency shall be represented by its Municipal Attorney.

#### 56.10 - OBSTRUCTION OF EMERGENCY SERVICES.

- (1) It shall be unlawful for any person, association, corporation, or entity to hinder, obstruct, delay, or sabotage the response or attempted response of the Director, or any member of the Emergency Management Organization, engaged in emergency management activities authorized under this Chapter or engage in any act forbidden by any order, rule, regulation or plan issued pursuant to the authority contained in this Chapter.
- (2) It shall be unlawful for any person to violate any rule, order, regulation, or plan issued in an emergency under the lawful authority of this Chapter or Ch. 323, Wis. Stats.
- (3) In addition to any other individual or agency authorized by law to issue a citation, the Emergency Management Director is hereby authorized to issue citations for violations of this Section.

SECTION 2. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

SECTION 3. This ordinance shall take effect and be in force the day after passage and publication.

Adopted February 18, 2020

Signed- Elissa Friedl – Clerk/Treasurer

Approved February 18, 2020

Signed- Emily McFarland- Mayor

Ord #20-02