

## ORDINANCE NO. \_\_\_\_\_

### AN ORDINANCE TO ESTABLISH NEW SECTIONS REGARDING THE AUTHORITY OF THE MAYOR AND CITY COUNCIL OF \_\_\_\_\_ IN THE ISSUANCE OF PROCLAMATIONS AND ORDERS IN RESPONSE TO CIVIL EMERGENCIES AND TO THE CRIMINAL PENALTIES FOR VIOLATING SUCH ORDERS

Sponsored by the President at the request of the Administration.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Mayor \_\_\_\_\_, Maryland, that Section 2, of the \_\_\_\_ Code, be and it is hereby amended to include as follows:

#### **Chapter 2, Section VII Proclamation (Executive Order) of civil emergency.**

A. Whenever riot, unlawful assembly, insurrection, other disturbance, the imminent threat thereof, or any fire, flood, storm, earthquake or other natural catastrophe or disaster occurs in the City and results in or threatens to result in the death or injury of persons or the destruction of property or the disruption of local government to such extent as to require, in the judgment of the Mayor, extraordinary measures to prevent the death or injury of persons and to protect the public peace, safety and welfare, and alleviate damage, loss, hardship or suffering, the Mayor shall forthwith proclaim the existence of a municipal emergency.

B. Such civil emergency shall cease to exist upon the issuance of a Executive Order by the Mayor or by a resolution passed by a vote of not less than two-thirds (2/3) of all the members present and voting of the City Council terminating the same. Such proclamation shall be issued by the Mayor or by a resolution passed by a vote of not less than two-thirds (2/3) of all the members of the City Council **present and voting** when such extraordinary measures are no longer required for the protection of the public peace, safety and welfare. Before a civil emergency is declared terminated, either by proclamation by the Mayor or by a resolution passed by a vote of not less than two-thirds (2/3) of all the members of the City Council, the Mayor or Council will consult with the City's Director of Emergency Operations, Police Chief, Fire Chief and Rescue Chief to determine if there are any fiscal, public safety response or disaster recovery imperatives that require the continuation of emergency measures.

C. Any such Executive Order of a civil emergency by the Mayor shall, within 48 hours of issuance of the proclamation, or as soon as practical, at the earliest practicable time be filed with the Clerk to the City Council for presentation to the City Council for ratification and confirmation, modification, or rejection. The Council may, by resolution, modify or reject the proclamation, and if rejected, it shall be void. If the Council modifies or rejects the proclamation, said modification or rejection shall be prospective only, and shall not affect any actions taken prior to the modification or rejection of the proclamation. The Council shall endeavor to act on any proclamation of civil emergency within 48 hours of its being presented to the Council by the Mayor.

#### **Chapter 2, Section VIII Authority of Mayor to issue certain orders.**

Upon the Executive Order of a civil municipal emergency by the Mayor, and during the existence of such civil emergency, the Mayor may, in a form that meets the requirements of this Section, make and proclaim any or all of the following orders:

A. An order imposing a general curfew applicable to the City as a whole, or to such geographical area or areas of the City and during such hours, as he deems necessary, which effective hours and affected area or areas may be modified from time to time;

- B. An order requiring any or all business establishments to close and remain closed until further order;
- C. An order requiring the closure of any or all bars, taverns, liquor stores, and other business establishments where alcoholic beverages are sold or otherwise dispensed; provided that with respect to those business establishments which are not primarily devoted to the sale of alcoholic beverages and in which such alcoholic beverages may be removed or made secure from possible seizure by the public, the portions thereof utilized for the sale of items other than alcoholic beverages may, in the discretion of the Mayor, be allowed to remain open;
- D. An order requiring the discontinuance of the sale, distribution or giving away of alcoholic beverages in any or all parts of the City;
- E. An order requiring the discontinuance of the sale, distribution or giving away of firearms and/or ammunition for firearms in any or all parts of the City;
- F. An order requiring the discontinuance of the sale, distribution or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;
- G. An order requiring the closure of any or all business establishments where firearms and/or ammunition for firearms are sold or otherwise dispensed; provided that with respect to those business establishments which are not primarily devoted to the sale of firearms and/or ammunition and in which such firearms and/or ammunition may be removed or made secure from possible seizure by the public, the portions thereof utilized for the sale of items other than firearms and ammunition may, in the discretion of the Mayor, be allowed to remain open;
- H. An order closing to the public any or all public places including streets, alleys, public ways, schools, parks, beaches, amusement areas, and public buildings;
- I. An order prohibiting the carrying or possession of a firearm or any instrument which is capable of producing bodily harm and which is carried or possessed with intent to use the same to cause such harm, provided that any such order shall not apply to peace officers or military personnel engaged in the performance of their official duties;
- J. An order requesting federal and/or state assistance in combating such civil emergency;
- K. An order establishing economic controls in aid of and supplementary to and consistent with State and Federal orders relating to price stabilization or controls including: the convening and establishing of ration boards; auditing retail and wholesale ration accounts; monitoring price control operations and reporting violations to appropriate authorities; assisting in providing essential supplies to disaster victims; advising appropriate authorities concerning rationing, price control, wage and rent controls and allocation of food and other essential commodities;
- L. An order directing the use of all public and private health, medical, and convalescent facilities and equipment to provide emergency health and medical care for injured persons;
- M. An order authorizing, in cooperation with utility management and appropriate State and Federal agencies, the shutting off, restoration, and operation of utility services in accordance with priorities established for combating such civil emergency;
- N. An order providing for the evacuation and reception of the population of the City or any part thereof; and
- O. Such other orders as are imminently necessary for the protection of life and property;

Provided however, that any such order(s) shall, within 48 hours of issuance of the order, or as soon as practical at the earliest practicable time be filed with the Clerk to the City Council and presented to for presentation to the City Council for ratification and confirmation, modification or rejection, and if rejected, shall be void. The Council shall consider the statements set forth in this Section and may, by resolution, modify or reject the order. If the Council modifies or rejects the order, said modification or rejection shall be prospective only, and shall not affect any actions taken prior to the modification or rejection of the order. The Council shall endeavor to act on any order within 48 hours of its being presented to the Council by the Mayor.

#### **Chapter 2, Section IX - Civil Rights Protected.**

An order issued pursuant to Section VII shall contain the following:

1. A statement of the facts upon which the order is based; and
2. A statement that the Mayor believes it is in the best interest of public safety, rescue and recovery efforts and the protection of property that the exercise of certain rights be temporarily limited; and
3. A statement that the conditions of the order are designed to provide the least necessary restriction on those rights.

#### **Chapter 2, Section X - Use of services and equipment of municipalities and citizens.**

In addition to and/or in connection with the exercise of the powers specified in this chapter the Mayor shall in carrying out the provisions thereof:

- A. Utilize to the maximum extent practicable the services, equipment, supplies and facilities of existing departments, offices, and agencies of the City, state and other municipal corporations organized under the laws of the state; and
- B. In the event of a disaster and upon the proclamation by the Governor of the existence of such disaster, command the service and equipment of as many citizens as the Mayor considers necessary in the light of the disaster proclaimed; provided, that citizens so commandeered shall be entitled during the period of such service to all privileges, benefits and immunities as are provided by this chapter and Federal and State civil defense regulations for registered civil defense or emergency services workers.

#### **Chapter 2, Section XI - Disaster readiness and response plan.**

Plans and programs for executing emergency powers including a disaster readiness and response plan shall be prepared and kept current under the direction of the Mayor who shall submit such plans and programs and proposed amendments thereto to the City Council for review and approval by resolution. Upon such approval the Mayor shall be authorized to exercise in accordance with such plans and programs the powers provided therein.

#### **Chapter 2, Section XII – Emergency Operations Committee.**

There shall be a Emergency Operations Committee consisting of such number of members as shall be appointed by the Mayor and Chaired by the City's Director of Emergency Operations. Members of the Committee shall serve without compensation, but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

The Committee shall meet at least quarterly at the places and times as shall be prescribed by the Mayor, and shall:

- A. Advise the Mayor on all matters pertaining to disaster readiness and response capabilities within the City;
- B. Periodically review and make recommendations for the revision and/or maintenance of up-to-date disaster response plans for the City including:
  - 1. Preparations for and the carrying out of executive emergency powers,
  - 2. The delegation and sub-delegation of administrative authority by the Mayor,
  - 3. The performance of emergency functions including firefighting, police, medical and health, welfare, rescue, engineering, transportation, communications and warning services, evacuation of persons from stricken areas, plant protection, restoration of utility services, and other functions relating to civilian protection together with all activities necessary or incidental to the preparation for and carrying out of such functions,
  - 4. Requirements for department operation including management succession, procedures for providing twenty-four (24) hour capability, mobilization procedures, special disaster response procedures, plans for records protection, personnel procedures, finance plans, and training procedures for disaster response;
- C. Provide cooperation and coordination with the disaster response plans of other local organizations and agencies;
- D. Prepare and recommend to the Mayor plans for mutual aid operations with the State and County political subdivisions thereof;
- E. Recommend expenditures for disaster preparations and training.

**Chapter 2, Section XIII - Emergency purchases of supplies.**

Upon the Executive Order of a Municipal emergency by the Mayor, and during the existence thereof, emergency purchases of supplies, materials and equipment are authorized to be made in accordance with the following procedure:

- A. Preprinted emergency purchasing forms shall be provided by the Director of Budget and Personnel Services for use for all emergency purchases or contracting for supplies, materials or labor during the existence of such emergency, which forms shall provide for the filling in of appropriate information prescribed by the Director of Budget and Personnel Services including:  
  
date and time of purchase; name and address of supplier; quantity, unit, description, unit price and total price of item; name and appropriate identification number from the City employee identification card of the person making the purchase; date required and date delivered; description of use of item, including disaster work order number, description of disaster work and location of use; and name and appropriate identification number from the City employee identification card of the person receiving the item.
- B. An employee identification card shall be used in all cases to verify that the purchaser is an employee of the City.
- C. A log of all purchases made during any emergency shall be maintained by each department and by the Director of Budget and Personnel Services.
- D. The heads of departments using emergency purchase forms shall account for all costs incurred in making such purchases.

- E. Upon termination of the emergency, the heads of departments shall review all emergency purchases issued by their respective departments, and shall verify and authenticate such orders, and submit a summary thereof through the Director of Budget and Personnel Services for authorization of payment.

**Chapter 2, Section XIV - Authority of Mayor to enter into contracts and incur obligations.**

A. Upon the proclamation by the Mayor of a civil emergency resulting from a disaster caused by enemy attack, sabotage, or other hostile action, or by fire, flood, storm, earthquake, or other natural cause, and during the existence of such civil emergency, the Mayor, in carrying out the provisions of Chapter 38.52, shall have the power by order to enter into contracts and incur obligations necessary to combat such disaster, protect the health and safety of persons and property, and provide emergency assistance to the victims of such disaster. Such powers shall be exercised in the light of the exigencies of the situation without regard to time-consuming procedures and formalities prescribed by ordinance (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations and requirements of competitive bidding and publication of notices pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds; provided, that the Mayor shall, wherever practicable, advise and consult with the City Council with respect to disaster response activities, and any such order shall at the earliest practicable time be presented to the City Council for review and appropriate legislation including:

1. Findings by resolution with respect to actions taken;
2. Authorization of payment for services, supplies, equipment loans and commandeered property used during disaster response activities;
3. Approval of gifts, grants or loans accepted by the Mayor during the emergency;
4. Levy of taxes to meet costs of disaster response and recovery operations;

and upon such review the City Council may ratify and confirm, modify, or reject any such order, and if rejected any such order shall be void.

B. The City Director of Executive Administration shall be authorized to draw and to pay the necessary warrants for expenditures made pursuant to order and authorized by the City Council. If the applicable fund is solvent at the time payment is ordered, the Director of Executive Administration may elect to make payment by check.

**Chapter 2, Section XV - Notification of Governor, news media and public.**

The Mayor shall cause any proclamation or order issued by him pursuant to the authority of this chapter to be delivered to the Governor of the state and, to the extent practicable, to all news media within the City, and shall utilize such as many other available means, including but not limited to, posting on public facilities and public address systems, as may be practical to use, in order shall be necessary in his judgment, to give the widest dissemination of such proclamations and orders to the public.

**Chapter 2, Section XVI - Failure to obey.**

A person/business is guilty of failure to obey the Mayor's emergency order when he or she knowingly violates any order issued under authority of section VIII of this chapter. It is unlawful for anyone to fail or refuse to obey an order proclaimed by the Mayor pursuant to the provisions of this chapter. Anyone convicted of a violation of this section shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than one hundred eighty (180) days, or both such fine and imprisonment.

**AND BE IT FURTHER ENACTED AND ORDAINED**, that this Ordinance shall take effect on the date of its passage.

**PASSED** this \_\_\_\_\_ day of \_\_\_\_\_ 20 .

**ATTEST:**

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\_\_\_\_\_

Clerk to the City Council

President of the City Council

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_ 20 .

\_\_\_\_\_

**Mayor**

**KEY.** Underscoring indicates amendments to existing Code.

Brackets [ ] indicate deletions from existing Code.

Asterisks \* \* \* indicate omissions of portions of existing Code.