



Legislation Text

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An Ordinance to Amend the Code of the City of Ann Arbor by Repeal of Chapter 15, Emergency and Disaster Management, Title I, of the Code and Adding a New Chapter 15, Emergency and Disaster Management, Title I of Said Code (Ordinance No. ORD-17-18)

Attached is the proposed ordinance revision of Chapter 15 of the City Code, which states the policy and organization for the efficient utilization of municipal resources in connection with planning, responding to and recovering from natural and human-made disasters and emergencies.

The Ordinance was reorganized for ease of use in addition to the following specific changes:

- Provides a clear delineation of the duties and responsibilities of the Mayor, City Administrator, Emergency Management Coordinator based on their respective statutory, charter and ordinance authority during a local or State emergency or disaster.
- Maintains the established Emergency Management Program and the election by the City to designate of a local Emergency Management Coordinator under PA 390 of 1976.
- Conforms to common terminology under the state and federal emergency management programs and mutual aid compacts.
- Confirms and restates the role of Council in continuity of government during a local or State emergency or disaster.

Because the Ordinance has undergone a major restructuring, it is recommended that Council adopt the changes replacing the existing ordinance chapter with the new formatted chapter rather than as a series of section amendments.

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Reviewed by: Rick Norman, Emergency Management, Fire Services
Larry Collins, Fire Chief

Approved by: Howard S. Lazarus, City Administrator

ORDINANCE NO. ORD-17-18

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EMERGENCY AND DISASTER MANAGEMENT

An Ordinance to Amend the Code of the City of Ann Arbor by Repeal of Chapter 15, Emergency and Disaster Management, Title I, of the Code and Adding a New Chapter 15, Emergency and Disaster Management, Title I of Said Code.

The City of Ann Arbor Ordains.

Section 1: Section 1: That Chapter 15 of Title I of the Code of the City of Ann Arbor be repealed and replaced in its entirety with a new Chapter 15, Emergency and Disaster Management, to read as

follows:

Chapter 15 - EMERGENCY AND DISASTER MANAGEMENT

1:325. - Intent.

It is the intent and purpose of this chapter to provide the policy and organization for the complete and efficient utilization of all municipal resources for the mitigation, preparedness, response and recovery from natural and human-made disasters and emergencies, within the City of Ann Arbor, to establish an office for this purpose; and the exercise the authority and discharge the responsibilities vested in City elected and appointed officials by this chapter and the Emergency Management Act, No. 390, Public Acts of 1976, as amended, and related federal and state laws.

This chapter will not relieve any elected officials or city departments of the normal responsibilities or authority given by general law or local ordinance, nor will it affect the work of the American Red Cross or other volunteer agencies organized for relief in natural disaster.

1:326. - Definitions.

For the purpose of this chapter, certain terms and words are defined as follows:

- (1) *Act* means the Michigan Emergency Management Act, Act No. 390 of the Public Acts of 1976, as amended.
- (2) *Chief Executive Official* means the Mayor or the successor designated by the City Charter, or otherwise provided for in this chapter.
- (3) *City* means the City of Ann Arbor.
- (4) *Council* means the City Council for the City of Ann Arbor.
- (5) *Disaster* means an occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause, including but not limited to, fire, flood, snowstorm, ice, icestorm, tornado, windstorm, wave action, oil spill, water contamination requiring emergency action to avert danger or damage, utility failure, hazardous peacetime radiological incident, major transportation accident, hazardous material incident, epidemic, air contamination, blight, drought, infestation, explosion, or hostile military or paramilitary action, or similar occurrences resulting from terrorist activities, riots, or civil disorders.
- (6) *Disaster Relief Forces* means all agencies of the state, county and municipal government, private and volunteer personnel, public officers and employees, and all other persons or groups of persons having duties or responsibilities as identified in the City of Ann Arbor Emergency Action Guidelines (EAG) or those called into duty or working at the direction of a party identified in the plan to perform a specific disaster or emergency related task during a local state of emergency or disaster under the Emergency Management Act or pursuant to this chapter.
- (7) *District Coordinator* means the Michigan Department of State Police District Emergency Services Coordinator or his/her authorized representative who serves as the liaison between local emergency management programs and the Michigan State Police, Emergency Management Division in all matters pertaining to the mitigation, preparedness, response and recovery of emergency or disaster situation.
- (8) *Emergency* means any occasion or instance in which the Mayor determines that

assistance is needed to supplement local efforts and capabilities to save lives, protect property and the public health and safety, or to lessen or avert the threat of a catastrophe in the city.

- (9) *Emergency Management Coordinator* means the person appointed pursuant to section 9 of the Act (MCL 30.409) to coordinate all matters pertaining to the coordination of all emergency services, disaster or emergency planning, response and recovery activities within the City of Ann Arbor.
- (10) *Emergency Management Program* means a program established to coordinate mitigation, preparedness, response, and recovery activities for all emergency or disaster situations within the City of Ann Arbor. The program shall be administered through the fire unit, safety services area, of City by a certified emergency manager and meet the program standards and requirements as established by the department of state police, emergency management division. The City of Ann Arbor is an established an emergency management program comprised of one municipality
- (11) *Emergency Operations Plan* means. the plan and necessary support materials developed and maintained by the City of Ann Arbor for guiding local response to all emergency or disaster situations, including provisions for the safe and efficient use of Disaster Relief Forces.
- (12) *Governor's state of emergency* means an executive order or proclamation by the Governor of the State of Michigan that implements the emergency response and recovery aspects of the Michigan Emergency Management Plan and applicable local plans of the county or municipal programs affected.
- (13) *Governor's state of disaster* means an executive order or proclamation made by the Governor of the State of Michigan pursuant to the Emergency Preparedness Act, Act 390 of the Public Acts of 1976, as amended, which activates the disaster emergency plans and authorizes the deployment and use of any forces to which the plan or plans apply.
- (14) *Local state of emergency or disaster* means. a declaration by the Mayor pursuant to the Act and this chapter, which implements the appropriate emergency or disaster response and recovery measures of the City of Ann Arbor and authorizes certain actions as described in this chapter and applicable Emergency Operations Plans.
- (15) *Vital records*. Those records that contain information needed to continue the effective functioning of the City of Ann Arbor and for the protection of the rights and interests of persons under emergency conditions in the event of an emergency or disaster situation.
- (16) *Volunteer* means any person duly appointed or assigned by the city to participate in emergency management related activities and registered with the City of Ann Arbor Emergency Management Coordinator as a member of the Disaster Relief Force. The individual will contribute services, equipment, or facilities for disaster purposes without enumeration or without a formal agreement or contract for hire. .

1:327. - Mayor; powers, duties.

- (1) When circumstance within the city indicate that the occurrence or threat of occurrence of widespread of severe damage injury or loss of life or property from a natural or human-made cause exists in the City , the Mayor may declare a local state of emergency. Such a declaration shall be promptly filed with the department of state police, emergency

management division unless circumstances attendant upon the disaster prevent or impede its prompt filing. Under a declaration of a local state of emergency, he/she may issue directives as to travel restrictions on county or local roads under city jurisdiction. This power shall not be continued or renewed for a period in excess of 7 days except with the consent of the Council.

- (2) If a disaster or emergency occurs that has not yet been declared to be a state of disaster or a state of emergency by the Governor, the Council hereby delegates to the Mayor, the authority to determine if the situation is beyond the control of the city after consultation with the City Administrator. If the disaster or emergency is considered to be beyond the city's control, the city may request state assistance. The Emergency Management Coordinator shall immediately contact the District Coordinator. The District Coordinator, in conjunction with the Emergency Management Coordinator shall assess the nature and scope of the disaster or emergency, and they shall recommend the state personnel, services, and equipment that will be required for its prevention, mitigation, or relief. This provision shall not be construed to restrain the Governor from exercising on his/her own initiative any of the power set forth in the Act.
- (3) If the Mayor invokes the authority and emergency powers as specified by this chapter, as soon as reasonably expedient, he/she shall convene the Council for 1 or more emergency meeting(s) in accordance with the Open Meetings Act to perform its normal legislative and administrative duties as the situation demands. The Council shall have the power to terminate the local state of emergency. Nothing in this chapter shall be construed as abridging or curtailing the powers of the Council unless specifically provided in this section.
- (4) Request the Governor to declare that a state of emergency or disaster exists within the community in the event an emergency or disaster occurs which he/she deems to be beyond the control of the community; provided however, that he/she shall, as soon as is reasonably expedient, convene the Council to perform its legislative duties as the situation demands, and shall report to that body relative to emergency activities.
- (5) Make, amend, and/or rescind ordinances or rules necessary for emergency management purposes and supplementary to a rule, or order, or directive issued by the Governor or a state agency. Any ordinance or rule change under authority of this subsection shall be temporary and upon the Governor's declaration that a state of disaster or state of emergency is terminated, shall no longer be in effect. Emergency ordinances may be passed with a single reading, without notice, and shall take immediate effect. Any enactment, amendment or rescision of an ordinance or rule under authority of this subsection can only be done during a state of disaster or state of emergency, and shall be done only with the approval of Council, unless it is not possible to convene the Council within the time necessary to undertake action to mitigate the disaster.
- (6) Establish, with the approval of Council, procedures for the succession of government during emergencies or disasters when officials are unavailable for exercising the powers and discharging the duties of their respective office.
- (7) Activate mutual aid agreements.
- (8) Establish, with the approval of Council, a contingency fund pursuant to the Emergency Management Act, Public Act 390, as amended.
- (9) Appoint an Emergency Management Coordinator and a minimum of two persons as successors, on the recommendation of the City Administrator and subject to approval of

Council. An individual appointed shall not be ineligible for appointment because he/she holds another public office or trust not shall he/she forfeit his/her right to a public office or trust because of the appointment. The Emergency Management Coordinator shall receive administrative supervision from the City Administrator or designee. The line of succession shall be established in the appointing resolution, be provided to the emergency services unit, and listed in the Emergency Operations Plan. In the absence of an appointed Emergency Management Coordinator, the Fire Chief shall serve in this capacity.

1:328. City Administrator; powers, duties.

- (1) The City Administrator, as the Chief Administrative Officer of the City, shall be responsible for the organization, administration and operation of disaster and emergency services and Disaster Relief Forces. The powers and duties of the City Administrator shall include the following:
 - (a) Relieve, any city employees of normal duties and designate employees, equipment, and facilities of all or any portion of city departments, boards, commissions and institutions suitable for or adaptable to emergency service activities, which may be utilized in case of emergency or disaster.
 - (b) Provide for the appointment, of other persons who shall be necessary to implement the Emergency Management Program. Those persons appointed shall act at the direction of the Emergency Management Coordinator and may be designated as assistant emergency management coordinators and shall assume, in the time and manner specified in their appointing resolution, the duties of the Emergency Management Coordinator.
 - (c) Enter, with the approval of the Council into mutual aid agreements or compacts with other eligible municipalities or counties, which agreements or compacts shall be limited to the exchange of personnel, equipment, and other resources in times of emergency or disaster. The Mayor is responsible for activating these mutual aid agreements.
 - (d) For a period of up to seven days, send emergency management forces of the City to the aid of other communities stricken by disaster as provided by mutual aid agreements when he/she deems it in the public interest, provided that after the Council convenes, the continuance of any such emergency or disaster relief and the period thereof shall be subject to the action of Council.
 - (e) For a period of up to seven days, appropriate and expend funds make contracts, obtain and distribute equipment, materials, and supplies for emergency or disaster purposes, and undertake any action necessary to provide for the health and safety of persons and property, including emergency assistance to the victims of an emergency or disaster.
 - (f) When obtaining formal approvals would result in delay of emergency and/or relief activity, until the Council convenes, waive procedures and formalities otherwise required pertaining to the performance of public works, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase and distribution of supplies, materials and facilities and expenditures of existing funds;

provided that the Council may also waive any otherwise applicable procedures and formalities.

- (g) Following a Declaration of a Local State of Emergency, establish an incident command system; activate the City Emergency Operations Plan and/or other applicable emergency procedures for the City on the advice of emergency management services officials and/or the Emergency Management Coordinator.
 - (h) Notify the public and recommend in-place, evacuation, or other protective measures.
 - (i) Employ temporary workers.
 - (j) If a state of disaster or emergency is declared by the Governor, assign and make available for duty the employees, property, or equipment of the city within or without the physical limits of the city as requested by the Governor or the director of the state police in accordance with the Act.
 - (k) Review for adequacy and authenticate the City Emergency Operations Plan at least every two years.
 - (l) Authorize other emergency activities as provided for in the Act.
- (2) The City Administrator is hereby authorized to exercise the powers granted to the Mayor in Section 1:327(1) either in the absence or inability of the Mayor, or his/her successor as established by City Charter, to service or where delay in the exercise of such powers would be contrary to the public interest, provided only that a majority of members of the Council are absent or unable to convene in order to declare a local state of emergency.

1:329. - . Emergency Management Services Unit; responsibilities

The emergency management services unit established within the Fire Unit, Safety Services Area, is responsible for the administration, planning, coordination, and operation of all emergency management activities in the City. Emergency management officials and staff shall maintain ongoing coordination and liaison with municipal, county, state, and federal authorities, as well as the private and volunteer sector, to ensure safe, effective, and coordinated emergency operations. City emergency management officials and staff shall comply with the standards and requirements of the City and the department of state police, emergency management division, under the authority of the Act in performing the following:

- (1) Ensure compliance with all applicable state and federal emergency management laws and regulations. Maintain program eligibility requirements for state and federal aid. Serve as the applicant's agent for disaster assistance funding.
- (2) Direct and coordinate the development of the Emergency Operations Plan and other appropriate emergency plans for protecting public health, safety, and property, including specifying agencies to cooperate in the preparation of emergency plans.

- (3) Identify City service areas, community agencies, and individuals to be included in the Emergency Operations Plan, Disaster Relief Force, and staffing for the City emergency incident command system.

- (4) Develop, collect, and maintain emergency resource information.

- (5) Coordinate registration, planning, and utilization of volunteer personnel and organizations for emergency management purposes.

- (6) Coordinate and/or conduct emergency training and exercise programs within the City.

- (7) Coordinate population protection measures, hazard monitoring, and other community safety initiatives as required.

- (8) Through information, training, and awareness programs, educate the general public on community hazards and actions necessary for protection of life and property in an emergency or disaster situation.

- (9) Assist in the development and negotiation of mutual aid agreements and other emergency management related contracts.

- (10) Coordinate the resources and activities of public, private, and volunteer organizations engaged in emergency and disaster relief operations. Oversee the timely implementation of all functions and activities necessary during an emergency or disaster in accordance with the appropriate emergency plan and accepted concepts of operation.

- (11) Coordinate emergency management program activities of the City with those of the federal and State government, adjacent jurisdictions, and private and volunteer sector organizations.

- (12) Coordinate disaster management and incident command measures, including the operation of primary and alternate City emergency operating centers, provisions for other incident command and coordination facilities, and mobilization of the City emergency incident management organization.

- (13) Serve as the principal emergency management contact for the City and assist, when requested, in the public policy for emergency management and community safety.

1:300. - City Emergency Management Coordinator

. In addition to having responsibility for the development and coordination with the city of all emergency response services and disaster preparedness within the city, shall have the specific duties, when authorized by the City Administrator, including, but not limited to, the following:

- (1) Preparation and updating of the City Emergency Operations Plan and other contingency plans. City emergency planning shall provide for interagency coordination and guide the emergency response activities for the City. Develop standard operating procedures (SOPs) or checklists to accomplish emergency notification, assign emergency tasks, and guide emergency operations. Emergency planning documents shall generally be in the form prescribed by the emergency management services unit.
- (2) Promptly notify the City Administrator of any condition or situation that threatens or has reached the proportions of a community emergency or disaster
- (3) Coordinate the city emergency management efforts and response measures with those at the federal, state, and county levels and adjacent jurisdictions. Serve as the City contact for damage assessment information.
- (4) Coordinating the use and activities of volunteer personnel and public and private agencies engaged to augment the personnel facilities and/or emergency or disaster relief programs of the city.
- (5) Through public information programs, educating the civilian population as to actions necessary and required for the protection of persons and property in case of emergency or disaster.
- (6) Conducting practice alerts, exercises and training to insure the efficient operation of the city's emergency organization and to familiarize Disaster Relief Forces of the city with disaster regulations, procedures and operations.
- (7) Assisting the City Administrator in the negotiation of mutual aid agreements.
- (8) Negotiating with owners or persons in control of buildings or other property for the use of such buildings or property for emergency or disaster relief purposes, and designating suitable buildings as public shelters.
- (9) Coordinate property accountability procedures for federal surplus property acquired by the city, federal excess property on loan to the city, or any other property or equipment loaned to

the city for use in disaster or emergency situations.

- (10) In the event an emergency or disaster occurs which has not yet been declared a state of disaster or state of emergency by the Governor, but is deemed by the Mayor to be beyond the control of the city, immediately making contact with the District Coordinator as provided in the Emergency Management Act, and in conjunction with the District Coordinator assessing the nature and scope of the emergency or disaster and the personnel, services and equipment which will be required for its prevention, mitigation and relief.
- (11) Preparing and submitting an emergency response plan and annexes for review and approval by the City Administrator, emergency services divisions, department of the state police and Council
- (12) Develop and maintain a city resource manual for use in emergency or disaster response activities.
- (13) Assure the emergency management program meets eligibility requirements for state and federal aid.
- (14) Oversee implementation of all functions necessary during an emergency or disaster in accordance with the emergency response plan.
- (15) Coordinate all preparedness activities, including maintaining primary and alternate emergency operations centers.
- (16) Identify mitigation opportunities within the city and encourage departments/agencies to implement mitigation measures.

1:331 City incident command system divisions/response units' liaisons; duties.

For the city incident command system's functional divisions, being operations, planning, logistics, and finance/administration, and their respective specified branches in the ERP, the City Administrator, with the recommendation of the Emergency Management Coordinator, shall appoint an emergency response section and branch (ER) liaison and alternate who shall be responsible for the following:

- (1) Prepare and continuously update the respective section or branch annex to the City of Ann Arbor Emergency Response Operations Plan providing for the delivery of emergency management activities including mitigation, preparedness, response and recovery by that branch or section and those other emergency activities specifically coordinated through the respective branch or section. The annex shall be in the form prescribed by the Emergency Management Coordinator and shall include provisions for:
 - (a) The dissemination of public information in connection with the respective section's or branch's emergency activities, if applicable.
 - (b) List of resources, inclusive of manpower (required and available) and equipment and materials owned, leased or otherwise available for the effective performance of section activities.
 - (c) Access and disaster preparedness plan for the protection of vital public records maintained or in possession of a section and/or branch. This portion of a branch annex should be coordinated with the city's Information Technology Services and the City Clerk.
- (2) Assist the Emergency Management Coordinator or the section liaison if part of his/her assigned responsibilities, in the following areas on a request basis:

- (a) Recruit, request appointment, and organize private, volunteer and other personnel to be part of the Disaster Relief Force to perform specific duties as assigned by the Emergency Management Coordinator or as otherwise specified or recommended in the ERP.
- (b) Coordinate the branch or component division(s) emergency management efforts with those of other branches or divisions in the City or when necessary other jurisdictions.
- (c) Attend training courses, and when appropriate or necessary complete certification programs relevant to the function of the response activities and coordinate participation by members of the branch in training or certification programs necessary and/or appropriate for the effective management and operation of branch activities. A record of training required/recommended and completed for the liaisons and members of the branches and/or divisions shall be maintained and annually updated.
- (d) Participate in actual, impending, mock, or practice disaster or emergencies and coordinate, to the extent necessary or required participation by other members of the branch in actual, impending, mock, or practice disaster or emergencies.
- (e) Implement the directives of the Mayor, City Administrator or the Emergency Management Coordinator under a federal, state or local state of emergency or disaster.

The duties of the selected section, branch and division liaisons are in addition to and not in lieu of the duties and responsibilities of the position of employment with the city held by the respective liaison and that respective liaison is not otherwise relieved of those duties and responsibilities associated with regular employment unless otherwise relieved of same by the City Administrator.

1:332. - Government surplus property.

The Emergency Management Coordinator is hereby designated as the person responsible for accepting government surplus property obtained for emergency purposes with the power and full authority to sign for that surplus property. The City Administrator shall provide a written statement to appropriate officials designating the current name of the Emergency Management Coordinator as responsible for complying with the provisions of this section. The Emergency Management Coordinator is accountable for and will maintain the necessary records for all surplus property obtained for emergency purposes until relieved from accountability by state and federal authorities. The Emergency Management Coordinator is further authorized to direct payment of service charges for surplus property to complete all transactions.

1:333. - Rights of Disaster Relief Forces.

As provided for in the Act and this chapter, personnel of Disaster Relief Forces while on duty are subject to the following provisions:

- (1) If they are employees of a county, municipality or other governmental agency regardless of where serving, have the powers, duties, rights, privileges, and immunities of and receive the compensation incidental to their regular employment.
- (2) If they are not employees of the county, municipality or other governmental agency be entitled to the same rights and immunities as provided for by law

1:334. - Temporary seat of government.

The City Council shall provide for the temporary movement and reestablishment of essential

government offices in the event that existing facilities cannot be used.

1:335. - No governmental or private liability.

As provided for in the Act and this chapter, the city, or its employees, agents or representative of the city, shall not be liable for personal injury or property damage sustained by any person appointed or acting as a member of Disaster Relief Forces. This act shall not affect the right of a person to receive benefits or compensation to which he or she may otherwise be entitled to under Public Act 317 of 1969, Worker's Disability Compensation Act of 1969, any pension law, or any act of congress.

The city when engaged in emergency or disaster relief activity, inclusive of training for or responding to an actual, impending, mock, or practice disaster or emergency, is not liable for the death of or injury to a person or persons, or for damage to property, as a result of that activity. The employees, agents, or representatives of the city and nongovernmental disaster relief force workers or private or volunteer personnel engaged in emergency or disaster relief activity are immune from tort liability to the extent provided under Section 7 of Public Act 170 of 1964.

As provided for in the Act, any person owning or controlling real estate or other premises who voluntarily and without compensation grants the city a license or privilege, or otherwise permits the city to inspect, designate, and use the whole or any part or parts of his/her real estate or other premises for the purpose of sheltering persons during an actual, impending, mock or practice emergency or disaster, together with his or her successors in interest, if any, is not civilly liable for negligently causing the death of or injury to any person on or about the real estate or premises under the license, privilege, or permission or for loss or damage to the property of the person.

A person owning or controlling real estate or other premises who has gratuitously granted the use of the real estate or other premises for the purposes states in the provision is legally obligated to make know to the licensee any hidden dangers or safety hazards that are known to the owner or occupant of the real estate or premises that might possibly result in the death or injury or loss of property to a person using the real estate or premises.

1:336. - Violations.

It shall be unlawful for any person willfully to obstruct, hinder or delay any emergency or disaster relief forces in the enforcement or accomplishment of any rule or regulation issued pursuant to this chapter, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this chapter. It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or other means of identification as a member of the emergency services forces of the City of Ann Arbor unless the proper officials have granted authority to do so to that person. Convictions for violations of the provisions of this ordinance shall be punishable by a fine of not more than \$500.00 plus costs and/or 90 days in jail.

Section 2. Severability. In the event any court of competent jurisdiction shall hold any provision of this Ordinance invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision thereof.

Section 3: This Ordinance shall take effect on the tenth day following legal publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan at its regular session of October 9, 2017.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's webpage on November 16, 2017.

Jacqueline Beaudry, Ann Arbor City Clerk