

**ORDINANCE NO. 2013-09**

**AN ORDINANCE** of the City of Bainbridge Island relating to emergency management; repealing and replacing Ordinance No. 86-29, dated November 20, 1986, and adopting a new Chapter 2.44 of the Bainbridge Island Municipal Code.

**WHEREAS**, the Washington Emergency Management Act, Chapter 38.52 RCW, requires each political subdivision of the state to establish a local organization for emergency management, together with a plan and program for emergency management, and to obtain certification of consistency with the state comprehensive emergency management plan; and

**WHEREAS**, the City of Bainbridge Island does not have a current emergency management ordinance; and

**WHEREAS**, Washington State Constitution, article 11, section 11, grants cities the same police power as is granted to the state itself, except as restricted by statute; and

**WHEREAS**, each local organization for emergency management is required to have a director appointed pursuant to state law; and

**WHEREAS**, RCW 38.52.010(8), designates the city manager as the executive head in those cities and towns operating under the council-manager form of government; and

**WHEREAS**, it is in the best interest of the citizens of the City of Bainbridge Island that its emergency management ordinance be revised to clarify the authority and powers of its officers in emergency or disaster situations of local, regional, and national scope and to ensure that emergency management functions are coordinated to the maximum extent possible with local, regional, and national agencies so that the most effective preparation and use may be made of the City's resources in dealing with any emergency or disaster that may occur.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON DOES ORDAIN AS FOLLOWS:**

**Section 1.** Ordinance No. 86-29, dated November 20, 1986, is hereby repealed.

**Section 2.** A new emergency management ordinance is hereby adopted to be codified as Chapter 2.44 of the Bainbridge Island Municipal Code to read as follows:

**EMERGENCY MANAGEMENT**

**Sections:**

- 2.44.010 Purpose.**
- 2.44.020 Emergency management policy.**
- 2.44.030 Definitions.**
- 2.44.040 Emergency management organization.**
- 2.44.050 Designation of the city manager as executive head for emergency**

- services of the city.
- 2.44.060 **Comprehensive Emergency Management Plan.**
- 2.44.070 **Continuity of government.**
- 2.44.080 **Proclamation of emergency.**
- 2.44.090 **Notice of proclamations of emergency and emergency orders.**
- 2.44.100 **Authorized emergency orders.**
- 2.44.110 **Emergency procurements.**
- 2.44.120 **Emergency powers under governor's proclamation of emergency or disaster.**
- 2.44.130 **Penalties.**
- 2.44.140 **Private liability.**
- 2.44.150 **Continuance of existing agreements.**
- 2.44.160 **General duty only.**

**2.44.010 Purpose.**

The purpose of this chapter is to establish a local emergency management organization and set out and clarify the authority of the city and of its officers with regard to local, regional and national emergency and disaster situations. It is intended, in conformity with Article 11, Section 11 of the Washington State Constitution and with Chapter 38.52 RCW, to grant the broadest power permitted by constitutional and statutory authority to preserve the public health, safety and welfare.

**2.44.020 Emergency management policy.**

It is the policy of the city to make effective preparation and use of staffing, resources, and facilities for dealing with any emergency or disaster that may occur. Emergencies and disasters, by their very nature, may disrupt or destroy existing systems and the capability of the city to respond to protect life, public health and property. Therefore, citizens are advised to be prepared to be without public services or utilities for up to a minimum of 72 hours should an emergency or disaster occur.

**2.44.030 Definitions.**

When used in this chapter, the following words, terms and phrases, and their derivations, shall have the meanings ascribed to them in Chapter 38.52 RCW and this section, except where the context clearly indicates a different meaning:

- A. "Disaster" shall mean an incident, expected or unexpected, in which a community's available, pertinent resources are exhausted, or the need for resources exceeds availability, and in which a community undergoes severe damage, incurring losses so that the social or economic structure of the community is disrupted and the fulfillment of some or all of the community's essential functions are prevented.
- B. "Emergency" shall mean a sudden, usually unexpected event that does or could do harm to people, resources, property, or the environment. Emergencies can range from single to localized incidents, natural or technological, that damage, or threaten to damage, local operations. An emergency is an incident "which

requires emergency assistance to save lives and protect public health and safety or to avert or lessen the threat of a major disaster.” (Public Law 92-288)

- C. "Emergency management" shall mean the preparation for the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage resulting from disasters caused by all hazards, whether natural or manmade, and to provide support for search and rescue operations for persons and property in distress.
- D. "Emergency or disaster" as used in this chapter shall mean an event or set of circumstances which: (1) demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken area within the city overtaken by such occurrences, or (2) reaches such a dimension or degree of destructiveness as to warrant the city manager proclaiming the existence of a disaster or the governor proclaiming a state of emergency in accordance with appropriate local ordinances and state statute.

**2.44.040      Emergency management organization.**

- A. There is hereby created, in accordance with Chapter 38.52 RCW, an emergency management organization. The purpose of the local organization is to perform local emergency management functions. The organization shall represent only the City of Bainbridge Island and exercise emergency authority only within the city.
- B. The emergency management director shall be appointed by the city manager and have direct responsibility for the organization, administration and operation of the emergency management program for the city.
- C. The emergency management organization of the city shall consist of the officers and employees of the city designated by the city manager as well as all volunteer emergency workers per RCW 38.52.010(4). The functions and duties of this organization shall be distributed among such divisions, services and staff as prescribed by the city manager. Any plan prescribed by the city manager shall set forth the form of the organization, establish and designate divisions and services, assign function, duties and powers, and designate officers and employees to carry out the provisions of this chapter according to an established line of succession. Insofar as possible, the form of the organization, titles and terminology shall conform to the recommendations of the federal government and the state of Washington Military Department, Emergency Management Division.

**2.44.050      Designation of the city manager as executive head for emergency services of the city.**

The city manager shall serve as the executive head of the city for purposes of emergency management pursuant to Chapter 38.52 RCW.

**2.44.060 Comprehensive Emergency Management Plan.**

The Comprehensive Emergency Management Plan, prepared under the direction of the emergency management director, is the official emergency management plan of the City of Bainbridge Island. The emergency management plan shall be available from the office of the city clerk.

**2.44.070 Continuity of government.**

In the event the city manager is unavailable to exercise the powers and discharge the duties described in this chapter, a line of succession, to be prepared by the city manager, shall be used to determine the interim executive head subject to the city council's confirmation, modification, or rejection as soon as practicable. In the event that the city manager and all successors are unable to discharge the duties in this chapter, the mayor shall act as the interim executive head subject to the city council's confirmation, modification, or rejection as soon as practicable.

**2.44.080 Proclamation of emergency.**

- A. Whenever an emergency or disaster, or the imminent threat thereof, occurs in the city and results in, or threatens to result in the death or injury of persons or the destruction of or damage to property to such extent as to require, in the judgment of the executive head, extraordinary and immediate measures to protect the public health, safety and welfare, the executive head shall forthwith:
  - 1. If the city council is in session, request the council to proclaim the existence or threatened existence of an emergency; or
  - 2. If the city council is not in session, issue such proclamation, subject to council ratification and confirmation, modification or rejection as soon as practicable.
  - 3. Proclamations of emergency issued by the executive head shall be presented as soon as practical to the city council for ratification and confirmation, modification or rejection. Proclamations which are rejected shall, after vote, be void. Proclamations shall be considered in full force and effect until the council shall act.
- B. Such proclamation of emergency may be in addition to or as an alternative to the proclamation of state of emergency by the governor.
- C. The executive head shall terminate the proclamation of emergency when order has been restored in the affected area of the city.

**2.44.090 Notice of proclamations of emergency and emergency orders.**

When practical, the executive head shall consult with the emergency management director on the need for and development of the proclamation of emergency or emergency order. The executive head shall cause any proclamation of emergency or emergency order issued pursuant to the authority of this chapter to be delivered to the

emergency management director, state emergency management, the governor, the public, and news media within the general area of the city. The executive head shall use available means as shall be necessary in his or her judgment to give notice of such proclamations. Such proclamations and orders shall be filed with the city clerk as soon as practical.

**2.44.100 Authorized emergency orders.**

- A. Upon the proclamation of an emergency, and during the existence of such emergency, the executive head, may make and proclaim any or all of the following orders and delegate enforcement authority therefore to law enforcement officers and designated emergency personnel:
1. 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 it deems necessary, and from time to time to modify the hours such curfew will be in effect and the area or areas to which it will apply;
  2. Order requiring any or all business establishments to close and remain closed until further order;
  3. 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;
  4. Order closing to the public any or all public places including streets, alleys, public ways, schools, parks, beaches, amusement areas, and public buildings;
  5. Order prohibiting undue inflationary pricing of goods and services with the intent of maximizing profits as a result of the declared emergency;
  6. Order utilizing existing services and facilities to the maximum extent practicable notwithstanding any other provision of law, in the event of a disaster, after proclamation by the governor of the existence of such disaster, to have the power to command the service and equipment of as many citizens as considered 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 Chapter 38.52 RCW and federal and state emergency management regulations for registered emergency workers;
  7. Such other orders as are imminently necessary for the protection of life and property.
- B. Emergency orders shall be presented as soon as practicable to the city council for ratification and confirmation, modification or rejection. Orders which are rejected

shall, after vote, be void. Emergency orders shall be considered in full force and effect until the city council shall act.

**2.44.110 Emergency procurements.**

- A. Upon proclamation of an emergency, and during the existence of such emergency, the executive head, alternates as defined in BIMC 2.44.070, or the finance director, is authorized to make emergency procurements where the city may suffer a substantial loss or damage to property, bodily injury, or loss of life by reason of the time required for following the regular purchasing procedures.
- B. Such authorization for emergency procurement shall be presented to the city council for ratification and confirmation, modification or rejection. Emergency procurements shall be considered in full force and effect until the city council acts.

**2.44.120 Emergency powers under governor's proclamation of emergency or disaster.**

In addition to or as an alternative to those emergency powers prescribed by this chapter upon the proclamation of an emergency, the executive head shall have, upon proclamation of a state of emergency or disaster by the governor pursuant to Chapters 43.06 RCW and 38.52 RCW, the authority to exercise in behalf of the city all emergency powers set forth in RCW 38.52.070(2), including without limitation:

- A. To accept and receive, with the consent of the governor, in behalf of the city, offers from the federal government of services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management.
- B. In cases where there is damage to the equipment borrowed from other jurisdictions under a mutual aid agreement, to receive the filing of claims for such damage within 60 days after the damage is incurred.
- C. To utilize existing services and facilities to the maximum extent practicable notwithstanding any other provision of law, in the event of a disaster, after proclamation by the governor of the existence of such disaster, to have the power to command the service and equipment of as many citizens as considered 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 Chapter 38.52 RCW and federal and state emergency management regulations for registered emergency workers.

**2.44.130 Penalties.**

A violation of this chapter shall constitute a misdemeanor and shall be punishable as such; provided that whenever any person shall commit a second offense hereunder, the same shall constitute a gross misdemeanor and shall be punishable as such. It shall be a violation of this chapter to:

- A. Willfully obstruct, hinder, or delay any law enforcement officer or designated emergency management personnel organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter or in the performance of any duty imposed upon such member by virtue of this chapter;
- B. Violate a proclamation of emergency issued pursuant to BIMC 2.36.090 or of a subsequent emergency order issued pursuant to Chapter 35.33 RCW;
- C. Wear, carry or display, without authority, any means of identification specified by the emergency management organization of the city.

**2.44.140 Private liability.**

No individual, firm, association, corporation or other party owning, maintaining or controlling any building or premises, who voluntarily and without compensation grants to the city a license or privilege or otherwise permits said city to inspect, designate and use the whole or any part or parts of such building or premises for the purpose of sheltering persons during an actual, impending, mock or practice emergency or disaster, or their successors in interest, or the agents or employees of any of them, shall be subject to liability for injuries sustained by any person while in or upon said building or premises as a result of any act or omission in connection with the upkeep or maintenance thereof, except a willful act of negligence, when such a person has entered or gone into or upon said building or premises for the purpose of seeking refuge therein during an emergency or disaster or an attack by enemies of the United States or during a disaster drill, exercise or test ordered by a lawful authority.

**2.44.150 Continuance of existing agreements.**

Nothing in this ordinance shall be deemed to affect any existing interlocal agreements entered into by the city or other cities and towns of the State of Washington pursuant to Chapter 38.52 RCW regarding emergency planning and the giving of mutual aid; provided that for the purposes of such agreements, the city manager shall exercise all powers as executive head of the city under such agreements in conformity with RCW 38.52.070.

**2.44.160 General public duty created.**

- A. It is expressly the purpose of this ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons or individual who will or should be especially protected or benefited by the terms of this ordinance.
- B. Nothing contained in this ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the city related in any manner to the enforcement of this ordinance by its officers, employees or agents.

**Section 3.** This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law.

PASSED BY THE CITY COUNCIL this 22<sup>nd</sup> day of May, 2013.

APPROVED BY THE MAYOR this 22<sup>nd</sup> day of May, 2013.



Steven Bonkowski, Mayor

ATTEST/AUTHENTICATE:

  
Rosalind D. Lassoff, CMC, City Clerk

FILED WITH THE CITY CLERK: April 26, 2013  
PASSED BY THE CITY COUNCIL: ~~May 22, 2013~~  
PUBLISHED: May 24, 2013  
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