

*Author's note: This ordinance was drafted by Nathan Nikolaus of Lauber Municipal Law, LLC, and is meant as an example and not to provide specific legal advice. You should consult with your municipal attorney before adopting this in whole or in part. This model is drafted for a Fourth Class City and should be customizable for use by a Third Class City. This model is based on an original drafted for the City of Jefferson City by the author.*

## EMERGENCY PREPAREDNESS AND EMERGENCIES

### Section One: Purpose and declaration of policy.

This Ordinance is enacted to set out and clarify the authority of the City and its officers and employees with regard to emergency and disaster situations. It is intended to grant as broad a power as permitted by statutory and constitutional authority.

### Section Two: Definitions.

When used in this ordinance, the following words shall have the definitions set forth below:

Disaster: As used in this ordinance a disaster, whether natural or manmade, shall include, but not be limited to, flood, fire, cyclone, tornado, earthquake, severe high or low temperatures, water contamination or pollution, land contamination or pollution, air pollution, blizzard, landslide, mudslide, hurricane, building or structural collapse, high water table, pandemic disease, epidemic, riot, blight, drought, civil emergency, utility emergency, severe energy shortages, snow, ice, windstorm, hazardous substance spills or releases, chemical spills or releases, petroleum spills or releases, biological matter spills or releases, radiation releases or exposures, infestation, explosions, sabotage, mass transportation accidents or public health emergencies. This definition should not be applied rigidly to exclude situations not enumerated.

Public emergency: As used in this ordinance a public emergency means the imminent threat or occurrence of a disaster, civil emergency or utility emergency affecting the City and its residents and inhabitants where the Mayor determines that the exercise or discharge of emergency or disaster powers is necessary to save lives, protect property, protect the public health and safety, or to lessen or to avert the threat of a catastrophe or calamity within the city.

Civil emergency, as used in this section, shall include, but not be limited to, any condition of unrest, riot, civil disobedience, affray, unlawful assembly, hostile or military or paramilitary action, war, terrorism, or sabotage, epidemic or any event which results in mass casualties which may be beyond normal capacity.

Utility emergency, as used in this section, shall include, but not be limited to, conditions which endanger or threaten to endanger the safety, potability, availability, transmission, distribution, treatment, or storage of water, natural gas, gas, fuel, electricity, communication, garbage, or sewage.

### Section Three. - Mayor's power during emergency.

- A. All other City ordinances to the contrary notwithstanding, when the Mayor determines in the Mayor's sole discretion that a state of public emergency exists within the City, the Mayor may by proclamation declare a state of emergency and exercise emergency powers, including but not limited to all of the following:

1. The power to direct emergency response activities by City personnel including but not limited to the police and fire departments, and by such emergency services personnel as the Mayor may designate or appoint.
  2. The power to execute contracts for the emergency construction or repair of public improvements, when the delay of advertising and public bidding might cause serious loss or injury to the City.
  3. The power to purchase or lease goods and services that the Mayor deems necessary to the City's emergency response or for the repair of City facilities, or both, and to acquire and distribute, with or without compensation, of supplies, materials, and facilities.
  4. The power to lease or lend real property, or structures, or both, that the Mayor deems necessary for the continued operation of City government.
  5. The power to promulgate rules and orders to implement and clarify the mayoral proclamation exercising emergency power.
  6. The power to delegate any or all of these duties and to provide for sub-delegation.
  7. The Mayor shall be authorized to appoint any commissioned law enforcement officer in this State as a temporarily commissioned officer of this City.
  8. The power to transfer, appropriate, or lend between funds as may be necessary in the circumstances.
- B. The Mayor is authorized to issue a "hazardous travel advisory" which shall prohibit all travel on streets within the City limits of the City except in accordance with the exceptions provided herein. Such prohibition may be limited to a defined geographical area if the affected area is less than the entire City.
1. Such prohibition shall be issued only after consultation with the City Administrator, Police Chief and Director of Public Works and upon the following findings:
    - a. Severe weather events (other natural or manmade disasters) are occurring or has occurred inside the City limits; and
    - b. Such events have caused the streets to be in a condition where ordinary care while driving is not enough to prevent the occurrence of an accident; and
    - c. Vehicles on the road will interfere with emergency operations of the City.
  2. No person in the City shall drive on any public street or road within the area defined by the Mayor as subject to the advisory after issuance of the "hazardous travel advisory" until the same has been lifted.
  3. The Mayor shall inform the public of the issuance, or retraction, of the order by submitting the order to the media for publication or broadcast.
  4. This prohibition shall not apply to:
    - a. Law enforcement agencies;
    - b. Fire suppression agencies;
    - c. Employees of the City, County or MoDOT, or other public utility providers involved in repair or cleanup of the emergency, or any subcontractors involved in the cleanup of the emergency;
    - d. Health care professionals; and
    - e. Any person who is facing exigent circumstances in which a reasonable person would infer that driving is an absolute necessity.

- C. In the event the Mayor is unavailable, the President of the Board of Aldermen shall have the authorities listed in this section, followed by the City Administrator, and then followed by the most senior ranked member of the Board of Aldermen.

#### Section Four - Statutory procedures suspended in event of emergency.

In the event of an emergency, the Mayor is authorized to procure all services, supplies, equipment or materials necessary to continue the effective operation of the emergency preparedness plan without regard to normal procedures or formalities normally prescribed by ordinance; provided, that if the Board of Aldermen is meeting at the time, the Mayor shall act pursuant to the orders and directions imposed on that body. In the event of an emergency, the Mayor, by proclamation, may waive any time consuming formalities or procedures required by the provisions of City Ordinances pertaining to the advertisement of bids for the execution of contracts and for the performance of public work contracts.

#### Section Five. - Emergency procurement.

Notwithstanding any provision of this Code to the contrary, the Mayor, upon declaration of a state of emergency by proclamation as provided in Section Three, may authorize the City Administrator or the City Administrator's designees to procure by purchase or lease, such goods and services as are deemed necessary for the City's emergency response effort. This emergency procurement of goods or services may be made in the open market without filing a requisition or estimate and without advertisement for immediate delivery or furnishing. A full written account of all emergency procurement made during this emergency, together with a requisition for the required materials, supplies, equipment, or services, shall be submitted to or provided by the City Administrator within 30 days after their procurement, and shall be open to public inspection for a period of at least one year subsequent to the date of the emergency purchases. The City Administrator shall, within three months of the conclusion of the emergency, formally communicate these emergency expenditures in a full written account to the Board of Aldermen.

#### Section Six. - Effective date and termination of emergency powers.

Proclamations, rules, and orders issued pursuant to Section Three shall be effective upon issuance and shall remain in effect for a period of up to 30 days or until terminated by the Mayor or Board of Aldermen, whichever comes first. This period may be extended by the Mayor only upon approval of the Board of Aldermen. Upon the expiration of the local state of emergency, those persons acting pursuant to Section Three shall cease to exercise emergency powers.

#### Section Seven. - Penalty for violation of emergency proclamation, rule, or order.

The violation of a proclamation of emergency, a subsequent proclamation exercising emergency powers, a rule, or order, which proclamation, rule or order is issued pursuant to Section Three, or the violation of any order or directive given by a peace officer or designated emergency services personnel pursuant to authority resulting from Section Three shall be an ordinance violation.

#### Section Eight -- WATER EMERGENCIES

- A. Mayor authorized to declare a water use emergency. The Mayor is authorized to declare a water use emergency under any of the following conditions:
1. An equipment failure, large fire, or water main break has caused, or unless water conservation measures are taken, will cause inadequate water pressures and flows for fire protection and public health, or
  2. Water system pumping compared to demand is inadequate to maintain sufficient water reserves to meet expected demands for fire protection and public health.

The Mayor's declaration may include all, or any portion of the City.

B. Persons affected by declaration. When the Mayor has declared a water emergency, the provisions of this section shall apply to all persons using water, regardless of whether such person shall have a contract for water service with any water company or private well. Person shall be defined as set out in section 1-2 of the Code of the City, Missouri.

C. - Uses and withdrawal of water prohibited. When the Mayor has declared a water emergency, the use and withdrawal of water by any person for the following purposes is hereby prohibited:

1. Watering yards. The sprinkling, watering or irrigating of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers or any other vegetation.
2. Washing mobile equipment. The washing of automobiles, trucks, trailers, trailer houses, railroad cars, or any other types of mobile equipment.
3. Clean outdoor surfaces. The washing of sidewalks, driveways, filling station aprons, porches and other outdoor surfaces.
4. Cleaning buildings. The washing of the outside of dwellings and the washing of the inside and outside of office buildings.
5. Cleaning equipment and machinery. The washing and cleaning of any business or industrial equipment and machinery.
6. Ornamental fountains. The operation of any ornamental fountain or other structure making a similar use of water.
7. Swimming pools. Swimming and wading pools not employing a filter and recirculating system.
7. Watering of golf course greens. Watering of golf course greens except to the extent that non-fresh water sources of water (such as grey water) are available for this purpose.

D. Exception for business and industrial uses. All businesses and industries utilizing water shall be permitted to utilize the normal amount of water necessary for the maintenance of their business or industry. This exception shall not permit the watering of yards as defined above at any business location except those involved in the raising of vegetation for commercial uses. Should water supplies reach or approach critical levels, the Mayor may, by separate proclamation, suspend this exception for a designated period of time.

E. Enforcement.

1. Police officers enforce. Every police officer of the City shall in connection with his duties imposed by law diligently enforce the provisions of this ordinance.
2. Discontinuance of service. The City or the manager of each water company or district doing business within the City shall have the authority to enforce the provisions of this ordinance by the discontinuance of water service in the event of violation hereof or shall, upon the request of the Mayor, City Administrator, Fire Chief or any police officer, discontinue water service to any building whose occupants are violating the provisions of this ordinance.
3. Penalties. Any person violating the provisions of this ordinance shall be subject to a fine not to exceed \$500.00 per occurrence, or imprisonment for not more than 90 days, or any combination thereof.

Section Nine -- Public Health Emergencies. If the basis for declaring an emergency is due to a public health crisis, such as a pandemic, then the Mayor shall be authorized to exercise the following powers:

A. To declare individuals, but not areas, quarantined as provided in Missouri statutes.

- B. To limit the number of people who may be permitted to gather in public places.
- C. To limit certain public services determined to be non-critical in order to stop the spread of disease.