

ORDINANCE NO. 06 – 03

**AN ORDINANCE RELATING TO EMERGENCY MANAGEMENT;
REPEALING AND REPLACING RESOLUTION NO. 04 - 13, DATED
SEPTEMBER 7, 2004, WITH A REVISED AND UPDATED EMERGENCY
MANAGEMENT ORDINANCE; PROVIDING FOR SEVERABILITY.**

WHEREAS, the existing emergency management ordinance of the City of Battle Ground has not been updated since 2004 and is in need of revision in light of changes in state and federal emergency management and disaster assistance law; 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, Chapter 49, Section 1 of 1997 Laws of Washington, codified as RCW 38.52.010, designates the city legislative authority for cities with non-elected city executives as the executive head of the city for purposes of emergency management planning and disaster response and also confers on the city legislative authority the emergency powers provided for in Ch. 38.52 RCW; and

WHEREAS pursuant to Ch. 38.52 RCW, the City of Battle Ground has entered into an interlocal agreement with Clark Regional Emergency Services Agency to assist local jurisdictions and agencies prepare for, respond to, and recover from major emergencies and disasters; and

WHEREAS, it is in the best interests of the citizens of City of Battle Ground 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 with local, regional, and national agencies to the end 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 BE IT ordained by the City Council of the City of Battle Ground, Washington as follows:

1. Resolution No. 04 – 13, dated September 7, 2004, is hereby repealed.
2. A new emergency management ordinance is hereby adopted to be codified to read as follows:

EMERGENCY MANAGEMENT

Sections:

###.###.010 Purpose and declaration of policy.

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- ###.120** **Continuance of existing agreements.**
- ###.130** **General duty only.**
- ###.140** **Severability.**

###.010 **Purpose and declaration of policy.**

The purpose of this ordinance 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.

###.020 **Definitions.**

When used in this ordinance, 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:

“Executive head” means the person designated by state law and this ordinance as the head of city government for emergency and disaster management pursuant to Ch. 38.52 RCW.

“ Major Emergency or Disaster” means an event or set of circumstances which:

- (a) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or
- (b) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

###.030 **Administration.**

Clark Regional Emergency Services Agency, a separate legal entity authorized by the Interlocal Cooperation Act in the State of Washington, shall be the agent of the city to administer the operations of emergency management and shall propose a budget for the support of such activities. Specific responsibilities of Clark Regional Emergency Services Agency shall be as described by the Clark Regional Emergency Services Agency Interlocal Cooperation Agreement.

###.040 Designation of the City Manager as executive head for emergency services of the City.

The City Manager or designate shall serve as the executive head of the city for purposes of emergency management pursuant to Ch. 38.52 RCW.

###.050 Continuity of government.

In the event the City Manager is unavailable to exercise the powers and discharge the duties of the chair described in this chapter, the Deputy City Manager who is available shall act as the interim executive head subject to the City Council's confirmation, modification, or rejection as soon as practicable. In the event that both the City Manager and Deputy City Manager are unable to discharge the duties of chair 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.

###.060 General duties of the director of emergency management.

The director of Clark Regional Emergency Services Agency shall:

- (a) Administer local emergency management activities to assist the city in the mitigation, preparedness, response, and recovery from major emergencies and disasters.
- (b) Oversee preparation and implementation of the city comprehensive emergency management plan.
- (c) Submit an annual program paper to the city regarding the previous year's performance and subsequent year's plans regarding emergency management objectives.
- (d) Assist the Executive Head or alternate in the issuance of declarations of an emergency pursuant to CCC 2.48A.070.
- (e) Request that the governor proclaim a state of emergency or disaster when in the opinion of the Executive Head, the resources of the city, area or region are inadequate to cope with the emergency or disaster.
- (f) Direct coordination and cooperation between departments, divisions, services and staff in carrying out the provisions of the emergency management plan, and to resolve questions of authority and responsibility that may arise among them.
- (g) Act in coordination with the state and other governmental agencies to plan and implement joint jurisdictional planning and disaster services plans and mutual aid agreements.
- (h) Consult with the prosecuting attorney in planning and exercise of emergency powers.
- (i) Propose to the City Council the city's contribution to the cost of a joint local emergency management organization upon a fair and equitable basis;

###.070 Declaration of emergency.

- (a) Whenever an emergency, 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 declare the existence or threatened existence of an emergency; or
 - (2) If the City Council is not in session, issue such declaration, subject to Council ratification and confirmation, modification or rejection as soon as practicable.
 - (3) Declarations 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. Declarations which are rejected shall, after vote, be void. Declarations shall be considered in full force and effect until the Council shall act.
- (b) Such declaration 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 declaration of emergency when order has been restored in the affected area of the city.

###.080 Notice of declarations of emergency and emergency orders.

When practical, the Executive Head shall consult with the Director of Emergency Management on the need for and development of the declaration of emergency or emergency order. The Executive Head shall cause any declaration of emergency or emergency order issued by pursuant to the authority of this chapter to be delivered to the Director of Emergency Management, state emergency management, the governor, the public, and news media within the general area of the city. The Executive Head or alternate shall use available means as shall be necessary in his or her judgment to give notice of such declarations. Such declarations and orders shall be filed with the City Clerk as soon as practical.

###.090 Authorized emergency orders.

- (a) Upon the declaration 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 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 Executive Head, be allowed to remain open;
 - (4) Order requiring the discontinuance of the sale, distribution or giving away of alcoholic beverages in any or all parts of the city;
 - (5) 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;

- (6) 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;
 - (7) 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 from the sale of items other than firearms and ammunition may, in the discretion of the Executive Head, be allowed to remain open;
 - (8) Order closing to the public any or all public places including streets, alleys, public ways, schools, parks, beaches, amusement areas, and public buildings.
 - (9) Order prohibiting the carrying or possession of firearms 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;
 - (10) Order prohibiting undue inflationary pricing of goods and services with the intent of maximizing profits as a result of the declared emergency.
 - (11) 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 Ch. 38.52 RCW and federal and state emergency management regulations for registered emergency workers.
 - (12) 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 commissioners shall act.

##.##.100 Emergency procurements.

- (a) Upon declaration of an emergency, and during the existence of such emergency, the Executive Head, alternates as defined in section ####.###.050, or the city purchasing manager, 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 Board acts.

##.##.110 Emergency powers under governor's proclamation of emergency or disaster.

In addition to or as an alternative to those emergency powers prescribed by this ordinance upon the declaration of an emergency, the Executive Head or alternate shall have, upon proclamation of a state of emergency or disaster by the governor pursuant to Ch. 43.06 RCW and Ch. 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, the state, acting through the governor.
- (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 Ch. 38.52 RCW and federal and state emergency management regulations for registered emergency workers.

###.120 Violations of emergency proclamation, rule or order - penalties.

Violations of a declaration of emergency issued pursuant to ###.090 or of a subsequent emergency order issued pursuant to RCW 35.33, or any other order or directive given by a law enforcement officer or designated emergency services personnel pursuant to authority of such declaration or orders is a misdemeanor; provided that a second or subsequent offense hereunder shall be a gross misdemeanor.

###.130 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 Clark County pursuant to Ch. 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.

###.140 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.

###.150 Severability.

The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason be held invalid or unconstitutional or if the application of this ordinance to any person or circumstances shall be held invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clause or phrases of this ordinance.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF BATTLE GROUND,
WASHINGTON AT A REGULAR MEETING THEREOF THIS 20th DAY OF MARCH,
2006.

John G. Idsinga, Mayor

Approved as to form:

Brian H. Wolfe, City Attorney

Attested by:

Claire A. Warner, City Clerk