

Order 293-04/05

Given first reading: 6/6/05

Public Hearing & Passage 6/20/05 8-0 (O'Donnell out)

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CITY OF PORTLAND
IN THE CITY COUNCIL

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AMENDMENT TO PORTLAND CITY CODE
ARTICLE VIII. CIVIL EMERGENCY PREPAREDNESS
§2-401 THROUGH 2-415

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE IN THE CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. That Chapter 2 of the Portland City Code (Administration), "Title" be amended as follows:

ARTICLE VIII. ~~CIVIL~~ EMERGENCY PREPAREDNESS

2. That Chapter 2 of the Portland City Code (Administration), §2-401 be amended as follows:

Sec. 2-401. Purpose.

It is the intent and purpose of this article to establish a ~~B~~bureau of ~~civil emergency preparedness~~Emergency Preparedness in compliance and in conformity with the provisions of Title 37-B, M.R.S.A., Section 781 et seq., to ensure the complete and efficient utilization of the city's facilities and resources to prevent, prepare and respond to all hazards, natural and manmade, that may occur in the City of Portland and the surrounding region~~combat disaster as defined herein.~~

3. That Chapter 2 of the Portland City Code (Administration), §2-402 be amended as follows:

Sec. 2-402. Definitions.

The following definitions shall apply in the interpretation of this article:

Bureau. "Bureau" shall mean the ~~B~~bureau of ~~e~~Emergency ~~p~~Preparedness as established by this article.

~~Civil emergency preparedness~~Emergency Preparedness. "~~Civil emergency preparedness~~Emergency Preparedness" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy attacks, sabotage, riots, terrorism or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, firefighting, police, medical and health, emergency welfare, rescue, engineering, ~~air raid warning~~ and communications services; evacuation of persons from stricken areas; allocation of critical materials in short supply; emergency transportation; other activities related to civilian protection and other activities necessary to the preparation for the carrying out of these functions.

~~Civil emergency preparedness~~Emergency Preparedness forces. "~~Civil emergency preparedness~~Emergency Preparedness forces" shall mean the employees, equipment and facilities of all ~~e~~City departments, boards, institutions and commissions; and in addition, it shall include all volunteer persons, equipment and facilities contributed by or obtained from volunteer persons or agencies.

~~Director~~Fire Chief. "~~Director~~Fire Chief" means the ~~Director~~Fire Chief of the City of Portland ~~bureau of emergency preparedness, appointed as prescribed in this article.~~

Disaster. "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, critical material shortage, infestation, explosion or riot.

4. *That Chapter 2 of the Portland City Code (Administration), §2-403 be amended as follows:*

Sec. 2-403. Organization.

(a) The City Manager shall be responsible for the ~~b~~Bureau's organization, administration and operation. The City Manager may employ such permanent or temporary employees as he deems necessary and prescribe their duties.

(b) The City Council shall review the existing operational organization to ascertain the ~~b~~Bureau's ability to cope with its responsibilities and shall approve the ~~e~~City's emergency preparedness plan.

5. That Chapter 2 of the Portland City Code (Administration), §2-404 be amended as follows:

Sec. 2-404. Appointment of ~~Director~~Fire Chief; duties and responsibilities

The City Manager shall appoint the Fire Chief as Director of the Bureau, who shall coordinate the activities of all ~~e~~City departments, organizations and agencies for ~~civil—emergency preparedness~~emergency preparedness within the ~~e~~City and maintain a liaison with other ~~civil~~emergency preparedness agencies, public safety agencies, and have such additional duties as prescribed by the City Manager.

6. That Chapter 2 of the Portland City Code (Administration), §2-405 be amended as follows:

Sec. 2-405. Rules and regulations.

The ~~Director~~Fire Chief shall prepare, under the direction of the City Manager, such policies as may be deemed necessary for the administration and operational requirements of the ~~b~~Bureau, which policies must be approved by the City Council prior to becoming effective.

7. That Chapter 2 of the Portland City Code (Administration), §2-406 be amended as follows:

Sec. 2-406. Emergency proclamation.

(a) The City Manager shall have the power and authority, after consultation with the Mayor, or senior City Council members in the Mayor's absence, to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent. The proclamation may declare that an emergency exists in any or all sections of the ~~e~~City. If the

City Manager is temporarily absent from the City or otherwise unavailable, the ~~deputy~~ Assistant City Manager may issue the proclamation that an emergency exists. If neither the City Manager nor the ~~deputy~~ Assistant City Manager are available, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession: the Fire Chief~~Director~~; if he is unavailable, the Chief of Police; if he is unavailable, the Director of ~~parks and p~~ublic ~~w~~Works. A copy of such proclamation shall be filed within twenty-four (24) hours in the office of the City Clerk.

(b) Notwithstanding the above, when consultation with the Mayor would result in a substantial delay in an effective response in alleviating or preventing an emergency or disaster, the ~~m~~City Manager is authorized to take whatever actions are necessary to prevent the loss of life and property in the City.

(c) The City Manager and the Fire Chief~~Director~~ shall be responsible for submitting a full report to the City Council of all actions taken as a result of the declared emergency as soon as the City Council can be convened.

8. That Chapter 2 of the Portland City Code (Administration), §2-407 be amended as follows:

Sec. 2-407. Termination of emergency.

(a) When the City ~~M~~anager is satisfied that a disaster or civil emergency no longer exists, he shall terminate the emergency proclamation by another proclamation affecting the sections of the Ceity covered by the original proclamation, or any part thereof. Said termination of emergency shall be filed in the office of the City Clerk.

(b) No state of emergency may continue for longer than five (5) days unless renewed by the City Council.

9. That Chapter 2 of the Portland City Code (Administration), §2-408 be amended as follows:

Sec. 2-408. City Manager's duties and emergency powers.

(a) During any period when an emergency or disaster exists or appears imminent, the City Manager may promulgate such regulations as he deems necessary, and consistent with the

purposes of this article, to protect life and property and to preserve critical resources ~~within the purposes of this article~~. Such regulations may include, but are not limited to, the following:

- (1) Regulations prohibiting or restricting the movement of vehicles in areas within or without the eCity;
- (2) Regulations facilitating or restricting the movement of persons within the eCity;
- (3) Regulations pertaining to the movement of persons from hazardous areas within the eCity;
- (4) Such other regulations necessary to preserve public peace, health and safety.

Nothing in this section shall be construed to limit the authority or responsibility of any department to proceed under powers and authority granted to them by state statute, eCity ordinance or the charter of the eCity.

(b) The City Manager or his designee may order the evacuation of persons from hazardous areas within the eCity.

(c) The City Manager shall be authorized to request aid or assistance from the state or any political subdivision of the State and shall render assistance to other political subdivisions under the provisions of Title 37-B, M.R.S.A.

(d) The City Manager may obtain vital supplies, equipment and other items found lacking and needed for the protection of health, life and property.

(e) The provisions of this section will terminate at the end of the declared emergency.

10. That Chapter 2 of the Portland City Code (Administration), §2-409 be amended as follows:

Sec. 2-409. Emergency operational plans.

The ~~Director~~Fire Chief shall prepare an emergency operational plan for the eCity, which shall be submitted to the City Council for approval. The emergency plan shall reflect the use of the National Incident Management System (NIMS) as its

primary command and control system for all City, County, State and Federal agencies.

It shall be the responsibility of all municipal departments and agencies to perform the functions assigned and to maintain their portions of the plan in a current state of readiness. The ~~e~~City plan shall be reviewed periodically by the City Manager in conjunction with all ~~e~~City department heads and the ~~Director~~Fire Chief.

11. That Chapter 2 of the Portland City Code (Administration), §2-410 be amended as follows:

Sec. 2-410. Immunity from liability.

All members of ~~civil—emergency—preparedness~~Emergency Preparedness forces, while engaged in ~~civil—emergency—preparedness~~emergency preparedness activities, shall be immune from liability, as set forth in Title 37-B, ~~Section 822~~ M.R.S.A. section 822.

12. That Chapter 2 of the Portland City Code (Administration), §2-411 be amended as follows:

Sec. 2-411. Compensation for injuries.

All members of ~~civil—emergency—preparedness~~emergency preparedness forces shall be deemed to be employees of the state when engaged in training or on duty and shall have all of the rights of state employees under the Workmen's Compensation Act, as set forth in Title 37-B, Section 823 M.R.S.A.

13. That Chapter 2 of the Portland City Code (Administration), §2-412 be amended as follows:

Sec. 2-412. Violation of regulations.

It shall be unlawful for any person to violate any provisions of this article or of the regulations or plans issued pursuant to the authority contained herein, or to obstruct, hinder or delay any member of the ~~civil—emergency—preparedness~~Emergency Preparedness organization as herein defined in the enforcement of the provisions of this article or any regulation or plan issued thereunder.

14. That Chapter 2 of the Portland City Code (Administration), §2-413 be amended as follows:

Sec. 2-413. Penalty.

Any person, firm or corporation violating any provision of this article or any rule or regulation promulgated thereunder, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) and the costs of prosecution.

15. That Chapter 2 of the Portland City Code (Administration), §2-414 be amended as follows:

Sec. 2-414. Severability.

Should any provision of this article be declared invalid for any reason, such declaration shall not affect the validity of other provisions, or of this article as a whole, it being the legislative intent that the provisions of this article shall be severable and remain valid notwithstanding such declaration.

16. That Chapter 2 of the Portland City Code (Administration), §2-415 be amended as follows:

Sec. 2-415. Conflicting ordinances, orders, rules and regulations suspended.

At all times when the orders, rules and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede all existing ordinances, orders, rules and regulations, insofar as the latter may be inconsistent herewith.