



HISTORIC
FRANKLIN
TENNESSEE

ITEM #17
WRKS 08/28/2012

MEMORANDUM

August 21, 2012

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator
Rodney Escobar, Risk Manager

SUBJECT: Emergency Management – Ordinance 2012-33

Purpose

The purpose of this memorandum is to present to the Board of Mayor and Aldermen (BOMA) for consideration a newly revised Emergency Management Ordinance, modifying Title 1, Chapter 5 of the Franklin Municipal Code.

Background

The City of Franklin personnel has developed the Franklin Emergency Management Operational Plan (FEMOP), which predetermines actions to be taken by all City Departments and developing cooperating partnerships with private and other governmental organizations to reduce the vulnerability of City residents, City government, and City infrastructure when a major emergency or disaster occurs.

The FEMOP appoints the City Administrator as the Director of Emergency Management, and will allow the City Administrator the ability to delegate this role to specific personnel depending on the circumstance of the emergency or disaster (which provides more flexibility regarding the Continuity of Government if lines of succession are disrupted). In addition, the City Administrator shall perform the duties of emergency management and will have the authority to declare a state of emergency if both the Mayor and Vice-Mayor are unable to act due to inability or absence (this is also stated in Ordinance 2012-33).

The proposed ordinance also codifies that certain powers normally requiring the approval of the BOMA in nonemergency situations may be exercised by the City Administrator during emergencies as provided in this section. When emergency powers are exercised by the City Administrator, a report shall be provided by the City Administrator to the BOMA, detailing the powers exercised by the City Administrator that otherwise would have required the approval of the BOMA. Title 1, Chapter 5 of the current emergency management ordinance provides that this delegation may be given by resolution; however, removing the requirement that BOMA pass a resolution to delegate these powers will serve to more efficiently continue the operation of government during a time of disaster or emergency.

The powers granted to the City Administrator under this section may be exercised for a period not to exceed ninety (90) days following the date of the emergency, provided that the BOMA may extend or shorten such period at its discretion based on the scope of the emergency and the duration of the recovery period.

Financial Impact

There is no anticipated financial impact associated with the adoption of this ordinance.

Recommendation

Approval of the proposed ordinance is recommended.

ORDINANCE 2012-33

TO BE ENTITLED: "AN ORDINANCE TO AMEND, TITLE 1, CHAPTER 5 OF THE FRANKLIN MUNICIPAL CODE CONCERNING EMERGENCY MANAGEMENT."

WHEREAS, the City of Franklin Municipal Code currently addresses emergency management procedures; and

WHEREAS, it has come to the attention of the Board of Mayor and Aldermen that the current sections of the City of Franklin Municipal Code regarding emergency management are outdated; and

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, Tennessee, believes it is in the best interest of the citizens of the City to update the existing emergency management ordinance to bring it in line with current emergency management standards.

NOW, THEREFORE:

SECTION I: BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that Chapter 5 of Title 1 of the Franklin Municipal Code shall be deleted in its entirety and the following substituted in lieu thereof:

CHAPTER 5. EMERGENCY MANAGEMENT

Sec. 1-501. Citation.

This chapter shall be cited as the Emergency Management Ordinance.

Sec. 1-502. Definitions.

In this chapter:

- (1) "BOMA" means the City of Franklin Board of Mayor and Aldermen;
- (2) "Declaration of state of local emergency" means a declaration of a local emergency from the mayor, or if the mayor is unavailable, the vice mayor, or if the vice mayor is unavailable, the City Administrator; or any declaration of by the State Governor or the President of the United States that an emergency exists or is imminent in the City of Franklin;
- (3) "Disaster" shall mean the occurrence, or threat thereof, whether accidental, natural, technological, or caused by man, in war or peace that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by the City, a county, the governor, or the President of the United States;
- (4) "Emergency" shall mean the occurrence, or threat thereof, whether accidental, natural, technological, or caused by man, in war or peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.
- (5) "Franklin Emergency Management Operational Plan (FEMOP)" means the predetermined plan of action to be taken by the emergency organizations of the City to reduce the vulnerability of the City to a major emergency or disaster.
- (6) "Mayor" means the mayor of the City of Franklin. For the purposes of this chapter, "Mayor"

shall also mean the Vice Mayor in the event that the Mayor is unavailable or City Administrator in the event that the Vice Mayor and Mayor are unavailable.

Sec. 1-503. Franklin Emergency Management Operational Plan (FEMOP)

- (1) **Adoption.** There is hereby adopted the Franklin Emergency Management Operational Plan (FEMOP). The Plan is incorporated by reference as if stated fully herein.
- (2) **Purpose.** The Franklin Emergency Management Operational Plan predetermines actions to be taken by the emergency organizations of City of Franklin, Tennessee, and cooperating private institutions to reduce the vulnerability of City residents to a major emergency or disaster; to respond effectively to the actual occurrence of emergencies/disasters; and to provide for recovery in the aftermath of any emergency or disaster involving extensive damage or other debilitating influence on the normal pattern of life within the community.
- (3) **Modification.** The FEMOP shall be reviewed by the City Administrator or his designee annually for any updated standards and/or procedures. The City Administrator or his designee may make modifications as deemed necessary.

Sec. 1-504. Implementation of FEMOP; Declaration of disaster.

- (1) The Mayor or City Administrator (or other person designated in the FEMOP) may, whether or not a state or local emergency has been declared, cause the FEMOP to be implemented.
- (2) The BOMA by ordinance or resolution, or the Mayor by order, may declare a state of local emergency when the extraordinary power or authority is required to effectively deal with an emergency or disaster in any part of the municipality.
- (3) Upon a "declaration of a state of local emergency" being made, the BOMA or the Mayor shall:
 - (a) Forward a copy of the declaration to the Governor's office, and
 - (b) Cause the details of the declaration to be published by a means of communication that the BOMA or mayor considers most likely to make the contents of the declaration known to the majority of the population of the affected area.
- (4) A declaration of a state of emergency will activate the FEMOP applicable to the specific incident and will be the authority for use or distribution of any supplies, equipment, materials, or facilities assembled or arranged to be made available pursuant to such plans.

Sec. 1-505. Powers; delegation.

- (1) After a declaration of a state of emergency is made in respect of all or any part of the City of Franklin, and for all the duration of the state of emergency, the Mayor may do any or all acts considered necessary and implement procedures that the BOMA or Mayor considers necessary to prevent, respond to, or alleviate the effects of an emergency or a disaster, or may exercise the delegation of powers as authorized by and enumerated in Tennessee Code Annotated, § 58-2-110(3) as may be amended, to the City Administrator or his designee to fulfill those specific powers and responsibilities enabled in said statute and assumed by the BOMA or Mayor.
- (2) When emergency powers are exercised by the City Administrator, a report shall be provided by the City Administrator to the BOMA, detailing the powers exercised by the city administrator that otherwise would have required the approval of the BOMA. The report shall include descriptions of any purchases approved by and contracts authorized by the City Administrator that would otherwise require advance approval by the BOMA. Acceptance of the report by the

BOMA shall constitute ratification of any such contracts, purchases or other actions that would otherwise require approval in advance.

- (3) The powers granted to the City Administrator under this section may be exercised for a period of ninety (90) days following the date of the emergency, provided that the BOMA may shorten or extend such period at its discretion, based on the scope of the emergency and the duration of the recovery period.

Sec. 1-506. Termination.

The BOMA or Mayor must, when of the opinion that an emergency no longer exists in the municipality to which a declaration of local state of emergency was made, but in no event longer than seven days after the emergency was declared, unless extended for a similar time increment:

- (a) Cancel the declaration of a state of local emergency in relation to that part:
 - (i) By ordinance or resolution, if cancellation is effected by the BOMA, or
 - (ii) By order, if the cancellation is effected by the mayor; and
- (b) Promptly notify the Governor's office of the cancellation of the declaration of a state or local emergency.

Sec. 1-507. Liability.

No person, including, without limitation, the BOMA, the mayor, employees of City of Franklin, a volunteer and any other persons or organization appointed, authorized, or requested to carry out measures relating to emergencies or disasters, is liable for any loss, cost, expense, damages, or injury to persons or property that result from:

- (a) The person in good faith doing or omitting to do any act that the person is appointed, authorized or required to do under this chapter, unless, in doing or omitting to do the act, the person was grossly negligent, or
- (b) Any acts done or omitted to be done by one or more of the person who were, under this chapter appointed, authorized or required by the person to do the acts, unless in appointing, authorizing or requiring those person to do the acts, the person was not acting in good faith.

Sec. 1-508. Conflicts and severability.

In the event this article conflicts with any other ordinance of the City of Franklin or any other applicable law, the more restrictive shall apply. If any phase or portion of this article is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this article.

SECTION II. BE IT FINALLY ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the public health, safety and welfare requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

BY: _____
ERIC S. STUCKEY
City Recorder/Administrator

BY: _____
DR. KEN MOORE
Mayor

PASSED FIRST READING

PASSED SECOND READING

Approved as to form:

Kristen L. Corn, Staff Attorney