

# Emergency Management Ordinance



## Town of York, Maine

**Most Recently Amended: November 8, 2022**

**Prior Dates of Amendment: May 22, 2021**

**May 16, 2015**

**May 19, 2012**

**Date of Original Enactment: May 22, 2004**

### ENACTMENT BY THE LEGISLATIVE BODY

Date of the vote to amend this Ordinance: November 8, 2022

Certified by the Town Clerk:

(signature)

on

(date)

11/15/2022

## **Emergency Management Ordinance**

### **Section 1. Title and Authority**

This ordinance shall be known and may be cited and referred to as the Town of York's Emergency Management Ordinance. It is authorized by 37B M.R.S. 781 – 834 as may be amended.

### **Section 2. Purpose**

- A. The purpose of this Ordinance is to establish a municipal Emergency Management Office, compliant with Title 37-B MRS §781, and to put in place the organizational controls appropriate for the municipality to plan and react so as to protect public health, safety and welfare during emergencies.
- B. The Office will be the coordinating agency for all activity in connection with civil emergency preparedness and response.
- C. This ordinance will not relieve any town department of its normal legal responsibilities or authority nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.
- D. This ordinance shall be administered in conjunction with the appropriate elements of the Emergency Plan.

### **Section 3. Definitions**

- A. "Emergency Management" 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 or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include without limitation, fire fighting, police, medical, health, emergency welfare, rescue, engineering, warning and communications services; evacuation of persons from stricken areas; economic stabilization; allocation of critical materials in short supply; emergency transportation; existing or properly assigned functions of infrastructure protection; other related to civilian protection and additional activities necessary to the preparation for the carrying out of these functions.
- B. "Disaster" means the occurrence 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, windstorm, wave action, oil spill, or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, hazardous materials incident, blight, drought, critical material

shortage and explosion; said occurrence(s) being of significant scope as to exceed the normal ability of the town's resources to mitigate, respond to or recover from.

- C. "Emergency" means any event which threatens to or actually inflicts damage to people or property and which requires immediate action to mitigate, prevent, control, contain or from which normal recovery is beyond the scope of the normal resources of the town.
- D. "Emergency Preparedness Forces" shall mean the employees, equipment and facilities of all town departments, boards, and agencies; in addition, the term includes all volunteer personnel, equipment and facilities contributed by or obtained from volunteer persons or agencies.
- E. "Emergency Preparedness Volunteer" shall mean any person duly registered, identified, and appointed by the Town of York's Emergency Management Director.
- F. "Director" shall mean the Town of York's Emergency Management Director.
- G. "Office" shall mean the Town of York's Emergency Management Office.
- H. "Emergency Plan" shall mean the Town of York's Emergency Plan.
- I. "Declared Emergency" shall mean an emergency which has been declared in either of two manners. It can be locally declared pursuant to this Ordinance. Alternatively, it can be declared by the Governor of the State of Maine pursuant to Title 37-B MRS §742. When an emergency is declared by both levels of government, the Declared Emergency shall begin on the earlier of the declaration dates and shall end at the later of the termination dates.

#### **Section 4. Organization and Operation**

- A. Emergency Management Director. There shall be an Emergency Management Director (Director) appointed to organize and manage the Office, as required by Title 37-B MRS §782. The Director shall be appointed by the Selectboard per Title 37-B MRS §782.1. The duration of this appointment shall be a 3-year term.
- B. Organization. The Director is hereby authorized to organize the Office utilizing to the fullest extent possible the existing departments and agencies of the town. In preparation for and during declared emergencies, the Office may utilize any and all Town facilities, personnel and resources to best protect public health, safety and welfare.
- C. Operation. The Director shall be the executive head of the Office. The Director shall head the Office and shall work under the general supervision of the

Assistant Town Manager with the concurrence of the Town Manager and Selectboard.

- D. Administration. The Director shall administer the Office in accordance with the provisions of this ordinance, the provisions of the Emergency Plan and any other related policies adopted by the Selectboard and the provisions of any applicable state and federal laws and rules which may apply in a particular emergency situation.
- E. Line of Succession. In the event of incapacitation or absence of any party, in order to ensure the continuity of operations of local government during emergencies or disasters, a line of succession has been established. The successor shall have all of the powers and responsibilities as outlined in this ordinance until the return of the official. The line of succession for officials will be as follows:
  - 1. Town Manager. Succession will fall to the Assistant Town Manager, followed by the Chairperson of the Town of York's Board of Selectmen.
  - 2. Emergency Management Director. Succession will fall to the Police Chief, followed by the Deputy Police Chief, and then the Senior Fire Chief.

#### **Section 5. Locally Declared Emergency.**

- A. Declaration. Whenever a local disaster exists or appears imminent, the Town Manager, or in the event of their absence, their successor, by proclamation, declare that fact and that an emergency exists in the Town of York. A copy of the proclamation shall be posted in the same manner as a warrant calling a town meeting, with the return to be made by the person posting it and a copy of the proclamation provided to the Town Clerk who shall retain it as a permanent record of the Town.
- B. Termination. Whenever the Town Manager, or in the event of their absence, their successor, is satisfied that a local emergency or disaster no longer exists, she or he shall terminate the emergency proclamation by posting another proclamation so stating. The proclamation shall be posted in the same manner as the original one with a copy to the Town Clerk. Local representatives of the news media shall be advised of the termination of the emergency as soon as is practical.

#### **Section 6. Powers and Duties During a Declared Emergency**

During the period of a Declared Emergency, the Director shall have the following authority:

- A. Promulgate Regulations. The Director may promulgate such regulations as deemed necessary to protect life and property and preserve critical resources. Such regulations may include, but are not limited to, the following:
  - 1. Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of Emergency Preparedness forces or to facilitate the mass movement of persons from critical areas within the Town.
  - 2. Regulations pertaining to the movement of persons deemed vulnerable to disaster or at risk, to include orders of evacuation.
  - 3. Such other regulations as may be necessary to preserve public health and safety.
- B. Obtain Vital Supplies, Materials, Equipment. The Director may obtain vital supplies, materials, equipment and other such products as deemed necessary. Such purchases shall be charged to operating budgets of participating departments. Affected Departments may approach the Selectboard to seek reimbursement from contingency fund accounts as limited in Section 7.
- C. Obtain Assistance. The Director may require emergency services of any Town Officer or employee. If regular Town forces are deemed inadequate, the Director may hire people, accept and appoint volunteers, and may retain the services of people, businesses or organizations. Any such actions shall be considered temporary, and no person hired by the Director shall be considered a permanent or full-time employee of the Town. All duly authorized persons rendering emergency services shall be entitled to all privileges and immunities provided by law. Associated costs shall be charged to operating budgets of participating departments. Affected Departments may approach the Selectboard to seek reimbursement from contingency if necessary.
- D. Purchasing Policies. During the Declared Emergency, for emergency work such as stabilization, creation of immediate protective measures, debris clean-up and other such matters but not permanent repairs and mitigation improvements, this Ordinance shall apply and other purchasing policies shall be suspended.

#### **Section 7. Financial Authority**

- A. During Declared Emergency. During the period of a Declared Emergency, the Director may spend or commit to spend Town funds as needed to respond to the emergency and minimize impacts or potential impacts, as provided in Section 6 above, subject to the following conditions:
  - 1. Only emergency work such as stabilization, creation of immediate protective measures, debris clean-up and other such matters shall be authorized pursuant to this authority. Permanent repairs and improvements to mitigate future impacts are not authorized by this spending authority.

2. Emergency spending by any Department relating to the Emergency shall be considered to have been authorized by the Director. It shall be the responsibility of the Department Head to report all such spending to the Director as quickly as possible.
  3. In no case shall the total amount spent by the Director pursuant to Section 6 exceed the balance of the voter-approved supplementary contingency budget.
  4. Emergency spending authority of the Director ends when the period of a Declared Emergency ends.
- B. Record-Keeping. During and after a Declared Emergency, all Department Heads which participate in the emergency response shall keep records of the amount and value of staff time, vehicle use, expenses and other such matters. The format and content of record-keeping shall be dictated by the Director. The purpose of this action is to facilitate possible applications for external financial assistance.
- C. Post-Emergency. When a Declared Emergency ends, or 30 days after the date of disaster declaration, whichever occurs earlier, all decisions about spending related to the emergency which are not funded through approved operating budgets shall be brought to the Selectboard for action.
- D. External Financial Assistance. All decisions about external financial assistance, including the initial decision whether or not to seek such assistance, shall be the responsibility of the Selectboard. External financial assistance shall include, but not be limited to, FEMA assistance. Any request to the Board shall include a description of the process and identify risks involved.
- E. Local Spending Authority.
1. Operating Budgets. To the extent expenses during and after an emergency can be charged to approved operating budgets, they shall be. Typically this will include costs of fuel, labor, and other costs which occur regardless of the emergency.
  2. Supplementary Contingency. The Selectboard may vote to utilize funds available in Supplementary Contingency. The authorizing warrant article sets the amount and means of utilization.
  3. Restricted Fund Balance. A designated portion of the Town's fund balance could be set aside to pay for storm- or emergency-related expenses. In the event this has been authorized by voters, this funding shall be available for the Town's emergency response, subject to prior approval of the Selectboard.

4. Special Budget Referendum. In the event the Selectboard believes there is a need for more funding to properly respond to an emergency, it may call for a Special Budget Referendum in accordance with the Town of York Home Rule Charter. This would be likely if costs are likely to exceed the amount of Supplementary Contingency and external financial assistance.

#### **Section 8. Duties of the Director**

The Director shall be responsible to the Assistant Town Manager in regards to all phases of Emergency Preparedness activity. The Director shall be responsible for planning, coordinating and operating the Emergency Preparedness activity within the Town. The Director shall maintain liaison with county, state and federal authorities and the authorities of nearby municipalities to insure the most effective response to an emergency. The duties of the Director shall include but not be limited to the following:

- A. Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the Town for response in an emergency.
- B. Development of plans for the immediate use of all the facilities, equipment, manpower and other resources of the Town for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness government services and public utilizes necessary for the public health, safety and welfare.
- C. Negotiating and concluding voluntary agreements with owners or persons in control of buildings or other property for Emergency Preparedness purposes and identifying suitable buildings for use as public shelters.
- D. Through use of educational programs, informing the Town's population about Emergency Preparedness matters and advising as to what actions should be taken during an emergency to protect life and property.
- E. From time to time, conducting public practice alerts and drills to familiarize the Town's population with emergency response procedures.
- F. Assuming such authority and conducting such activity as the Town Manager or the Selectboard may direct to promote and better execute Emergency Preparedness activities.
- G. In the event the Town seeks external financial assistance, the Director shall be responsible for coordinating the actions of all Town officials in the application process, subsequently for monitoring and ensuring compliance with all requirements of the funding entity, and providing monthly updates to the Selectboard.

**Section 9. Emergency Plan**

An Emergency Plan shall be adopted biennially by the Selectboard. An initial draft Plan shall be prepared by the Director and the Town Manager. The Selectboard may amend this Plan prior to adoption. The Plan shall complement this Ordinance and shall provide the framework within which Emergency Response activities shall happen.

**Section 10. Violations**

It shall be a violation of this ordinance for any person to obstruct, hinder or delay any member of the Emergency Preparedness Forces as herein defined in the enforcement of any provision of this ordinance or any regulation promulgated under its authority. Any person, firm or corporation found to have violated any provision of this ordinance or any regulation promulgated under its authority in a court with jurisdiction to act on a complaint from the Town shall be subject to a civil penalty of \$100.00 for the first offense, \$150.00 for the second offense, and \$250.00 for the third and subsequent offenses.

**Section 11. Waiver/Payment of Fines**

Any person charged with a violation of this Ordinance, shall be allowed to waive such violation and tender to the Town of York the fine amount if paid within 20 days of issuance of the summons. If the waiver fine is paid, no appearance before a District Court Judge or other judicial officer shall be required. If the offender pays the waiver fine, the matter will be closed in the York Police Records system and listed as a prior offense for future violations.

If the offender chooses not to pay the waiver fine, he/she shall appear in court on the specified date to answer for the ordinance violation. If the offender is found to have committed the offense in court, fines, applicable court fees, attorney's fees, and prosecution costs may apply.

**Section 12. Severability**

Should any provision of this ordinance be declared invalid for any reason by a court with jurisdiction to do so, such a declaration shall not affect the validity of other provisions of this ordinance or the ordinance as a whole it being the legislative intent that the provisions of this ordinance shall be severable and shall remain valid notwithstanding such a judicial declaration against one provision.

**Section 13. Conflicting Ordinances, Orders, Policies and Regulations**

At all times during declared periods of emergency, the provisions of this ordinance shall supersede all existing ordinances, orders, policies and regulations insofar as the later may be inconsistent therewith.



**Section 14. Effective Date**

- A. This ordinance shall take effect immediately upon this passage by the voters at an annual or special town meeting in the Town of York.
- B. When this Ordinance is amended, revised provisions shall apply only to emergencies that begin after the amendment is enacted by voters.