

FIRST READING: 10/19/09  
SECOND READING: waived  
THIRD READING: waived  
ORD.NO.: 007-09

**AN ORDINANCE TO AMEND CHAPTER 22 OF THE TOWN CODE OF THE  
TOWN OF SMYRNA BY ADDING A NEW ARTICLE III.  
EMERGENCY OPERATIONS PLAN**

**WHEREAS**, the Town Council of the Town of Smyrna has deemed it necessary and proper for the health safety and welfare of the citizens and residents of the Town of Smyrna for an Emergency Operations Plan to be put in place; and

**WHEREAS**, the Public Safety Committee of the Town of Smyrna has reviewed and recommended that an Emergency Operations Plan be put in place for the health, safety, and welfare of the citizens and residents of the Town of Smyrna; and

**WHEREAS**, the Emergency Operations Plan will allow for coordinated emergency operations throughout the Town of Smyrna prior to, during, and after a disaster or emergency situation;

**BE IT HEREBY ENACTED** by the Town Council of the Town of Smyrna, a majority thereof concurring in Council, duly met, that Chapter 22 of the Town Code of the Town of Smyrna be and hereby is amended as follows:

**Chapter 22. CIVIL EMERGENCIES**

**ARTICLE III. EMERGENCY OPERATIONS PLAN**

**Sec. 22-33. Purpose.**

- a. The Town of Smyrna, Delaware, Emergency Operations Plan (CEOP), with its annexes and other attachments, provides a basis for coordinated emergency operations throughout the Town of Smyrna prior to, during and after a disaster, caused or natural.
- b. This plan further provides planning guidance on civil defense emergency operations for the departments and agencies of the city as required by the Basic Civil Defense Law

outlined in Delaware Code Annotated, Title 20, Part II, Chapter 31.

- c. The adoption of this ordinance by the Mayor and Council of the Town of Smyrna does hereby adopt and thereby allow for the implementation of the Town of Smyrna Emergency Operations Plan. This ordinance shall be included in the Town of Smyrna Emergency Operations Plan as Appendix VI.

### **Section 22-34. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

A **Disaster:** means a catastrophic condition caused by a man-made event (including, but not limited to, industrial, nuclear or transportation accident, explosion, conflagration, power failure, act of domestic terrorism, natural resource shortage or other condition resulting from man-made causes, such as hazardous materials spills and other injurious environmental contamination), natural event (including, but not limited to, any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, landslide, mud slide, snowstorm, drought, fire or explosion) or war-caused event (following an attack upon the United States caused by use of bombs, missiles, shellfire or nuclear, radiological, chemical or biological means, or other weapons, or overt paramilitary actions, or other conditions such as sabotage) which results in substantial damage to property or the environment, and/or hardship, suffering, injury or possible loss of life. ( DE Code Title 20 Chapter 31) .

At the Federal level, an emergency is defined by Title V of P.L. 93-288, Section 102(1), as any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety. Title V includes authority for the President to direct federal agencies to provide emergency assistance to save lives and protect

property and public health and safety for emergencies other than natural disasters. Under Title V, the President may direct the provision of emergency assistance either at the request of a Governor (Section 501(a)) or upon determination by the President that an emergency exists for which the primary responsibility for response rests with the United States (501(b)).

B. **Catastrophic Disaster:** Although there is no commonly accepted definition of a catastrophic disaster, the term implies an event or incident, which produces severe and widespread damages of such a magnitude as to result in the requirement for significant resources from outside the affected area to provide the necessary response. For the purpose of this plan, a catastrophic disaster is defined as an event that results in large numbers of deaths and injuries; causes extensive damage or destruction of facilities that provide and sustain human needs; produces an overwhelming demand on state and local response resources and mechanisms; causes a severe long-term effect on general economic activity; and severely affects state, local, and private sector capabilities to begin and sustain response activities.

C **Emergency:** means any situation which requires efforts and capabilities to save lives or to protect property, public health and safety, or to lessen or avert the threat of a disaster in Delaware. ( DE Code Title 20 Chapter 31)

D **Emergency Management** means the mitigation, preparedness, response and recovery functions necessary to save lives and to protect property, public health and safety or to lessen or avert the threat of a disaster in any part of the State, other than functions for which military forces or other federal agencies are primarily responsible. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological response, chemical response or other technological response, evacuation of persons from hazardous areas, emergency welfare services, emergency transportation, protection, temporary restoration of public utility services,

national security, and other functions related to infrastructure, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions. In so defining emergency management, full recognition shall be given to Public Law 93-288, as amended, "The Robert T. Stafford Disaster Relief and Emergency Assistance Act" [42 U.S.C. § 5121 et seq.]; Public Law 100-408, as amended, "The Price Anderson Act" >42 U.S.C. § 2210]; § 4 Public Law 875 -- 81st Congress, as amended.

E. **Mitigation** means any action before or after a response event taken to reduce or eliminate the long-term risk to human life and/or property from natural hazards or any cost-effective measure which is intended to reduce the potential for damage to a facility from a disaster event. ( DE Code Title 20 Chapter 31)

F. **Qualified Medical Personnel:** means medical personnel who voluntarily provide their services without compensation through participation in a state-recognized group of providers organized for the sole purpose of assisting in emergency or disaster relief operations and activities in connection with any emergency or disaster pursuant to this chapter, such as, but not limited to, a Medical Reserve Corps. (DE Code Title 20 Chapter 31)

G. **Response:** means any action taken to reduce or eliminate the immediate or short-term risk to human life and/or property from any hazard.(DE Code Title 20 Chapter 31)

H. **State of emergency - state definition** means an emergency proclaimed pursuant to an emergency order by the Governor. All emergency orders issued under this chapter shall indicate the nature of the emergency or disaster, the area or areas threatened, and the conditions which have brought it about and may limit the order to a geographic area or specific resources. Such an emergency order may be issued in writing subsequent to its effect so long as a written log recording the dates and times of such order is maintained by DEMA. Emergency orders shall be filed with the Secretary of State.

I. **Curfew** is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the Town of Smyrna excepting persons officially designated to duty with reference to said civil authority.

**J. Senior Elected Official** The Mayor, Vice Mayor, and any other member of Town Council by seniority of election to the Council, in that order who is present in the Town.

K. **Proclamation of Emergency** The proclamation by the Senior Elected Official that the Town or any part thereof is in imminent danger of suffering civil disturbance, disorder, riot or other occurrence which will generally, seriously and substantially endanger the lives, safety, health or property of the public, and that the available members of the Police Department are unable to control the situation without possible injury to persons in the town or such part thereof, or where the services of the town are significantly impaired or compromised.

**Sec. 22-35. Imposition of curfew by Senior Elected Official.**

Notwithstanding any other provision of the Town Code, after proclamation of a certification of emergency by the Senior Elected Official he/she may order a general curfew applicable to such geographical areas of the town or to the town as a whole as he/she deems advisable and applicable during such hours of the day or night as he/she deems necessary in the interest of the public safety and welfare.

**Sec. 22-36. Additional authority of Senior Elected Official.**

Notwithstanding any other provision of the Town Code, after proclamation of a certification of emergency, the Senior Elected Official, may also in the interest of public safety and welfare make any or all of the following orders:

- A. Prohibit or limit to 10 or more the number of persons who may assemble or gather in a group on public streets, parks, or other open areas, either public or private, except for recreational purposes at a usual or customary place..
- B. Prohibit the sale, transfer, possession or use of gasoline, kerosene, or combustible inflammable or explosive liquid or materials in containers of any kind
- C. Establish a curfew, and to prohibit any person from being on public streets, public parks or any other public places designated during the hours declared by the Senior Elected Official to be a period of curfew, except for those persons who are caused to be in public places by reason of their employment or a private emergency involving health, safety or protection of property.
- D. Halt or restrict access or egress, on foot or by vehicle, upon public highways to or from the city or any part thereof, and to halt or restrict the movement of trains, automobiles, buses, trucks or other vehicles into, within or from the town.
- E. Require the closing of taprooms and bars, and prohibit the sale or service of alcoholic beverages in any taproom, bar, hotel, restaurant, club or other establishment.
- F. Prohibit the possession of firearms or any other deadly weapon by a person in a place other than that person's place of residence or business. The provisions of this subsection shall not apply to members of the armed forces of the United States of America, the Delaware National Guard or any law enforcement officer.
- G. Order the temporary closing of any and all streets, alleys and other public ways in the Town of Smyrna.
- H. Issue such other orders as are imminently necessary for the protection of life and property.

**Sec. 22-37. Public notice of proclamation.**

Should the Senior Elected Official deem it necessary to invoke any or all of the provisions of §§ 22-35 to 22-36 inclusive, of this Article, he shall give notice of same by means of a written proclamation, publicly posted in Town Hall and issued to the news media for immediate dissemination to the public.

**Sec. 22-38. Amendment of Emergency Operations Plan.**

The Town Council may from time to time revise all or any of the current "Town of Smyrna Emergency Operations Plan" or its annexes or other attachments by simple resolution.

**Sec. 22-39. Violations and penalties.**

Any person violating the provisions of this article or an executive order issued pursuant thereto shall be guilty of an offense against the Town of Smyrna and shall be punishable by a fine not exceeding \$500 and/or imprisonment for a period not to exceed 60 days, or both.

**Synopsis**

This ordinance amends the Town's Code by adding a new Article III. Emergency Operations Plan to Chapter 22 of the Code. The ordinance adopts and allows for implementation of the Town Emergency Operations Plan which will allow for coordinated emergency operations throughout the Town prior to, during and after a disaster situation. The ordinance grants powers to the Senior Elected Official of the Town which may be implemented in case of disaster as defined by the ordinance. The ordinance also allows for amendments to the plan to be made by simple resolution and imposes penalties for violation of the ordinance or any order issued by the Senior Elected Official pursuant to the ordinance.

This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Smyrna at a duly-noticed and convened meeting at which a quorum was present on October 19, 2009.

So Certifies:

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Mayor

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This shall certify that the title and synopsis of the foregoing ordinance was published in The Smyrna Clayton Sun Times on \_\_\_\_\_, 2009 and posted at the Town Hall on \_\_\_\_\_, 2009.

So Certifies:

Three Reading Rule was waived!

Date: \_\_\_\_\_

\_\_\_\_\_  
Town Clerk

This shall certify that the title, synopsis and effective date of the foregoing ordinance was published in The Smyrna Clayton Sun Times on October 28, 2009 and posted at the Town Hall on October 20, 2009.

\_\_\_\_\_  
Town Manager