

ORDINANCE NO. 084, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE IX OF CHAPTER 2 OF THE CODE OF THE CITY OF
FORT COLLINS REGARDING EMERGENCY MANAGEMENT

WHEREAS, in 1990 the City Council created the Office of Emergency Management by adopting Ordinance No. 40, 1990, which codified Article IX of Chapter 2 of the City Code regarding emergency management (the “Emergency Management Code”); and

WHEREAS, for the last 33 years the Emergency Management Code provisions have remained largely the same except for some minor amendments to change names and titles, move responsibility for the Office of Emergency Management from Police Services to Poudre Fire Authority, and establish a method for dissemination of rules and regulations to the public during an emergency; and

WHEREAS, in 2019 the City Manager created the position of Director of Emergency Preparedness and Security (the “Director”) within the City Manager’s Office; and

WHEREAS, the Director and other City staff have conducted a thorough review of the Emergency Management Code provisions and have recommended that such provisions be amended to do the following:

- Formally establish the Office of Emergency Preparedness and Security within the City, instead of the Office of Emergency Management;
- Define the term “emergency organization” as already used in the Code;
- Replace the “Disaster Council” with a “Policy Group” that will provide the strategy and vision for how emergency response and recovery should be conducted;
- Direct the City Manager to appoint a Director of the Office of Emergency Preparedness and Security, instead of the City Manager serving as the Director of Emergency Management;
- Shift responsibility for development of the City’s Emergency Operations Plan from the Disaster Council to the Director, based on the principles and policies set forth in the National Incident Management System (NIMS) adopted by the City pursuant to Resolution 2005-105, with adoption by the City Manager and approval by the City Council; and
- Allow the City manager to adopt updates to the Emergency Operations Plan as needed without submitting every change to the City Council for approval, so long as the City Manager submits the entire Emergency Operation Plan to the City Council for approval at least once every five years; and

WHEREAS, the City Council has determined, and now finds, that the adoption of this Ordinance is necessary for the health, safety and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 2-666 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-666. Definitions.

(a) As used in this Article, “emergency organization” shall mean all officers and employees of the City, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who may, by agreement or operation of law, including persons required to provide service under the provisions of § 2-669(a)(6)c of this Article, be charged with duties incident to the protection of life, health, safety and property in the City, while planning for such emergency or during such emergency.

(b) As used in this Article, “local emergency” shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within the City, including, but not limited to: fire, flood, storm, earthquake, **pandemic**, epidemic, infestation, explosion, aircraft crash, hazardous substance incident, oil spill or other contamination of air or water requiring immediate action to avert danger or damage; water or power shortage, civil disturbance, hostile military or paramilitary action; or any other declared disaster that requires the aid and assistance of outside, local, state or federal agencies.

Section 3. That Section 2-668 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-668. ~~Disaster Council membership~~ Policy Group.

The ~~Disaster Council~~ Policy Group is hereby created to provide the strategy and vision for how emergency response and recovery should be conducted, and shall consist of the following persons or their designees:

- (1) The City Manager, ~~who shall be chairperson~~;
- (2) The Deputy City Manager(s), ~~who shall be vice chairperson~~;
- (3) The Mayor;
- (4) The **Director of Emergency Management Coordinator Preparedness and Security**; and
- (5) **The City Attorney; and**

(5) **Such Other City staff members as the City Manager may choose to** are designated in the emergency operations plan of the City, adopted pursuant to this Article.

The Policy Group shall be immediately activated following a disaster or emergency declaration made by the City Manager, or their appointed designee. Additionally, the City Manager, or their appointed designee, may convene the Policy Group at any point to address the threatened existence or existence of an emergency event. The Policy Group is deactivated by the City Manager, taking into account the existing and potential needs of the City.

Section 4. That Section 2-669 of the Code of the City of Fort Collins is hereby deleted in its entirety.

~~Sec. 2-669. — Disaster Council powers and duties.~~

~~The Disaster Council shall have the duty and power to develop and recommend for adoption by the City Council emergency and mutual aid plans and agreements and such ordinances, resolutions and rules and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet upon call of the chairperson or, in his or her absence from the City or inability to call such meeting, upon call of the vice chairperson.~~

Section 5. That Section 2-670 of the Code of the City of Fort Collins is hereby renumbered as Section 2-669 and amended to read as follows:

Sec. 2-670~~669~~. – Office of Emergency Management~~Preparedness and Security~~.

There is hereby created the Office of Emergency Management~~Preparedness and Security~~. The City Manager shall be the ~~appoint a~~ **City Manager** Director of the Office of Emergency Management~~Preparedness and Security~~. ~~The Emergency Management Coordinator shall be the Assistant Director. The Office of Emergency Management shall be located within the Poudre Fire Authority, and the Poudre Fire Authority shall provide the administrative support necessary for the office to carry out its duties.~~

Section 6. That Section 2-671 of the Code of the City of Fort Collins is hereby renumbered as Section 2-670 and amended to read as follows:

Sec. 2-671~~670~~. Powers and duties of the Directors and Assistant Director of the Office of Emergency Management~~City Manager and Director of Emergency Preparedness and Security~~.

(a) The ~~Director~~ **City Manager** is hereby empowered:

- (1) To proclaim the existence or threatened existence of a local emergency. Whenever a local emergency is proclaimed by the ~~Director~~ **City Manager**, it shall not be continued or renewed for a period more than seven (7) days, except by or with the consent of the City Council. Any such proclamation shall be given prompt and general publicity and shall be filed promptly with the City Clerk or the Larimer County Clerk and Recorder and with the state agency responsible for emergency management.

...

(6) In the event of the proclamation of a local emergency as herein provided or the proclamation of a "state of disaster emergency" by the Governor or other lawfully empowered official of the State:

a. To make and issue rules and regulations on matters reasonably related to the protection of life, health, safety and property as affected by such emergency; provided, however, that such rules and regulations must be confirmed at the earliest practical time by the City Council **by ordinance**;

b. To obtain vital supplies, equipment and such other properties found lacking and needed for the protection of life, health, safety and property and to bind the City for the fair value thereof in accordance with Chapter 8 and, if required immediately, to commandeer the same for public use;

c. To require emergency services of any City officer or employee and, in the event of the proclamation by the Governor or other lawfully empowered official of the State of a "state of disaster emergency" in the County, to command the aid of as many citizens of the City as ~~he or she~~ **the City Manager** deems necessary in the execution of ~~his or her~~ **their** duties; such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for civil defense workers;

d. To requisition necessary personnel or material of ~~the Poudre Fire Authority and/or~~ the City; and

e. To execute all of the ordinary powers as City Manager, all of the special powers conferred by this Article or ~~by the Emergency Operations Plan adopted by the City Council pursuant hereto~~, and all powers conferred by any statute, by agreement approved by the City Council and by any other lawful authority.

(b) ~~The Director of the Office of Emergency Management~~ **City Manager** shall designate the order of succession ~~to that office~~, to take effect in the event the ~~Director~~ **City Manager** ~~and their designee pursuant to Article III, Section 3 of the Charter~~ **is are both** unavailable to attend meetings and otherwise perform ~~his or her~~ **their** duties during an emergency. ~~Such order of succession shall be as set forth in the Direction and Control Annex to the Emergency Operations Plan adopted pursuant to this Article.~~

(c) ~~The Assistant Office Director~~ **of Emergency Preparedness and Security** shall, ~~under the supervision of the Director and with the assistance of the members of the Disaster Council~~, **develop support the development of emergency operations response plans as needed** and manage the **coordination of emergency programs of programming in the City**; and shall have such other powers and duties as may be assigned by the ~~Director~~ **City Manager**.

(d) In the event of a declaration of military law, the **City Manager** ~~efforts of the emergency organization of the City shall be subject to the direction and approval of the Office of~~ **shall report directly to** the Mayor as head of City government in accordance with Article II, Section 4 of the Charter.

(e) Any rules and regulations made and issued by the ~~Director~~ **City Manager** pursuant to the authorization set forth in Paragraph (a)(6) of this Section shall be disseminated widely to the community by appropriate means given the circumstances and available methods for communicating with the public. A knowing violation of such rules and regulations shall be a misdemeanor punishable under § 1-15 of this Code.

Section 7. That Section 2-672 of the Code of the City of Fort Collins is hereby deleted in its entirety.

~~Sec. 2-672. -- Emergency organization.~~

~~All officers and employees of the City, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who may, by agreement or operation of law, including persons impressed into service under the provisions of § 2-671(a)(6)c of this Article, be charged with duties incident to the protection of life, health, safety and property in the City during such emergency, shall constitute the emergency organization of the City.~~

Section 8. That Section 2-673 of the Code of the City of Fort Collins is hereby renumbered as Section 2-671 and amended to read as follows:

Sec. 2-673671**. - Emergency Operations Plan.**

The ~~Disaster Council~~ **Director of Emergency Preparedness and Security** shall be responsible for:

(a) ~~†~~ **The development and adoption of the Emergency Operations Plan (and any subsequent revisions) for adoption by the City Manager and approval by the City Council, which Plan shall be based on the principles and policies set forth in the National Incident Management System (NIMS) adopted by the City pursuant to Resolution 2005-105, as now in effect or as may be updated in the future. The Emergency Operations Plan shall provide for the effective mobilization of all of the resources of the City to meet any condition constituting a local emergency or state of disaster emergency pursuant to state law; and shall provide for the organization, powers and duties, services and staff of the emergency organization of the City.**

(b) **Development and recommendation for adoption by the City Council, as required, of emergency response plans, mutual aid plans and agreements, and such ordinances, resolutions and rules and regulations as are necessary to implement the Emergency Operations Plan.**

(c) **Conferring with the City Manager regarding the Emergency Operations Plan on a frequency and to the extent the City Manager determines to be beneficial for the development and updating of the Emergency Operations Plan.**

The City Manager may adopt updates to the Emergency Operations Plan as necessary and appropriate to maintain the emergency preparedness of the City, provided that the City Manager shall submit the Emergency Operations Plan to the City Council for approval at least once every five years.

Section 9. That Section 2-674 of the Code of the City of Fort Collins is hereby renumbered as Section 2-672.

Sec. 2-674672. No obstruction.

It shall be unlawful for any person to willfully obstruct, hinder or delay any person in the exercise of any duty or authority pursuant to the provisions of this Article.

Section 10. That Section 2-675 of the Code of the City of Fort Collins is hereby renumbers as Section 2-673.

Sec. 2-675673. - Conflicting ordinances, orders, rules and regulations suspended.

Any orders, rules and regulations promulgated during a proclaimed state of disaster emergency shall take precedence over existing ordinances, rules and regulations if a conflict arises.

Introduced, considered favorably on first reading and ordered published this 6th day of June, 2023, and to be presented for final passage on the 20th day of June, 2023.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading this 20th day of June, 2023.

Mayor

ATTEST:

Chief Deputy City Clerk