

ORDINANCE 443

AN ORDINANCE RELATING TO EMERGENCY MANAGEMENT, PROVIDING FOR SEVERABILITY.

WHEREAS: there is no existing emergency management ordinance and the Town is in need of such an ordinance in light of changes in state and federal emergency management and disaster assistance law; and

WHEREAS: Washington State Constitution Article XI, Section 11, grants towns the same police power as is granted to the state itself, except as restricted by statute; and

WHEREAS: Chapter 49, Section 1 of 1997 Laws of Washington, codified as RCW 38.52.010, designates the Mayor as the executive head of the Town for purposes of emergency management planning and disaster response and also confers on the Mayor the emergency powers provided for in Chapter 38.52 RCW; and

WHEREAS: pursuant to Chapter 38.52 RCW, the Town of Yacolt has entered into an interlocal agreement with Clark Regional Emergency Services Agency to assist local jurisdictions and agencies to prepare for, respond to, and recover from major emergencies and disasters; and

WHEREAS: it is in the best interests of the citizens of the Town of Yacolt that an emergency management ordinance be adopted to clarify the authority and powers of its officers in emergency or disaster situations of local, regional, and national scope and to ensure that emergency management functions are coordinated to the maximum extent with local, regional, and national agencies to the end that the most effective preparation and use may be made of the Town's resources in dealing with any emergency or disaster that may occur.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF YACOLT, WASHINGTON:

An emergency management ordinance is hereby adopted to read as follows:

EMERGENCY MANAGEMENT SECTIONS

- 443.010 Purpose and declaration of policy.
- 443.020 Definitions.
- 443.030 Administration.
- 443.040 Designation of the Mayor as executive head for emergency services of the Town.
- 443.050 Continuity of government.
- 443.060 General duties of director of emergency management.
- 443.070 Declaration of emergency.
- 443.080 Notice of declaration of emergency and emergency orders.
- 443.090 Authorized emergency orders.
- 443.100 Emergency powers under governor's declaration of emergency or disaster.
- 443.110 Violations of emergency proclamation, rule or order – penalties.
- 443.120 Continuance of existing agreements.
- 443.130 General duty only.
- 443.140 Severability.

443.010 Purpose and declaration of policy.

The purpose of this ordinance is to establish a local emergency management organization and set out and clarify the authority of the Town and its officers with regard to local, regional, and national emergency and disaster situations. It is intended, in conformity with Article XI, Section 11 of the Washington State Constitution and with Chapter 38.52 RCW, to grant the broadest power permitted by constitutional and statutory authority to preserve the public health, safety, and welfare.

443.020 Definitions.

When used in this ordinance, the following words, terms and phrases, and their derivations, shall have the meanings ascribed to them in Chapter 38.52 RCW and this section, except where the context clearly indicates a different meaning:

"Executive head" means the person designated by state law and this ordinance as the head of town government for emergency and disaster management pursuant to Chapter 38.52 RCW.

"Major emergency or disaster" means an event or set of circumstances which:

- (a) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or
- (b) Reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

443.030 Administration.

Clark Regional Emergency Services Agency, a separate legal entity authorized by the Interlocal Cooperation Act in the State of Washington, shall be the agent of the Town to administer the operations of emergency management and shall propose a budget for the support of such activities. Specific responsibilities of Clark Regional Emergency Services Agency shall be as described by the Clark Regional Emergency Services Agency Interlocal Cooperation Agreement.

443.040 Designation of the Mayor as executive head for emergency services of the Town.

The Mayor or designate shall serve as the executive head of the Town for purposes of emergency management pursuant to Chapter 38.52 RCW.

443.050 Continuity of government.

In the event the Mayor is unavailable or unable, due to an absence of physical or mental well-being, to exercise the powers and discharge the duties of the executive head described in this ordinance, the Mayor Pro Tem shall act as the interim executive head. If the Town Council is in session, it can by a majority vote determine that the Mayor is unable, due to an absence of physical or mental well-being, to exercise the powers and discharge the duties of the executive head described in this ordinance. If the Town Council is not in session, the Mayor Pro Tem and the Clerk/Treasurer can determine that the Mayor is unable, due to an absence of physical or mental well-being, to exercise the powers and discharge the duties of the executive head described in this ordinance, subject to Council ratification and confirmation, modification, or rejection as soon as practicable.

443.060 General duties of the director of emergency management.

The director of Clark Regional Emergency Services Agency shall:

- (a) Administer local emergency management activities to assist the Town in the mitigation, preparedness, response, and recovery from major emergencies and disasters;
- (b) Oversee preparation and implementation of the Town's comprehensive emergency management plan;
- (c) Submit an annual program paper to the Town regarding the previous year's performance and subsequent year's plans regarding emergency management objectives;
- (d) Assist the executive head or alternate in the issuance of declarations of an emergency pursuant to CCC 2.48A.070;
- (e) Request that the governor proclaim a state of emergency or disaster when in the opinion of the executive head, the resources of the Town, area, or region are inadequate to cope with the emergency or disaster;
- (f) Direct coordination and cooperation between departments, divisions, services, and staff in carrying out the provisions of the emergency management plan, and to resolve questions of authority and responsibility that may arise among them;
- (g) Act in coordination with the state and other government agencies to plan and implement joint jurisdictional planning and disaster services plans and mutual aid agreements;
- (h) Consult with the prosecuting attorney in planning and exercise of emergency powers;
- (i) Propose to the Town Council the Town's contribution to the cost of a joint local emergency management organization upon a fair and equitable basis.

443.070 Declaration of emergency.

- (a) Whenever an emergency, or the imminent threat thereof, occurs in the Town and results in, or threatens to result in the death or injury of persons or the destruction of or damage to property to such extent as to require, in the judgment of the executive head, extraordinary and immediate measures to protect the public health, safety, and welfare, the executive head shall forthwith:
- (1) If the Town Council is in session, request the Council to declare the existence or threatened existence of an emergency; or
 - (2) If the Town Council is not in session, issue such declaration, subject to Council ratification and confirmation, modification, or rejection as soon as practicable.

Declarations of emergency issued by the executive head and determinations of the Mayor's inability to exercise the powers and discharge the duties of the executive head shall be presented as soon as practical to the Town Council for ratification and confirmation, modification, or rejection. Declarations and determinations which are rejected shall, after vote, be void. Declarations and determinations shall be considered in full force and effect until the Council shall act.

- (b) Such declaration of emergency may be in addition to or as an alternative to the proclamation of state of emergency by the governor.
- (c) The executive head shall terminate the declaration of emergency when order has been restored in the affected area of the Town.

443.080 Notice of declarations of emergency and emergency orders.

When practical, the executive head shall consult with the director of emergency management on the need for and development of the declaration of emergency or emergency order. The executive head shall cause any declaration of emergency or emergency order issued pursuant to the authority of this ordinance to be delivered to the director of emergency management, state emergency management, the governor, the public, and news media within the general area of the Town. The executive head or alternate shall use available means as shall be necessary in his or her judgment to give notice of such declarations. Such declarations and orders shall be filed with the Town Clerk as soon as practical.

443.090 Authorized emergency orders.

- (a) Upon the declaration of an emergency, and during the existence of such emergency, the executive head, may make and proclaim any or all of the following orders and delegate enforcement authority therefore to law enforcement officers and designated emergency personnel:
- (1) Order imposing a general curfew applicable to the Town as a whole, or to such geographical area or areas of the Town and during such hours, as it deems necessary, and from time to time to modify the hours such curfew will be in effect and the area or areas to which it will apply;

- (2) Order requiring any or all business establishments to close and remain closed until further order;
- (3) Order requiring the closure of any or all bars, taverns, liquor stores, and other business establishments where alcoholic beverages are sold or otherwise dispensed; provided that with respect to those business establishments which are not primarily devoted to the sale of alcoholic beverages and in which such alcoholic beverages may be removed or made secure from possible seizure by the public, the portions thereof utilized for the sale of items other than alcoholic beverages may, in the discretion of the executive head, be allowed to remain open;
- (4) Order requiring the discontinuance of the sale, distribution, or giving away of alcoholic beverages in any or all parts of the Town;
- (5) Order requiring the discontinuance of the sale, distribution, or giving away of firearms and/or ammunition for firearms in any or all parts of the Town;
- (6) Order requiring the discontinuance of the sale, distribution, or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;
- (7) Order requiring the closure of any or all business establishments where firearms and/or ammunition for firearms are sold or otherwise dispensed; provided that with respect to those business establishments which are not primarily devoted to the sale of firearms and/or ammunition and in which such firearms and/or ammunition may be removed or made secure from possible seizure by the public, the portions thereof utilized for the sale of items other than firearms and/or ammunition may, in the discretion of the executive head, be allowed to remain open;
- (8) Order closing to the public any or all public places including streets, alleys, public ways, schools, parks, beaches, amusement areas, and public buildings;
- (9) Order prohibiting the carrying or possession of firearms or any instrument which is capable of producing bodily harm and which is carried or possessed with intent to use the same to cause such harm, provided that any such order shall not apply to peace officers or military personnel engaged in the performance of their official duties;
- (10) Order prohibiting undue inflationary pricing of goods and services with the intent of maximizing profits as a result of the declared emergency;
- (11) Order utilizing existing services and facilities to the maximum extent practicable notwithstanding any other provisions of the law, in the event of a disaster, after proclamation by the governor of the existence of such disaster, to have the power to command the service and equipment of as many citizens as considered necessary in the light of the disaster proclaimed; provided that citizens so commandeered shall be entitled during the period of such service to all privileges, benefits, and immunities as are provided by Chapter 38.52 RCW and federal and state emergency management regulations for registered emergency workers.
- (12) Such other orders as are imminently necessary for the protection of life and property.

- (b) Emergency orders shall be presented as soon as practicable to the Town Council for ratification and confirmation, modification, or rejection. Orders which are rejected shall, after vote, be void. Emergency orders shall be considered in full force and effect until the Council shall act.

443.100 Emergency procurements.

- (a) Upon declaration of an emergency, and during the existence of such emergency, the executive head, alternate as defined in section 443.050, or the Town Clerk/Treasurer or Public Works Supervisor, is authorized to make emergency procurements where the Town may suffer a substantial loss or damage to property, bodily injury, or loss of life by reason of the time required for following the regular purchasing procedures.
- (b) Such authorization for emergency procurement shall be presented to the Town Council for ratification and confirmation, modification, or rejection. Emergency procurements shall be considered in full force and effect until the Council acts.

443.110 Emergency powers under governor's proclamation of emergency or disaster.

In addition to or as an alternative to those emergency powers prescribed by this ordinance upon the declaration of an emergency, the executive head or alternate shall have, upon proclamation of a state of emergency or disaster by the governor pursuant to Chapter 43.06 RCW and Chapter 38.52 RCW, the authority to exercise on behalf of the Town all emergency powers set forth in RCW 38.52.070(2), including without limitation:

- (a) To accept and receive, acting with the consent of the governor and through the executive head or alternate, on behalf of the Town, offers from the federal government of services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management;
- (b) In cases where there is damage to the equipment borrowed from other jurisdictions under a mutual aid agreement, to receive the filing of claims for such damage within sixty (60) days after the damage is incurred;
- (c) To utilize existing services and facilities to the maximum extent practicable notwithstanding any other provision of law, in the event of a disaster, after proclamation by the governor of the existence of such disaster, to have the power to command the service and equipment of as many citizens as considered necessary in the light of the disaster proclaimed; provided that citizens so commandeered shall be entitled during the period of such service to all privileges, benefits, and immunities as are provided by Chapter 38.52 RCW and federal and state emergency management regulations for registered emergency workers.

443.120 Violations of emergency proclamation, rule or order – penalties.

Violations of a declaration of emergency issued pursuant to Ordinance #443 or of a subsequent emergency order issued pursuant to Ordinance #443, or any other order or directive given by a law enforcement officer or designated emergency services personnel pursuant to authority of such declaration or orders is a misdemeanor; provided that a second or subsequent offense hereunder shall be a gross misdemeanor.

443.130 Continuance of existing agreements.

Nothing in this ordinance shall be deemed to affect any existing interlocal agreements entered into by the Town or other cities and town of Clark County pursuant to Chapter 38.52 RCW regarding emergency planning and the giving of mutual aid; provided that for the purposes of such agreements, the Mayor shall exercise all powers as executive head of the Town under such agreements in conformity with RCW 38.52.070.

443.140 General public duty created.

- (a) It is expressly the purpose of this ordinance to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons or individuals who will or should be especially protected or benefited by the terms of this ordinance.
- (b) Nothing contained in this ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the Town, or its officers, employees, or agents, for any injury or damage resulting from any action of inaction on the part of the Town related in any manner to the enforcement of this ordinance by its officers, employees, or agents.

443.150 Severability.

The provisions of this ordinance are declared to be severable, and if any section, sentence, clause, or phrase of this ordinance shall for any reason be held invalid or unconstitutional or if the application of this ordinance to any person or circumstances shall be held invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance.

The ordinance shall take effect immediately upon adoption and publication according to law.

Passed by the Town Council of the Town of Yacolt, Washington on this 7th day of August, 2006.

AYES Madler, Holyk, Marbut, Weldon, Stewart

NAYS None

ABSENT None

MAYOR  ATTEST 

I hereby certify that this is a true and correct copy of Ordinance #443 as read before the Council and passed on the date herein mentioned and passed according to law.

ATTEST 
Brenda Finnegan, Clerk/Treasurer