

CHAPTER 6
EMERGENCY MANAGEMENT AND HOMELAND SECURITY

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6-01. Purpose. 1. PURPOSE. By reason of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy action, sabotage or other hostile action, or from fire, flood, earthquake or other natural causes, and in order to insure that preparations of this city will be adequate to deal with such disasters; to provide for the common defense; and to protect the lives and property and to preserve the peace, health, safety, and general welfare, it is declared to be necessary:

a. To create the office of city emergency management services and homeland security.

b. To confer upon the mayor, the common council and upon other officers of the city certain extraordinary powers in a period of extreme emergency.

c. To provide for cooperation or mutual aid with other political subdivisions, private agencies and individuals relative to emergency management activities, in a manner that is consistent with the national incident management system and the city's emergency response plan.

2. POLICY. It is further declared to be the purpose of this chapter and the policy of the city that organization, training and planning for emergency management and homeland security are the continuing responsibility of each department or office of city government. Emergency management and homeland security planning and preparation shall follow insofar as possible the normal lines of governmental administration. Such planning and preparation shall provide for the maximum use of volunteer organizations and volunteer efforts on the part of all residents of the city.

3. EXECUTIVE POWERS. It is further declared to be the purpose of this chapter and the policy of the city to permit the temporary suspension by ordinance, resolution or executive proclamation of the requirements of any city ordinance or resolution during a period of extreme emergency which the common council or mayor deems necessary to allow immediate response to meet the exigencies and needs of the extraordinary conditions existing, and to grant to the mayor during such period broad executive powers to discharge the responsibility and duties placed on him by statute and this chapter.

6-03. Definitions. In this chapter:

1. BIOLOGICAL AGENT means any of the following:

a. A select agent that is a virus, bacterium, rickettsia, fungus, or toxin that is specified under 42 CFR 72, Appendix A.

b. A genetically modified microorganism or genetic element from an organism under par. a that is shown to produce or encode for a factor associated with a disease.

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c. A genetically modified microorganism or genetic element that contains nucleic acid sequences coding for a toxin under par. a or its toxic subunit.

d. An agent specified by the state department of health and family services by rule.

2. BIOTERRORISM means the intentional use of any biological, chemical or radiological agent to cause death, disease or biological malfunction in a human, animal, plant or other living organism in order to influence the policy of a governmental unit or to intimidate or coerce the civilian population.

3. CHEMICAL AGENT means a substance that has chemical properties that produce lethal or serious effects in plants or animals.

4. DIRECTOR means the head of the emergency management and homeland security services, as provided in ch. 166, Wis. Stats.

5. EMERGENCY MANAGEMENT AND HOMELAND SECURITY means all measures undertaken by or on behalf of the city:

a. To prepare for and minimize the effect of enemy action and natural or man-made disaster upon the civilian population.

b. To effectuate emergency repairs to, or the emergency restoration of, vital public utilities and facilities destroyed or damaged by such action or disaster.

6. EMERGENCY RESPONSE PLAN means the plan that identifies the various city department functions to be performed during a major disaster or catastrophe.

7. EMERGENCY OPERATIONS CENTER means the facility from which command and control takes place of a large disaster, catastrophic event or incident requiring extraordinary city resources.

8. ENEMY ACTION means hostile action that threatens the health, safety, welfare or security of this city or a portion thereof.

9. EXTREME EMERGENCY means either of the following:

a. The imminence or existence of a major disaster or catastrophe resulting from enemy action, from a public health emergency or by fire, flood, earthquake or other natural causes which are clearly beyond the control of normal government services, personnel, equipment and facilities.

b. When a state of emergency has been proclaimed by the president of the United

States, the governor, the common council by ordinance or resolution, or the mayor by official proclamation.

10. GOVERNOR means the governor of the state of Wisconsin or anyone legally administering the office of governor.

11. PUBLIC HEALTH EMERGENCY means the occurrence or imminent threat of an illness or health condition that meets the following criteria:

a. Is believed to be caused by bioterrorism or a novel or previously controlled or eradicated biological agent.

b. Poses a high probability of either of the following:

b-1. A large number of deaths or serious or long-term disabilities among humans.

b-2. A high probability of widespread exposure to a biological, chemical or radiological agent that creates a significant risk of substantial future harm to a large number of people.

12. PERIOD OF EXTREME EMERGENCY means the interim of time between the beginning of an enemy action, or the issuance of the proclamation declaring an emergency by either the governor, common council or the mayor and a terminating proclamation issued by either the governor or the mayor declaring the period of extreme emergency to be at an end, or when the common council so declares by ordinance or resolution.

13. RADIOLOGICAL AGENT means radiation or radioactive material at a level that is dangerous to human health.

6-05. Organization. 1. CREATED. To carry out the policies and purposes of this chapter, there is created the office of city emergency management services and homeland security under the executive direction and control of the mayor.

2. DIRECTOR. The director, who shall be appointed by the mayor and confirmed by the common council shall:

a. Have administrative control of the emergency management and homeland security services.

b. Develop and promulgate emergency plans consistent with state and federal plans, direct the emergency management and homeland security program

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and perform such other duties related to emergency management and homeland security as are required by the common council.

c. Coordinate the city's emergency management and homeland security preparedness, planning and exercises.

d. Direct participation in emergency management and homeland security programs and exercises ordered by the adjutant general of the Wisconsin department of military affairs.

e. Advise the county head of emergency management services on local emergency management programs and submit such reports as he or she requires.

6-07. Emergency Powers. 1. Pursuant to s. 166.23, Wis. Stats., notwithstanding any other provision to the contrary, the common council is empowered to declare, by ordinance or resolution, an extreme emergency existing within the city. The period of emergency shall be limited by ordinance or resolution to the time during which the emergency conditions exist or are likely to exist.

2. The emergency power of the common council conferred under sub. 1 includes the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, welfare and good order of the city in the emergency and includes without limitation because of enumeration the power to bar, restrict or remove unnecessary traffic, both vehicular and pedestrian, from the public way, notwithstanding any provision of chs. 341 to 349, Wis. Stats., as amended, or any other provisions of law.

3. If, because of the emergency conditions, the common council is unable to meet with promptness, the mayor or acting mayor shall exercise by proclamation all of the powers conferred upon the common council under sub. 1 or 2 which within the discretion of mayor or acting mayor appear necessary and expedient for the purposes of this chapter. The proclamation shall be subject to ratification, alteration, modification or repeal by the common council as soon as it can meet, but the subsequent action taken by the common council shall not affect the prior validity of the proclamation.

4. The office of emergency management and homeland security services

shall not be employed to interfere with the orderly process of a labor dispute.

6-09. Powers of the Mayor. 1. EXECUTIVE DIRECTION. The mayor shall have executive direction and control of the emergency management and homeland security services and shall be responsible for the carrying out of provisions of this chapter and ch. 166, Wis. Stats., as amended. During a period of extreme emergency the mayor shall assume command and direct control over all emergency management and homeland security operations and functions within the city.

2. COOPERATION WITH OTHER AGENCIES. The mayor is authorized to cooperate with other political subdivisions, other states, the federal government, and with private agencies in all emergency management and homeland security matters pertaining to the city, state and nation. The mayor shall comply, so far as is practicable and consistent with the emergency management and homeland security requirements of the city, with program guides of the emergency management and homeland security agencies of the federal government and the state of Wisconsin. He or she shall prepare or cause to be prepared reports of emergency management and homeland security preparations, programs or progress which are required for eligibility or participation in financial or other assistance made available by or through the federal government or the state of Wisconsin.

3. DELEGATION OF AUTHORITY. The mayor is further authorized and empowered to:

a. Make, amend and rescind orders, rules, regulations and emergency management plans within the limits of the authority conferred upon him or her under this chapter, consistent with emergency management statutes and plans of the state of Wisconsin and the federal government.

b. Enter into shelter licenses or other similar arrangements with other political subdivisions, or governmental or private agencies, or individuals. However, no expenditures of public funds or any obligation of such funds shall be made without prior approval of the common council, except during periods of extreme emergency.

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c. Delegate administrative and contracting authority vested in him or her under this chapter, and authorize the subdelegation of such authority.

d. Declare by proclamation a state of extreme emergency and the termination thereof unless the common council by resolution shall sooner declare the termination of the state of emergency. When such proclamation is issued the governor shall be immediately notified of its contents.

4. SAFETY PROTECTION. a. The mayor shall have the power during a period of extreme emergency to take such action as he or she deems necessary to preserve or protect the lives, health and safety of persons and property and to provide emergency assistance to any victims during such period. The mayor shall not be required to comply with the procedures and formalities prescribed by any other ordinance or resolution of the city pertaining to the performance of public work, the issuance of temporary permits, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, or the requisition or purchase of supplies and materials. Such power or authority shall, however, not exceed the amount appropriated by the common council, and set aside and remaining in an emergency management and homeland security fund. In no event shall the liability of the city exceed the fair and reasonable value of the services, supplies, equipment or materials furnished by virtue of the exercise of such power or authority.

b. The mayor shall have the power after a proclamation of extreme emergency, and until the state of such emergency is terminated, to commandeer materials, services and property in the public interest and safety.

c. The mayor shall immediately notify the common council president to convene the council as soon as conditions permit.

6-11. Director of Emergency Management and Homeland Security Services. The director shall serve as the manager of the emergency operations center and shall facilitate the coordination among city department and other levels of government when the center is activated.

1. The director shall coordinate the planning and training of all city departments relating to emergency management and homeland security. The director shall maintain liaison with and cooperate with emergency management and homeland security agencies and organizations of other political subdivisions within the state of Wisconsin, other states and the federal government, and shall have such additional administrative authority, duties and responsibilities as are delegated to him or her by the mayor or as may be granted by ordinance or resolution of the common council. The director shall not exercise command authority over any officer or employe in charge of any other city department.

2. The director may employ technical, clerical and other personnel, as the needs of the everyday emergency management and homeland security services require subject to the prior approval of the common council. Such personnel shall be selected or appointed according to existing ordinances and the procedures and rules of the city service commission or as otherwise provided by the common council.

3. The director shall prepare or cause to be prepared and maintain a comprehensive and current emergency response plan for emergency management, homeland security, and continuity of governmental operations plans for the city and its inhabitants. The plan shall be coordinated with the national incident management system and national response plan, and the plans of the state of Wisconsin and the county of Milwaukee.

4. The director shall, in accordance with the city's emergency response plan, procure, or cause to be procured, supplies and equipment and take and cause to be taken all other preparations for any future partial or full mobilization of emergency management and homeland security organizations in advance of actual war, attack or disaster, to assure the availability of adequately trained and equipped forces of necessary emergency management and homeland security personnel in a period of extreme emergency.

5. The director may recommend to the mayor appointments for emergency management and homeland security

assignments of city officers or employees as may be necessary for an efficient emergency management and homeland security organization in addition to those expressly provided for in this chapter.

6. The director shall make, or cause to be made with the mayor's approval, studies and surveys of industries, resources, services and facilities in this city and surrounding political subdivisions as may be necessary to ascertain the capabilities of the city relative to emergency management and homeland security operations and to plan for use thereof.

7. The director shall be the central point for the news media, city employees, public officials and the public regarding the operations of city government during a period of extreme emergency. The director shall also establish and maintain a public information program, consistent with the national incident management system, to inform the public of protective measures planned or to be taken by the government during a period of extreme emergency. The director shall inform the public to the maximum extent possible of the necessity of self-help and protection and keep the public informed of the availability of self-help and protection materials and publications.

8. The director may, with the prior approval of the mayor, authorize expenditures within the budgeted funds established or provided by either the common council or the state or federal government or other agencies, in carrying out the provisions of this chapter. Expenditures of such budgeted city funds shall be in accordance with ch. 65, Wis. Stats.

6-13. Designation of Emergency Temporary Locations. The mayor may designate, subject to common council approval, alternate sites as the emergency temporary locations of government where all, or any part, of the public business may be conducted whenever during a state of emergency it becomes imprudent, inexpedient or impossible to conduct the affairs of city government at the regular or usual places. The alternate sites may be within or without the territorial limits of the city and may be within or without those of the state of Wisconsin. With the approval of the mayor, department heads shall from time to time designate specific places for their subordinates

and employees to report upon the commencement of an extreme emergency, if it is desirable for such persons to report to a place other than that designated by the mayor as the temporary site of government.

6-15. Departmental Emergency Response and Continuity of Operations Plans. **1.** Each city department shall develop and maintain a departmental continuity of operations plan. Each departmental emergency response and recovery plan shall include, but not be limited to:

- a. Risk and vulnerabilities assessment.
- b. Identification of key staff and the means of contacting key staff during a period of extreme emergency.
- c. The activities of the department during a period of extreme emergency.
- d. Identification of critical and non-critical personnel job duties.
- e. Identification of alternate sites for departmental functions.
- f. Identification of alternate locations for storage of supplies, records and other critical items.
- g. An outline of the process of restoring departmental services following a period of extreme emergency.

2. Each department shall annually submit a copy of the department's continuity of operations plan to the director for review to assure consistency with the city's emergency response plan.

6-17. Duties of Departments. **1.** It shall be the duty of all city departments to perform the functions and provide the necessary resources identified in the city's emergency response plan to respond to a disastrous or catastrophic incident.

2. All city departments shall cooperate with the director in developing, maintaining and exercising the city's emergency response plan.

6-19. Utilization of Existing Services and Facilities. **1.** In carrying out the provisions of this chapter, the director shall utilize the services, equipment, supplies and facilities of existing departments, bureaus, offices,

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commissions, committees, authorities and agencies of the city to the maximum extent practicable. The officers, agents, employes and personnel of all such departments, bureaus, offices, commissions, committees, authorities and agencies of the city shall cooperate with the emergency management and homeland security services.

2. It shall be a condition of employment by the city that every city employe, present and future, may be required to receive training in and assignment to an emergency management position, consistent with the education, training, experience and the job classification or position occupied by the employe. The mayor or director may exempt employes from this requirement.

6-21. Cooperation. **1.** The city may cooperate with other jurisdictions under s. 66.0301, Wis. Stats., to furnish services, combine offices and finance emergency management and homeland security services.

2. The mayor may, subject to the approval of the common council, in collaboration with other public or private agencies, enter into mutual aid agreements or arrangements for reciprocal emergency management and homeland security aid. The agreements or arrangements shall be consistent with the currently existing state of Wisconsin statutes and the state of Wisconsin emergency management and homeland security plan and the currently existing plan and program of the federal government. In a period of extreme emergency, the emergency management and homeland security services shall render assistance in accordance with provisions of any mutual aid agreement or arrangement.

6-23. Funding. The common council shall appropriate such money as it deems necessary for the carrying out of the purposes of this chapter, such money to be deposited in a special account to be known as the "emergency management and homeland security fund." Such money, except as otherwise specifically provided, shall be disbursed in the manner prescribed for the disbursement of public funds, excepting in case of a period of extreme emergency, in which event the mayor may disburse such

appropriated funds within his or her discretion for emergency management or homeland security services without the signature or countersignature of any other city officer or compliance with any other ordinance.

2. **SUPPLIES.** Whenever during a period of extreme emergency the federal government or the state of Wisconsin or any agency or officer thereof, or any person, firm or corporation shall offer to the city or to the emergency management and homeland security services, equipment, supplies, materials, aids, expenses, assistance or funds by way of gift, grant, contribution or loan or otherwise for the purposes of emergency management or homeland security, the mayor, on behalf of the city, may accept such offer, and upon such acceptance, may authorize any officer of the city or the director to receive the same, subject to the terms of the offer and the rules and regulations, if any, of the offerer or agency making the offer. Such acceptance or receipt shall not create or cause any liability on the part of the city, the director, or any officer, agent or employe thereof or of the city for failure to comply with the terms of such offer and the rules and regulations, if any, of the offerer or agency making the offer. All funds or moneys so received shall be disbursed in the manner prescribed for the disbursement of public funds.

3. **PROGRAM GRANTS.** City agencies applying for emergency management or homeland security grants shall coordinate with the director to ensure continuity with the goals of the city's emergency response plan and overall homeland security strategy.

6-25. Emergency Management Services Expenses. Except as expressly provided for in this chapter, no person shall expend any funds of the city in carrying out any emergency management or homeland security activity authorized herein without prior approval by the common council, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior approval of the common council.

6-27. Enforcement. The director, department heads, officers, agents, employes and all other city and emergency management and homeland

security services personnel shall execute, enforce and obey such lawful orders, rules and regulations as may be issued by the mayor during a period of extreme emergency.

6-29. Penalty. Any person, who willfully refuses to comply with any lawful order of the mayor during a period of extreme emergency shall upon conviction by a court of record forfeit a sum not exceeding \$1,000, and in default of payment be imprisoned not exceeding 40 days.

6-31. Prior Rights and Obligations Preserved. This chapter shall not invalidate any act done, obligation or contract made or incurred by the city or in its behalf by any officer or duly authorized emergency management or homeland security organization, committee or agency pursuant to the authorization of any ordinance or resolution existing prior to August 15, 2007, nor shall this chapter divest the city, any committee, agency, or officer thereof of any rights of property, contracts or any other rights or of any liability or obligation which may have been created or accrued prior to the effective date of this chapter

6-33. Vacancies. 1. TEMPORARY VACANCIES. If during the period of emergency, any officer except the mayor or a common council member, or employe fails to or be unable to report to his or her assigned duties and location, his or her position shall thereupon be deemed temporarily vacant. When there is no succession provided by law, or an emergency interim successor designated under s. 6-39, the mayor or his or her successor may designate another city officer or employe to act in his stead with all the powers, responsibilities and duties of the office or position but without change in classification or salary. The mayor or his or her successor shall authorize department heads to make such temporary appointments to positions within their departments. In those cases where a deputy is provided by law, he or she shall immediately succeed to any temporary vacancy upon the same terms. When neither the officer nor the deputy is present, the mayor shall make a temporary appointment of another city officer or employe to the vacancy.

Immediately upon the return of the permanent officer or employe, he or she shall resume duties and the temporary appointee shall return to his or her regular position.

2. PERMANENT VACANCIES. If during the period of emergency any officer or employe shall be known to be dead or shall fail to report to his or her assigned duties and location for 60 days, in the absence of factual knowledge to the contrary, he or she shall be presumed to be dead or to have forfeited his or her position which shall thereupon be deemed permanently vacant. Public notice of such vacancy shall be given by the best means available and if the office or position shall not be claimed by notice in writing to the mayor within 10 days thereafter, the vacancy may be filled. Vacancies in positions subject to civil service commission or fire and police commission law shall be filled as provided therein. Vacancies in the office of the city comptroller, city treasurer and city attorney shall, except where the deputy shall have succeeded to office by law, until the next municipal election, be filled by appointment by the mayor, subject to confirmation by the common council. Vacancies in the office of the mayor shall be filled by an acting mayor succeeding to office as prescribed in s. 6-35. Vacancies in the office of common council member shall be filled as prescribed in s. 6-37. Vacancies in appointive positions shall be filled as prescribed by law.

6-35. Vacancies in the Office of Mayor. During the period of emergency the position of mayor shall be deemed temporarily vacant if he or she shall either fail to or be unable to perform his or her assigned duties. Vacancies in the office of mayor shall automatically be filled during the period of the emergency until the elected mayor shall resume his or her duties, by a direct line of succession by those persons elected or appointed to the following offices prior to the emergency in the order set forth in this section. If any such person lower on the list of succession shall have assumed the office and any such person higher on the list of succession shall become available to serve, the office shall be relinquished in such case to the person higher on the list.

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1. The president of the common council.
2. Chair of the common council committee on finance and personnel.
3. The chairs of the remaining standing committees of the common council in the order of their length of service as common council member, and in the event such time of service is equal, in the alphabetical order of their surnames.
4. The remaining council members in the order of the length of service as common council member, and in the event such time of service is equal, in the alphabetical order of their surnames.
5. The city comptroller.
6. The city treasurer.
7. The city attorney.
8. The deputy city comptroller.
9. The deputy city treasurer.
10. The deputy city attorneys in the order of the length of service as deputy city attorney, and in the event such time of service is equal, in the alphabetical order of their surnames.
11. The director of administration.
12. The commissioner of public works.
13. The commissioner of health.
14. The commissioner of city development.
15. The commissioner of neighborhood services.
16. The commissioner of assessments.
17. The city clerk.

6-37. Vacancies in the Office of Common Council. Temporary vacancies in the office of common council shall remain vacant. Permanent vacancies, subject to filling as provided in s. 6-33-2, may be filled until the next municipal election by appointment by the common council by a vote of not less than 3/4 of the remaining elected council members.

6-39. Emergency Interim Successors. Department heads, subject to such regulations as the mayor issues, or any ordinances or resolutions enacted by the common council, shall designate by title, if feasible or by named person, emergency interim successors and specify their order of succession. Department heads shall notify the director of all such

designations. The department head shall review and revise, as necessary, designations made pursuant to this section to ensure their current status. The department head shall designate a sufficient number of persons so that there will be not less than 3 nor more than 7 deputies or emergency interim successors or any combinations thereof at any time. If any officer or his or her deputy provided for pursuant to law is unavailable, the powers of the office shall be exercised and duties shall be discharged by his or her designated emergency interim successors in the order specified. The emergency interim successor shall exercise the powers and discharge the duties of the office to which designated until such time as a vacancy which may exist is filled in accordance with applicable law or until the department head or his deputy or a preceding emergency interim successor again becomes available to exercise the powers and discharge the duties of his or her office.

6-41. Residence Requirements Suspended. Notwithstanding any provisions of law to the contrary, during the period of extreme emergency any city officer or employe may establish his or her domicile wherever practical without prejudice to his or her status. Upon termination of the extreme emergency all city officers and employes shall forthwith re-establish their domiciles within the city unless the time therefore shall be extended for a reasonable time by the city service commission or the fire and police commission upon a finding of hardship.

6-43. Preservation of Essential Public Records. The city information management committee shall establish a system for the preservation of essential city records necessary for the continuity of governmental functions in the event of enemy action or natural or man-made disasters. The committee shall notify the director of the system established for the preservation of essential city records.

**LEGISLATIVE HISTORY
CHAPTER 6**

Abbreviations:

am = amended ra = renumbered and amended rn = renumbered
 cr = created rc = repealed and recreated rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
Ch. 6	rc	070188	5/30/2007	8/15/2007
6-01	am	75-1310	10/21/75	1/6/76
6-03-2	am	83-2538	5/15/84	8/1/84
6-03-2	rc	880330	2/14/89	5/5/89
6-03-3-g	am	881394	12/20/88	3/13/89
6-08	am	75-1310	10/21/75	1/6/76
6-09	am	75-1310	10/21/75	1/6/76
6-10	am	75-1310	10/21/75	1/6/76
6-15	am	75-1310	10/21/75	1/6/76
6-16	am	75-1310	10/21/75	1/6/76
6-17	am	75-1310	10/21/75	1/6/76
6-18	am	75-1310	10/21/75	1/6/76
6-19	cr	55-960	7/26/55	10/4/55
6-20	am	75-1310	10/21/75	1/6/76
6-20-14	am	951345	1/23/96	4/9/96
6-20-16	rc	881394	12/20/88	3/13/89
6-20-17	am	951009	12/19/95	3/13/96
6-21	cr	55-960	7/26/55	10/4/55
6-22	am	75-1310	10/21/75	1/6/76
6-23	cr	55-960	7/26/55	10/4/55

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