

CHAPTER 30

PUBLIC SAFETY

ARTICLE I – LOCAL STATE OF EMERGENCY

30-1-1 **DEFINITIONS.** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(A) **Emergency.**

- (1) A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by **three (3)** or more persons acting together without authority of law; or
- (2) Any natural disaster, epidemic, or man-made calamity, including outbreak of disease, flood, conflagration, cyclone, tornado, earthquake or explosion, or eminent threat of any of those events within the corporate limits of the City, resulting in or threatening the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

(B) **Curfew.** A prohibition against any person walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the City except officials of any governmental unit and persons officially designated to duty with reference to the civil emergency.

30-1-2 **DECLARATION.** Whenever an emergency, as defined in **Section 30-1-1(A)** exists, the Mayor is authorized to declare the existence of a Local State of Emergency by means of a written *declaration* of the Mayor, under oath, setting forth the facts which constitute the emergency, describing the nature of the emergency and declaring that a Local State of Emergency exists in accordance with the definitions set forth in this Section. This declaration must be filed with the City Clerk as soon as practicable after issuance.

30-1-3 **CURFEW AUTHORIZED.** After proclamation of a Local State of Emergency by the Mayor he or she may order a general curfew applicable to such geographical areas of the City or to the City as a whole, as he or she deems reasonable and advisable, and applicable during such hours of the day or night as he or she deems necessary in the interest of the public safety and welfare.

30-1-4 **ORDERS AUTHORIZED.** After the proclamation of a Local State of Emergency, the Mayor may also, in the interest of public safety and welfare, and to address this issue caused threatened by the emergency, may take any or all of the following actions by executive order during the state of emergency.

- (A) All actions reasonably necessary to respond to the emergency;
- (B) Approve previously appropriated expenditures of the City for the purpose of continuing the operations of the City; and
- (C) In the event the Local State of Emergency extends beyond the current fiscal year and a new budget has not been approved, the Mayor shall be authorized to approve new spending by the City during the existence of the Local State of Emergency.
- (D) Order the closing of all retail liquor stores, including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted.

(E) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer.

(F) Order the discontinuance of selling, distributing 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.

(G) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

30-1-5 **DURATION.** The declaration herein authorized shall be effective for a period of **fourteen (14) days** or until the adjournment of the next regular or special meeting of the City Council, whichever comes first, unless sooner terminated by a proclamation of the Mayor, or his or her interim emergency successor, indicating that the civil emergency no longer exists. The Mayor or his or her interim emergency successor, shall have the power to reproclaim the existence of an emergency at the end of each **fourteen (14) day** period during the time said emergency exists.

30-1-6 **NOTICE.** Upon issuing the proclamation herein authorized, the City Clerk shall notify the news media situated within the City, and shall cause **four (4) copies** of the proclamation *declaring* the existence of the emergency and any curfew to be posted at the following places within the City:

- (A) The City Hall.
- (B) The Police Station.
- (C) The Post Office.
- (D) In the area of any curfew.

30-1-7 **VIOLATIONS.** Any person violating the provisions of this Section or executive orders issued pursuant hereto shall be guilty of an offense against the City and shall be punished as provided by **Section 1-1-20** of the City Code.

30-1-8 **EFFECT ON OTHER ORDINANCES.** Nothing contained in this Section shall be construed to impair the powers contained in this Code, giving powers to the Police and Fire Departments, but shall be construed together with existing ordinances now in effect for the safety and welfare of the citizens of the City.

(65 ILCS 5/11-1-6)

(20 ILCS 3305/11)

ARTICLE II - POLICE DEPARTMENT

DIVISION I - DEPARTMENT ESTABLISHED

30-2-1 **DEPARTMENT ESTABLISHED.** There is hereby established a department of the municipal government of the City which shall be known as the Police Department. The Police Department shall consist of the Chief of Police and of such number of patrolmen as may be provided from time to time by the City Council.

30-2-2 **OFFICE OF CHIEF CREATED.** There is hereby established the office of the Chief of Police. The Chief of Police shall be appointed by the Mayor with the advice and consent of the City Council for a term of **one (1) year**.

30-2-3 **DUTIES OF CHIEF.** The Chief of Police shall keep records and make reports concerning the activities of his department as may be required. The Chief shall be responsible for the performance of the Police Department, of all its functions, and all persons who are members of the department shall serve subject to the orders of the Chief of Police. He shall be responsible for closing the City Hall after Council meetings.

30-2-4 **APPOINTMENT OF PATROLMEN.** A sufficient number of patrolmen shall be appointed by the Mayor, by and with the advice and consent of the City Council to serve for **one (1) year** or until his successor is appointed and qualified. A police officer may be appointed to office by the Mayor and City Council if he meets the necessary qualifications notwithstanding the fact that the policeman is not a resident of the City when appointed or when he is to serve as such an official.

30-2-5 **SALARY.** The police department shall receive such compensation as may be provided by ordinance or resolution of the City Council.

30-2-6 **DUTIES.** The policeman shall devote his entire time to the performance of the duties of his office and is hereby charged with the preservation of the peace, order and safety of the City and with the duty of protecting the rights of persons and property and of enforcing all laws and also all orders of the City Council. He shall take notice of all nuisances, obstructions and defects on the highways or other public places and shall cause the same to be abated or removed, or immediate notice thereof given to the proper officer whose duty it may be to take action in relation thereto. When requested by the Mayor he shall attend, either in person or by deputy, all meetings of the City Council, execute all its orders and close the Council Chamber upon the adjournment of that body. He shall also execute all warrants or other legal process required to be executed by him under any ordinance of the City or laws of the State of Illinois.

30-2-7 **MUTUAL AID CONTRACT.** The Police Department, with the approval of the City Council, may enter into an agreement to provide police protection to neighboring municipalities.

30-2-8 **SPECIAL POLICEMEN.** The Mayor may, on special occasions when, in his judgment for public peace and order of the City shall require, appoint and commission any number of special policemen as may be necessary and shall fix in order of their appointment, the time during which each shall serve all such special policemen, during such time, shall possess the powers and exercise the duties of regular police patrolmen; provided that their appointment, if for more than **ten (10) days** shall

be subject to the consent of the City Council in the manner that other appointments to office by the Mayor are subject. Auxiliary policemen shall not carry firearms, except with the permission of the Chief of Police and then only when in uniform and in the performance of their duties.

30-2-9 **LEGAL PROCESSES.** All police shall have the power and authority to execute City warrants or other similar legal processes outside the corporate limits of the City and within such distance therefrom as authorized by law in all cases when any ordinance of the City Council made pursuant to law shall prescribe a penalty for the violation of any of its provisions by persons residing, acting or doing any business within the limits of the City.

30-2-10 **ASSISTING POLICE OFFICER.** Every police officer of the City may, at any time, call upon any able-bodied person(s) above the age of **eighteen (18) years** to aid him in the arresting, retaking or holding in custody of any person guilty of having committed any unlawful act or charged therewith, or to aid such officer in preventing the commission of any unlawful act.

30-2-11 **AIDING FIRE DEPARTMENT.** Every police officer shall aid the fire department by giving the alarm in case of fire and in clearing the streets or grounds in the immediate vicinity of any fire so that the firemen shall not be hindered or obstructed in the performance of their duties.

30-2-12 **FAILURE TO PERFORM.** Any member of the Police Department who shall neglect or refuse to perform any duty required of him by this Code or the rules and regulations of the Department, or who shall be, in the discharge of his official duties, guilty of any fraud, favoritism, extortion, oppressions or willful wrong or injustice, shall be subject to removal from office.

30-2-13 **AIDING IN ESCAPE.** It shall be unlawful for any person in this City to resist or obstruct any member of the Police Force in the discharge of his duty or to endeavor to do so, in any manner, assist any person in the custody of any member of the Police Department to escape or to attempt to escape from such custody or to attempt to rescue any such person in custody.

30-2-14 **USE OF INTOXICATING LIQUOR.** No member on an active tour of duty or while wearing the official policeman's badge of the City shall indulge in the use of intoxicating liquor of any kind and intoxication at any time shall be sufficient cause for removal.

30-2-15 **WITNESS FEES.** Any member of the Police Department shall appear as witness whenever this is necessary in a prosecution for a violation of an ordinance or of any state or federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the City is a party; and fees paid for such services shall be turned over to the Chief of Police who shall deposit the same with the City Treasurer.

30-2-16 **RULES AND REGULATIONS.** The Chief of Police may make or prescribe such rules and regulations for the conduct and guidance of the members of the Police Department as he shall deem advisable and such rules, when approved by the Mayor, shall be binding on such members.

30-2-17 **TRAINING.** All policemen, prior to entering upon any of their duties, shall receive a course of training in the use of weapons and other police procedures by the proper authorities

as established by the State of Illinois for firearms training. Such courses of training shall not be less than **four hundred (400) hours** in duration. Upon completion of the course of training, the applicant shall file with the Mayor a certificate attesting to the completion of the course.

30-2-18 **STOLEN PROPERTY.** The Chief of Police shall be the custodian of all lost and abandoned or stolen property in the City.

30-2-19 - 30-2-24

RESERVED.

(See 65 ILCS 5/11-1-2)

DIVISION II – AUXILIARY POLICE

30-2-25 AUXILIARY POLICE.

(A) **Appointment.** The City may employ auxiliary police officers in such number from time to time as it deems necessary.

(B) **Status.** Auxiliary police officers shall not be “conservators of the peace” and shall only carry firearms while on duty, with the permission of the Chief of Police, and only after completing the state certified 40-Hour Mandatory Firearms Training Course as provided under **50 ILCS 710/2**. Auxiliary police officers shall not be considered to be members of the regular police department and shall not supplement members of the regular police department of the City in the performance of their assigned and normal duties except as otherwise provided herein.

(C) **Identification Symbol.** Identification symbols worn by the auxiliary police officers shall be different and distinct from those used by the regular police department.

(D) **Supervision.** Auxiliary police officers shall, at all times during the performance of their duties, be subject to the direction and control of the Chief of Police.

(E) **Powers and Duties.** Auxiliary police officers shall only be assigned to perform the following duties in the City.

- (1) To aid or direct traffic within the municipality,
- (2) To aid in control of natural or man-made disasters, and
- (3) To aid in case of civil disorder as directed by the Chief of Police.

When it is impractical for members of the regular police department to perform those normal and regular police duties, however, the Chief of Police may assign auxiliary police officers to perform those normal and regular police duties.

(F) **Hiring Standards.** No person shall be hired as an auxiliary police officer who has not been fingerprinted, subjected to the background check, and found to have never been convicted of a felony or other crime involving moral turpitude.

(Ord. No. 15-1002; 02-10-15)

30-2-26 TRAINING REQUIRED.

(A) All police officers, other than those officers who shall be employed on a full-time basis, shall be qualified to enter and successfully complete any training mandated by the Illinois Law Enforcement Training and Standards Board.

(B) The aforesaid hiring standard, particularly with respect to part time officers employed by the City, shall be submitted to the Illinois Law Enforcement Training and Standards Board, as required by statute.

(Ord. No. 09-914; 10-14-09)

30-2-27 HIRING STANDARDS FOR PART-TIME POLICE OFFICERS. All candidates for the position of part-time officer for the Police Department shall:

(A) be both physically and mentally capable of successfully entering and completing the required Illinois Law Enforcement Training and Standards Board Basic Law Enforcement Training.

(B) be of an appropriate age to be eligible to work as police officer at the time of successful completion of the required Basic Law Enforcement Training.

(C) have no felony convictions and capable of passing all appropriate criminal background checks.

(D) have a currently issued driver’s license, be it from the State of Illinois or other state.

(Ord. No. 09-914; 10-14-09)

ARTICLE III - FIRE DEPARTMENT

30-3-1 **DEPARTMENT ESTABLISHED.** There is hereby established the McLeansboro Volunteer Fire Department headed by a Fire Chief and then an Assistant Fire Chief who shall be appointed by the Mayor with the advice and consent of the City Council. The salary of the Fire Chief shall be **Two Hundred Dollars (\$200.00)** per month and the Assistant Fire Chief shall be **One Hundred Dollars (\$100.00)** per month. The Department shall also consist of volunteers. Whenever a vacancy occurs in the number of volunteers, the remaining members shall select a new member. **(Ord. No. 14-986; 10-27-14)**

30-3-2 **MEETINGS.** The Fire Department shall hold monthly meetings as needed.

30-3-3 **DUTIES OF FIRE CHIEF.** The Fire Chief shall, upon taking office, make appointments and prescribe such duties as may be necessary and proper in the organization and effective operation of the Fire Department during that year. The Fire Chief shall have the control and supervision of the Fire Department and all fire apparatus and equipment belonging to the City, subject to the order and direction of the Mayor.

In case of fire, the Fire Chief and his Assistants, in their order of rank, shall take command at such fire and the officer highest in rank shall take command of the Fire Department and direct the management thereof for the suppression of the fire in the best manner possible; and when it may be necessary for the protection of, other property to prevent the spread of the fire, the officer in command may cause buildings to be removed, torn down or destroyed in the best manner possible. He shall record all fires and the attendance of the volunteers at such fires.

30-3-4 **ENFORCEMENT OF LAWS.** It shall be the function and duty of the Fire Department and every member thereof to extinguish accidental or destructive fires, to prevent the occurrence or spread of fires and to enforce all ordinances relating to the occurrence or spread of such fires.

30-3-5 **OBEYING ORDERS AT FIRE.** No fireman in attendance at a fire shall neglect or refuse to obey the orders of the officer in command at such fires.

30-3-6 **CONDUCT OF MEMBERS.** It shall be the duty of every member of the Fire Department to conduct themselves in a proper and law-abiding manner at all times, including complying with all state or local laws, ordinances or regulations. Further, no member shall have any delinquent or outstanding bills or charges owed to the City. Any violation of said state or local laws, ordinances or regulations or outstanding bills or charges owed to the City may result in the discharge or removal of such member by a majority vote of the City Council. Each member shall obey the orders of the Fire Chief. For the misconduct or willful and wanton disobedience of any orders of the Fire Chief by any member of the Fire Department, the Fire Chief shall have full and complete authority to discharge or remove any such member from the scene of the fire or from the Fire Department. However, the said Fire Chief must report his action in a written statement to the Mayor and the City Council within **five (5) days**, and if the City Council affirms his action, the said member or members shall be discharged from the Department. **(Ord. No. 16-1025; 06-30-16)**

30-3-7 **FIRE HAZARDS.** Whenever it is brought to the attention of the Fire Chief that there is a dangerous construction or condition in any chimney, fireplace, hearth, stove, furnace, pipe, oven, boiler and any other fire or heating apparatus used in or about any building or if there is a deposit

of ashes, papers, boxes or any other material or deposits, whether combustible or not, that may create a fire hazard, the said Fire Chief shall order the same removed. If the owner or occupant fails to remove the said fire hazard within **five (5) days** from the time stated by the Fire Chief, the said Fire Chief shall report the same to the City Council and with consent of the City Council, shall make complaint, before the proper officer, against the said owner or occupant. **(Ord. No. 11; 04-12-42; amd. 1983 Code)**

30-3-8 **DUTY TO ENFORCE.** It shall be the duty of all officers of the Fire Department and all police officers of the municipality to see that the provisions of this Code are enforced and to arrest on view any person who shall be found violating any of the provisions of this Article or who shall hinder, resist or refuse to obey any such officer in the discharge of his duty, and to that end, all such officers are hereby vested with the usual power and authority of police officers.

30-3-9 **ILLEGAL USE OF EQUIPMENT.** No person shall use any fire engine or any other apparatus belonging to the municipality for any private purpose, other than the extinguishment of fires; nor shall any person remove the same or any part thereof from its place of deposit or, having the control thereof, shall permit such engine or other apparatus to be used for any private purpose other than the extinguishment of fires.

30-3-10 **SERVICE.**

(A) All fire department services provided by the Fire Department to or for the benefit of all residents shall be provided only upon the condition that reasonable fees for such services be assessed to such residents.

(B) Charges for fire department services shall be assessed at rates specified:

- (1) **Two Hundred Fifty Dollars (\$250.00)** per hour for each Fire Department vehicle involved in the incident.
- (2) **Seventy Dollars (\$70.00)** per hour for each Fire Department employee dispatched for such services.
- (3) The cost of all materials and equipment used, expended, depleted, destroyed or removed from service in accordance with federal, state or local ordinance, as a result of the mitigation or containment operations if or at the request of the City or any responding agency.
- (4) With the time calculated from the time that the trucks and firefighters are dispatched from the fire station until the trucks and the firefighters return to the fire station.
- (5) All hourly charged shall be rounded to the next full hour.

(C) Statements for services assessed under this Section shall be billed directly to the property owner or property owner's insurance carrier identified as providing appropriate coverages to the property owner, with a copy of the incident report.

(D) All funds collected pursuant to the provisions of this Section shall be paid into the general fund of the City.

(Ord. No. 22-1087; 12-13-22)

30-3-11 **FIREFIGHTER TRAINING.**

(A) The City Fire Protection District hereby elects to participate in the programs provided for in the Illinois Fire Protection Training Act.

(B) Before an individual may commence regular full-time employment as a firefighter, he must have been certified by the Illinois State Fire Marshall as a Firefighter II, as having successfully completed an approved training course as provided in said Act.

(C) The Firefighter II certification must be completed by the trainee within his probationary period of **six (6) months**. Failure of any trainee to complete such basic training and certification within the required period will render that individual and local governmental agency ineligible for reimbursement funding for basic training for that individual in the fiscal year in which his probationary period ends. The individual may later become certified without reimbursement.
(Ord. No. 07-885)

30-3-12 **LIFE SAFETY CODE.** The City does hereby adopt the 2015 Edition of the National Fire Protection Association's Life Safety Code in accordance with the Fire Investigation Act (**425 ILCS 25**). **(Ord. No. 20-1057; 03-11-20)**

30-3-13 **MABAS ADOPTED.** The Mayor and the Clerk be and are hereby authorized to execute an Agreement for participation in the Mutual Aid Box Alarm System, a copy of said Agreement being made a part hereof.

The Mutual Aid Box Alarm System Executive Board By-Laws attached hereto and made a part hereof are hereby approved as **Appendix "A"**. **(Ord. No. 10-920; 06-08-10)**

(See 65 ILCS 5/11-6-1)

ARTICLE IV - EMERGENCY MANAGEMENT AGENCY (EMA)**30-4-1 POLICY AND PROCEDURES.**

(A) Because of the possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from the explosion in this or in a neighboring municipality of atomic or other means from without, or by means of sabotage or other disloyal actions within, or from fire, flood, earthquake, or other natural or man-made causes, and in order to insure that this municipality will be prepared to and will adequately deal with any such disasters, preserve the lives and property of the people of this municipality and protect the public peace, health and safety in the event of such a disaster, it is found and declared to be necessary:

- (1) To create a municipal **emergency management agency**;
- (2) To confer upon the Mayor the extraordinary power and authority set forth under Article I of this Chapter (**65 ILCS 5/11-1-6**); and
- (3) To provide for the rendering of mutual aid to other cities and political subdivisions with respect to the carrying out of emergency management operations.

(B) Whenever the Mayor determines after an investigation that a dangerous situation or a potentially dangerous situation exists which could cause death to individuals or serious injury to property or the health and welfare of public, the Mayor may declare that a state of emergency exists. The extraordinary powers may not be exercised until an ordinance shall have been adopted which shall establish standards for the determination by the Mayor of when the state of emergency exists and shall provide that the Mayor may not exercise such extraordinary power and authority except after signing under oath a statement finding that such standards have been met, setting forth facts to substantiate such findings, describing the nature of the emergency and declaring that a state of emergency exists. This statement shall be filed with the Clerk of the municipality as soon as practical. A state of emergency shall expire not later than the adjournment of the first regular meeting of the corporate authorities after the state of emergency is declared. A subsequent state of emergency may be declared if necessary.

(C) It is further declared to be the purpose of this Code and the policy of the municipality that all emergency management programs of this municipality be coordinated to the maximum extent with the comparable functions of the federal and state governments, including their various departments and agencies, of other municipalities and localities and private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

30-4-2 LIMITATIONS. Nothing in this Code shall be construed to:

(A) Interfere with the course or conduct of a private labor dispute, except that actions otherwise authorized by this Code or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(B) Interfere with dissemination of news or comment of public affairs; but any communications facility or organization (including but not limited to radio and television stations, wire services, and newspapers) may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster;

(C) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state and local emergency operations plans shall place reliance upon the forces available for performance of functions related to disaster emergencies;

(D) Limit, modify, or abridge the authority of the Mayor and the City Council to exercise any other powers vested in them under the constitution, statutes, or common law of this State, independent of or in conjunction with any provisions of this Code.

30-4-3 DEFINITIONS. As used in this Code, unless the context clearly indicates otherwise, the following words and terms shall have the definitions hereinafter ascribed:

(A) **Director** means the staff assistant to the Mayor with the duty of carrying out the requirements of this Code.

(B) **Disaster** means an occurrence or threat 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, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, explosion, critical shortages of essential fuels and energy, riot, or hostile military or paramilitary action.

(C) **Emergency Management** means the efforts of this municipality to develop, plan, analyze, conduct, implement and maintain programs for disaster mitigation.

(D) **Emergency Operations Plan** means the written plan of the municipality describing the organization, mission and functions of the government and supporting services for responding to and recovery from disasters.

(E) **Emergency Services** means the preparation for and the carrying out of such functions, other than functions for which military forces are primarily responsible, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, or other man-made or natural causes. These functions including, without limitation, fire-fighting services, police services, emergency aviation services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to protecting life or property.

(F) **Political Subdivision** means any county, city, village, or incorporated town.

30-4-4 EMERGENCY MANAGEMENT AGENCY.

(A) There is hereby created an **Emergency Management Agency** and a Director of the **Emergency Management Agency**, herein called the "Director", who shall be the head thereof. The Director shall be appointed by the Mayor with the advice and consent of the City Council, and he/she shall serve for a term of **one (1) year**.

(B) The **Emergency Management Agency** shall obtain, with City Council approval, such technical, clerical, stenographic and other administrative personnel, and may make such expenditures within their appropriation therefor as may be necessary to carry out the purpose of this Code.

(C) The Director, subject to the direction and control of the Mayor, shall be the executive head of the Municipal **Emergency Management Agency**, and shall be responsible under the direction of the Mayor for carrying out the program for emergency management operations of this municipality. He/She shall coordinate the activities of all organizations for emergency management operations within this municipality and shall maintain liaison, and cooperate with, the civil defense and emergency management agencies and organization of the county, other counties and municipalities, and of the federal and state government. The Director shall have direct responsibility for the organization, administration, training, and operation of the EMA, subject to the direction and control of the Mayor, as provided by statute.

In the event of the absence, resignation, death, or inability to serve by the Director, the Deputy Director shall serve and if he/she is not able to serve then the Mayor or any persons designated by him/her, shall be and act as Director until a new appointment is made as provided in this Code.

(D) The Municipal **Emergency Management Agency** shall take an integral part in the development and revision of the local emergency operations plan.

(E) In the development of the emergency operations plan, the municipal **Emergency Management Agency** shall interrelate with business, labor, industry, agriculture, civic and volunteer organizations, and community leaders.

(F) The Municipal **Emergency Management Agency** shall:

- (1) Determine the requirements of the municipality for food, clothing and other necessities in the event of an emergency;

- (2) Develop an Emergency Operations Plan that meets the standards promulgated by the Illinois **Emergency Management Agency**;
- (3) Biannually review and revise the local Emergency Operations Plan;
- (4) Establish a register of persons with types of training and skills in emergency prevention, preparedness, response and recovery;
- (5) Establish a register of government and private response resources available for use in a disaster;
- (6) Prepare, for issuance by the Mayor, ordinances, proclamations and regulations as necessary or appropriate in coping with disasters.
- (7) Cooperate with the federal, state and county government and any public or private agency or entity in achieving any purpose of this Code and in implementing programs for disaster prevention, preparation, response and recovery;
- (8) Initiate and coordinate planning for:
 - (a) The establishment of an emergency operating center;
 - (b) The implementation of a 911 system.
- (9) Do all other things necessary, incidental or appropriate for the implementation of this Code.

30-4-5

EMERGENCY MANAGEMENT POWERS OF THE MAYOR.

(A) **Management Agency** The Mayor shall have the general direction and control of the **Emergency Management Agency** and shall be responsible for the carrying out of the provisions of this Code.

(B) In performing his/her duties under this Code, the Mayor is authorized to cooperate with state and federal governments and with other municipalities and political subdivisions in all matters pertaining to emergency management operations defined in this Code.

(C) In performing his/her duties under this Code, the Mayor is further authorized:

- (1) To make, amend and rescind all lawful necessary orders, rules and regulations of the local disaster plan to carry out the provisions of this Code within the limits of the authority conferred upon him/her.
- (2) To cause to be prepared a comprehensive plan and program for the emergency management of this municipality which plan, and program shall be integrated into and coordinated with disaster plans of the county, state and federal governments and other political subdivisions, and which plan and program may include:
 - (a) Prevention and minimization of injury and damage caused by disaster;
 - (b) Prompt and effective response to disaster;
 - (c) Emergency relief;
 - (d) Identification of areas particularly vulnerable to disasters;
 - (e) Recommendations for zoning, building and other land-use controls, safety measures for securing permanent structures and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
 - (f) Assistance to local officials in designing local emergency action plans;
 - (g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage or loss from flood, conflagration or other disaster;
 - (h) Organization of municipal manpower and chains of command;
 - (i) Coordination of local emergency management activities;
 - (j) Other necessary matters.

- (3) In accordance with such plan and program for the emergency management of this municipality, and out of funds appropriated for such purposes, to procure and preposition supplies, medicines, materials and equipment to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster to insure the furnishing of adequately trained and equipped forces for disaster operations.
- (4) Out of funds appropriated for such purposes, to make such studies and surveys of the industries, resources and facilities in this municipality as may be necessary to ascertain the capabilities of the municipality for the emergency management phases of preparedness, response, and recovery, and to plan for the most efficient emergency use thereof.

(D) The Mayor is authorized to designate space in a municipal building, or elsewhere for the **Emergency Management Agency** as its office.

30-4-6 FINANCING.

(A) It is the intent of the City Council and declared to be the policy of the municipality that every effort shall be made to provide funds for disaster emergencies.

(B) It is the City Council's intent that the first recourse shall be to funds regularly appropriated to the agency. If the Mayor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, and the Governor has proclaimed the municipality a disaster, he may make application for funds from the state disaster relief fund. If monies available from the fund are insufficient, and if the Mayor finds that other sources of money to cope with the disaster are not available or are insufficient, he/she shall issue a call for an immediate session of the City Council for the purpose of enacting ordinances as the City Council may deem necessary to transfer and expend monies appropriated for other purposes or borrow monies from the United States Government or other public or private sources. If less than a quorum of the members of the City Council is capable of convening in session to enact such ordinances for the transfer, expenditure or loan of such monies, the Mayor is authorized to carry out those decisions until such time as a quorum of the City Council can convene.

(C) Nothing contained in this Section shall be construed to limit the Mayor's authority to apply for, administer and expend grants, gifts, or payments in aid of disaster prevention, preparedness, response or recovery.

30-4-7 LOCAL DISASTER EMERGENCIES.

(A) A local disaster emergency may be declared only by the Mayor or City Council. If declared by the Mayor, it shall not be continued for a period in excess of **seven (7) days** except by or with the consent of the City Council. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity, and shall be filed promptly with the municipal clerk.

(B) The effect of a declaration of a local disaster emergency is to activate any and all applicable local emergency operations plans and to authorize the furnishing of aid and assistance thereunder.

(C) During a local disaster emergency, the Mayor may suspend the provisions of any municipal ordinance prescribing procedures for the conduct of municipal business, or the orders, rules and regulations of any municipal agency, if strict compliance with the provisions of any ordinance, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency, as authorized by "**The Illinois Emergency Management Agency Act**", provided that, if the City Council meets at such time, he/she shall act subject to the directions and restrictions imposed by that body.

30-4-8 **TESTING OF DISASTER WARNING DEVICES.** The testing of disaster devices including outdoor warning sirens shall be held only on the first Tuesday of each month at **10 o'clock** in the morning.

30-4-9 **MUTUAL AID ARRANGEMENTS BETWEEN POLITICAL SUBDIVISIONS.**
The Director for emergency management operations may, in collaboration with other public agencies within his/her immediate vicinity, develop or cause to be developed mutual aid arrangements with other political subdivisions, municipal corporations or bodies politic within this state for reciprocal disaster response and recovery in case a disaster is too great to be dealt with unassisted. The mutual aid shall not, however, be effective unless and until approved by each of such political subdivisions, municipal corporations or bodies politic as are parties thereto, in the manner provided by law, and unless and until filed with and approved in writing by the state director. Such arrangements shall be consistent with the state and local emergency management operations plan and program, and in the event of such disaster as described in **Section 30-4-3** of this Code, it shall be the duty of each local department for emergency management operations to render assistance in accordance with the provisions of such mutual aid arrangements.

30-4-10 **COMMUNICATIONS.** The local **Emergency Management Agency** shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive system or network. In studying the character and feasibility of any system or its several parts, the agency shall evaluate the possibility of multipurpose use thereof for general municipal and local governmental purposes. The agency shall make recommendations to the Mayor as appropriate.

30-4-11 **IMMUNITY.** Neither the municipality, the agency or any member thereof or any person acting at their direction, engaged in any emergency management operations or disaster activities, while complying with or attempting to comply with this Code or any rule or regulations promulgated pursuant to this Code is liable for the death of or any injury to persons, or damage to property, as a result of such activity. This Section does not, however, affect the right of any person to receive benefits to which he would otherwise be entitled under this act under the Worker's Compensation Act or the Worker's Occupational Diseases Act, or under any pension law, and this Section does not affect the right of any such person to receive any benefits or compensation under any Act of Congress.

30-4-12 **PROFESSIONS, TRADES AND OCCUPATIONS.** If such disaster as is described in **Section 30-4-3** occurs in this municipality and the services of persons who are competent to practice any profession, trade or occupation are required in this municipality to cope with the disaster situation and it appears that the number of persons licensed or registered in this municipality to practice such profession, trade or occupation may be insufficient for such purpose, then any persons who are licensed elsewhere to practice any such profession, trade or occupation may, if a member of another political subdivision rendering aid in this municipality pursuant to the order of the head of that political subdivision and upon the request of the municipality, or if otherwise requested so to do by the Mayor or the Director of this municipality, during the time the disaster condition continues, practice such profession, trade or occupation in this municipality without being licensed or registered in this municipality.

30-4-13 **APPROPRIATIONS AND LEVY OF TAX.** The City Council may make appropriations for emergency management operations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision. The City Council may also,

pursuant to **65 ILCS 5/8-3-16**, levy for emergency management operations a tax not to exceed **.05%** of the full, fair cash value as equalized or assessed by the Department of Revenue on all taxable property in the municipality for the current year. However, the amount collectible under such a levy shall in no event exceed **Twenty-Five Cents (\$0.25)** per capita. The annual tax shall be in addition to and in excess of the amount authorized to be levied for general corporate purposes.

30-4-14 **AUTHORITY TO ACCEPT SERVICES, GIFTS, GRANTS OR LOANS.**

Whenever the federal or state governments, or any agency or officer thereof, or whenever any person, firm or corporation shall offer to the municipality services, equipment, supplies, materials or funds by way of gift or grant for purposes of emergency management, the municipality, acting through the Mayor or through its City Council, may accept such offer and upon such acceptance the Mayor or the City Council may authorize any officer of the municipality to receive such services, equipment, supplies, materials or funds on behalf of the municipality.

30-4-15 **ORDERS, RULES AND REGULATIONS.**

(A) The Mayor shall file a copy of every rule, regulation or order and any amendment thereof made by him/her pursuant to the provisions of this Code in the office of the Municipal Clerk. No such rule, regulation or order, or any amendment thereof, shall be effective until **ten (10) days** after such filing; provided, however, that upon the declaration of such a disaster emergency by the Mayor as is described in **Section 30-4-7**, the provision relating to the effective date of any rule, regulation order or amendment issued pursuant to this Code and during the state of such disaster emergency, is abrogated, and said rule, regulation, order or amendment shall become effective immediately upon being filed with the Municipal Clerk, accompanied by a certificate stating the reason for the emergency.

(B) The **Emergency Management Agency** established pursuant to this Code, and the Director thereof, shall execute and enforce such orders, rules and regulations as may be made by the Governor under authority of the Illinois **Emergency Management Agency Act**. The local **Emergency Management Agency** shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under this authority. The State **Emergency Management Agency** shall furnish such orders, rules and regulations to the agency.

30-4-16 **UTILIZATION OF EXISTING AGENCY, FACILITIES AND PERSONNEL.** In

carrying out the provisions of this Code, the Mayor and the Director of the **Emergency Management Agency** are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the municipality to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed, upon request, to cooperate with and extend such services and facilities to the Director and the **Emergency Management Agency**.

30-4-17 **NO PRIVATE LIABILITY.**

(A) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual or impending disaster, or a mock or practice disaster response activity together with his/her successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission, or for negligently causing loss of, or damage to, the property of such person.

(B) Any private person, firm or corporation and employees and agents of such person, firm or corporation in the performance of a contract with, and under the direction of, the municipality under the provisions of this Code, shall not be civilly liable for causing death of, or injury to, any person or damage to any property except in the event of willful misconduct.

(C) Any private person, firm or corporation, and any employee or agency of such person, firm or corporation, who renders assistance or advice at the request of the municipality, shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of willful misconduct. The immunities provided in Subsection (C) shall not apply to any private person, firm or corporation, or to any employee or agent of such person, firm or corporation whose act or omission caused in whole or in part such actual or impending disaster and who would otherwise be liable, therefore.

30-4-18 SUCCESSION. In the event of the death, absence from the Municipality or other disability of the Mayor preventing him/her from acting under this Code or for any other municipal purpose, and until the office is filled in the manner prescribed by law during an emergency, the Director of the **Emergency Management Agency** shall succeed to the duties and responsibilities of the Mayor relating to such emergency.

30-4-19 COMPENSATION. The **Emergency Management Agency** Director and Deputy Director shall receive a salary as established by the Mayor and City Council. Other members of the **Emergency Management Agency** who are paid employees or officers of the City, if called for training by the State Director of the **Emergency Management Agency**, shall receive, for the time spent in such training, the same rate of pay as is attached to the position held; members who are not such City employees or officers shall receive for such training time, such compensation as may be established by the Mayor and City Council.

30-4-20 DEPUTY DIRECTOR. The Deputy Director of the City **Emergency Management Agency** shall be appointed by the Mayor with the advice and consent of the City Council. The Deputy Director shall be under the direction of the **Emergency Management Agency** Director. The Deputy Director shall assist the Director as necessary. In the event of the absence, resignation, death or inability of the Director to serve, Deputy Director shall be and act as Director.

30-4-21 PERSONNEL OATH. Each person, whether compensated or non-compensated, who is appointed to serve in any capacity in the municipal **Emergency Management Agency**, shall, before entering upon his/her duties, take an oath, in writing, before the Director of the municipal **Emergency Management Agency** before a person authorized to administer oaths in this municipality, which oath shall be filed with the Director of the **Emergency Management Agency**, and which oath shall be substantially as follows:

"I, _____ do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time I am affiliated with the City, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

30-4-22 EMERGENCY TERMINATION OR REDUCTION OF ELECTRICAL SERVICE.

(A) **Declaration of Emergency Condition.** When in the judgment of the Mayor or City Council, as provided herein in **Section 30-4-7(A)**, a local disaster emergency requires the termination or reduction of electrical service, the Mayor or City Council shall forthwith declare in writing the existence of the emergency condition and order the termination or reduction.

30-4-23 MOBILE SUPPORT TEAM. All or any members of the City EMA organization may be designated as members of a Mobile Support Team created by the Director of the State EMA as provided by law.

The leader of such Mobile Support Team shall be designated by the Director of the City EMA organization.

Any member of a Mobile Support Team who is a City employee or officer while serving on call to duty by the Governor or the State Director, shall receive the compensation and have the powers, duties, rights, and immunities incident to such employment or office. Any such member who is not a paid officer or employee of the City, while so serving, shall receive from the State, reasonable compensation as provided by law.

30-4-24 PENALTY. Any person convicted of violating this Code or any order thereunder, shall upon conviction, be fined as provided in **Section 1-1-20** of this Code.

(See 20 ILCS 3305/1 et seq.)

ARTICLE V – PUBLIC SAFETY EMPLOYEE BENEFITS ACT

30-5-1 **PURPOSE.** The purpose of this Article is to provide a fair and efficient method for determining the eligibility of a full-time employee for the benefits enumerated under PSEBA through an administrative process, including if necessary, an administrative hearing.

30-5-2 **DEFINITIONS.** For the purpose of this Article, the following terms will have the following meanings. These definitions are derived from the federal Public Health and Welfare Act, which enacted in 1944 and amended in 1984 to define, by inclusion or reference, the following terms.

For use in this Article, provisions containing the words "mayor," "commissioner," "alderman," or "city council" also apply to the president, trustee, council member and boards of trustees so far as the provisions are applicable to them.

(A) **Catastrophic Injury.** An injury, the direct and proximate consequences of which permanently prevent an individual from performing any gainful work.

(B) **Gainful Work.** Full- or part-time activity that actually is compensated or commonly is compensated.

(C) **Injury.** A traumatic physical wound (or a traumatized physical condition of the body) directly and proximately caused by external force (such as bullets, explosives, sharp instruments, blunt objects, or physical blows), chemicals, electricity, climatic conditions, infectious disease, radiation, virus, or bacteria, but does not include:

- (1) Any occupational disease; or
- (2) Any condition of the body caused or occasioned by stress or strain.

30-5-3 **APPLICATION PROCEDURE.** As noted by the Court in *Englum*, "while the [Act] contained *substantive* requirements for Section 10 eligibility, the [Act] contained no *procedural* requirements for determining whether a former employee met the substantive criteria." ¶ 55. This Article and the application procedure of this Section establishes guidance on the proper procedural requirements for Public Safety Officers seeking PSEBA benefits in the City.

(A) Public Safety Officers, or family member(s) of an injured or deceased Public Safety Officer, ("Applicant") must file a full and complete PSEBA application in writing within **thirty (30) days** of filing a pension claim with the City or within **thirty (30) days** of the date of the adoption of this Article in the event that an Applicant has filed for a PSEBA claim prior to the date of adoption of this Article, whichever is later, if the Applicant is seeking benefits under PSEBA. The City shall notify Applicant if the PSEBA application is incomplete, and Applicant shall have **five (5) days** to remedy their application. Failure to timely file the full and complete application shall result in a forfeiture of the benefits under PSEBA by failure to properly submit a complete application.

(B) A complete PSEBA application includes the following:

- (1) The name of the Applicant, date of hire, detailed information regarding the incident, including information relating to how the injury was sustained in the line of duty (date, time, place, nature of injury, and other factual circumstances surrounding the incident giving rise to said claim);
- (2) The Applicant's firsthand knowledge explaining, to the City's satisfaction, how the injury/death directly resulted from:
 - (a) Response to fresh pursuit;
 - (b) Response to what is reasonably believed to be an emergency;
 - (c) Response to an unlawful act perpetrated by another; or
 - (d) Participation during the investigation of a criminal act.
- (3) A signed PSEBA medical authorization release which authorizes the collection of information related to the incident including, but not limited to, disability pension proceedings, worker's compensation records, and

- medical records and specifies the name and address for pertinent health care provider(s);
 - (4) A signed PSEBA general information release specifying the name and signature of the Applicant or his/her authorized representative along with legal proof of said representation and name and signature of witness authorizing the collection of information pertinent to the incident review process;
 - (5) The name(s) of witnesses to the incident;
 - (6) The name(s) of witnesses the Applicant intends to call at the PSEBA hearing;
 - (7) Information and supporting pension documentation filed with the appropriate pension board;
 - (8) Information supporting the PSEBA eligibility requirements; and
 - (9) Other sources of health insurance benefits currently enrolled in or received by the Applicant and/or family members if the Applicant is deceased.
- (C) The PSEBA application must be submitted to the Health and Safety Supervisor in its entirety.
- (D) The PSEBA application must be sworn and notarized to certify the truthfulness of the content of the information. A review of the application shall not occur until the application is complete.
- (E) On the date that the PSEBA application is deemed complete by the City, the completed application shall then be submitted to the City as the Preliminary Record, and a copy of the same shall be date stamped and provided to the Applicant.
- (F) Upon receipt of a complete application for PSEBA benefits, the City shall set the matter for an administrative hearing before a hearing officer to make a determination on whether to grant the Applicant PSEBA benefits based on the result of the administrative hearing.
- (G) The Applicant will be given written notice of the date for the scheduled administrative hearing to be served not less than **ten (10) days** prior to the commencement of the hearing. If the Applicant, upon receiving written notice of the administrative hearing, cannot attend said date, the Applicant must contact the hearing officer in writing within **seven (7) days** after being served. The hearing officer shall establish an alternative hearing date which is within **thirty (30) days** of the original hearing date. Failure to appear at the administrative hearing shall result in denial of PSEBA benefits.

30-5-4 ADMINISTRATIVE COMPOSITION. The administrative hearing shall be scheduled and conducted by a hearing officer whose authority and limitations are as follows:

(A) **Authority of the Hearing Officer.** The hearing officer shall have all of the authorities granted to her/him under common law relative to the conduct of an administrative hearing, included the authority to:

- (1) Preside over City hearings involving PSEBA;
- (2) Administer oaths;
- (3) Hear testimony and accept evidence that is relevant to the issue of eligibility under PSEBA;
- (4) Issue subpoenas to secure attendance of witnesses and the production of relevant papers or documents upon the request of the parties or their representatives;
- (5) Rule upon objections in the admissibility of evidence;
- (6) Preserve and authenticate the record of the hearing and all exhibits in evidence introduced at the hearing; and
- (7) Issue a determination based on the evidence presented at the hearing, the determination of which shall be in writing and shall include a written finding of fact, decision and order.

(B) **Hearing Officer.** The Mayor, with the advice and consent of the City Council, is hereby authorized to appoint a person to hold the position of hearing officer for each hearing on PSEBA benefits that shall come before this City. In making said selection, the following information should be considered, at a minimum:

- (1) The individual's ability to comply with the job description as set forth herein; and
- (2) The individual must be an attorney licensed to practice law in the State of Illinois and have knowledge of an experience in employment and labor law, general civil procedure, the rules of evidence, and administrative practice.

30-5-5 ADMINISTRATIVE HEARING. The system of administrative hearings for the determination of eligibility for benefits under PSEBA shall be initiated either by the City or by the Applicant after the submission of a full and complete PSEBA application. An administrative hearing shall be held to adjudicate and determine whether the Applicant is eligible for benefits under PSEBA. If the Applicant is found eligible, the benefits shall be consistent with the Act.

(A) **Record.** The City shall ensure that all hearings are attended by a certified court reporter and a transcript of all proceedings shall be made by said certified court reporter and a copy be provided to the Applicant within **twenty-eight (28) days** of the date of the administrative hearing.

(B) **Procedures.** The City and the Applicant shall be entitled to representation by counsel at said administrative hearing and present witnesses, testimony and documents, may cross-examine opposing witnesses, and may request the issuance of subpoenas to compel the appearance of relevant witnesses or the production of relevant documents.

(C) **Evidence.** The Illinois Rules of Evidence shall apply to the extent practicable unless, by such application, the Hearing Officer determines that application of the rule would be an injustice or preclude the introduction of evidence of the type commonly relied upon by a reasonably prudent person in the conduct of her or his affairs. Such determination shall be in the sole discretion of the Hearing Officer. The Hearing Officer must state on the record her or his reason for that determination.

(D) **Final Determination.** A written determination by the hearing officer of whether the petitioning Applicant is eligible for the benefits under PSEBA shall constitute a final administrative determination for the purpose of judicial review under the common law writ of certiorari.

(E) **Burden of Proof.** At any administrative hearing, the Applicant shall have the obligation and burden of proof to establish that the Applicant is eligible and qualified to receive PSEBA benefits. The standard of proof in all hearings conducted under this Article shall be by the preponderance of the evidence.

(F) **Administrative Records.** All records pertaining to the administrative process shall be held in a separate file under the Applicant's name with the City.

30-5-6 SEVERABILITY. If any provision of this Article or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Article that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Article is severable.

(Ord. No. 17-1039; 11-15-17)