

**ORDINANCE 1029**

**REPEALING ORDINANCE 574 CIVIL DEFENSE AND  
ADOPTING EMERGENCY OPERATING PROCEDURE**

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**WHEREAS**, the City of Bay Minette wishes to repeal Ordinance 547 that established Civil Defense for the City of Bay Minette and adopts Ordinance 1029 Emergency Operating Procedure; and,

**WHEREAS**, the State of Alabama Adopted the Alabama Emergency Management Act of 1955 which is located in Chapter 9 of Title 31 of the Code of Alabama, 1975 and amended by Act 2006-522 and Act 2022-187, which authorizes municipalities to create and establish a local organization for emergency management, appoint a director with the authority to direct the organization and administer the operations of the organization subject to the direction of the Mayor and Council. The organization formed hereunder shall perform emergency management functions within the territorial limits of the municipality.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY MINETTE, ALABAMA, IN REGULAR MEETING ASSEMBLED, AS FOLLOWS:**

**SECTION I: DEFINITION**

Emergency Management shall mean the preparation for and the conducting of all emergency functions, other than functions for which military forces or other federal or state agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by enemy attack, sabotage, or other hostile action or by fire, flood, earthquake, hurricane or other natural causes. These functions include, without limitations, fire-fighting services, police services, medical and health services, rescue, engineering and air raid warning services, communications; radiological chemical and other special weapons of defense, evacuation of persons from stricken area; emergency welfare services, (civilian war aid); emergency transportation; plant protection; temporary restoration of public utility services; and other functions of the foregoing functions.

**SECTION II: EMERGENCY MANAGEMENT ORGANIZATION**

Officers, Department Heads and employees of the municipality, with volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who make the agreements on operation of law, shall constitute the Emergency Management Organization of the City, and are charged with duties necessary for the protection of life and property in the City during an emergency. It shall be the duty of the Emergency Management Organization to:

1. To development or caused to be developed a municipal emergency management plan. This plan shall provide for the effective mobilization of all resources of the municipality, both private and public.
2. To prepare and recommend for consideration by the Mayor and Council ordinances necessary to implement the emergency management operational survival plan.

3. To develop or cause to development mutual aid plans and agreements for consideration of the Mayor and Council for approval, all mutual aid plans and agreement in relation to emergency management.
4. Other duties as may be determined by the Mayor and Council.

### **SECTION III: EMERGENCY MANAGEMENT DIRECTOR/COORDINATOR**

There is hereby created the office of Emergency Management Director/Coordinator. Such officer shall be nominated by the Mayor and approved by the Council. The Director/Coordinator is assigned to coordinate with the Alabama Emergency Management Agency and the Baldwin County Emergency Management Agenda and is hereby charged with the following duties:

- A. To represent the City on all matters pertaining to emergency management.
- B. During periods of emergency to direct the services of municipal emergency management employees.
- C. To obtain and utilize cooperation of City officials in the preparation and implementation of all emergency management plans and property of citizens.
- D. During periods of emergency to coordinate and obtain vital supplies and equipment needed for the protection of life.

### **SECTION IV: VOLUNTEERS**

All persons, other than officers and employees of the City, volunteering in service shall serve without compensation. While engaged in such service they shall have the same immunities as officers and employees of the City performing similar duties.

### **SECTION V: DECLARATION OF EMERGENCY**

The declaration of a state of emergency pursuant to the Alabama Emergency Management Act is the first step in activating the disaster and recovery aspects of the state, local and inter-jurisdictional disaster emergency plan. The Alabama Emergency Management Act provides that either the Governor or the Legislature by joint resolution has the authority to declare a state of emergency. If a situation arises whereby the Governor or the Legislature are unable to make a declaration because immediate action is needed, the Council should convene to declare an emergency.

If the situation is such that the Council cannot convene, the Council shall confer upon the Mayor the authority to declare a state of emergency. The declaration by the Mayor shall be subject to ratification, alteration, modification or repeal of the Council as soon as they can convene. All declarations should be made and attested to by the city clerk to the extent feasible. All expenditures made during the time of a disaster must be carefully documented including man-hours, equipment hours utilized, purchase orders, invoice for materials, landfill tickets, and any other document related to clean up. It is also necessary to photograph and document where, what and when taken.

Whenever, in the judgment of the Mayor, or in the event of the Mayor's inability to act, the Mayor Pro Tempore of the Council determines that an emergency exists as a result of mob action or other civil disobedience causing danger of injury or damage to persons or property, such officer shall have power to impose by declaration of any or all the following regulations necessary to preserve the peace and order of the City.

1. To impose a curfew upon all or any portion of the City, thereby requiring all person in such designated curfew area to forthwith remove themselves from the public streets, alleys, parks or other public places; provided, however that physicians, nurses, ambulance operators performing medical services, utility personnel maintaining essential public services, fire-fighters, and city-authorized or requested law enforcement officers and personnel may be exempt from such curfew.
2. To order the closing of any business establishment anywhere within the City for a period of the emergency, such businesses to include, but not limited to, those selling intoxicating liquors, malt brewed beverages, gasoline, firearms and ammunition.
3. To designate any public street, thoroughfare or vehicle parking area closed to motor vehicles and pedestrian traffic.
4. To call upon regular and auxiliary law enforcement agencies and organizations within or without the City to assist in preserving and keeping the peace within the City.

#### **SECTION VI: - DECLARATION OF EMERGENCY EFFECTIVE DATE**

The proclamation of emergency shall become effective upon its issuance and dissemination to the public by appropriate news media.

#### **SECTION VII: DECLARATION OF EMERGENCY TERMINATION OR EXTENSION**

The proclamation of emergency shall terminate after forty-eight (48) hours from the issuance thereof, or upon the issuance of a proclamation determining that an emergency no longer exists, whichever occurs first; provided, however, such emergency may be extended for such additional periods of time as determined necessary by resolution of the governing body.

#### **SECTION VIII: CITY COUNCIL EMERGENCY POWERS**

The Alabama Emergency Management Act provides specific powers of municipalities during times of disaster. Specifically, the City Council has the power, pursuant to Section 31-9-10, Code of Alabama 1975, to do the following:

1. To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes; to provide for the health and safety of persons and property, including emergency assistance to the victims of any disaster; and to direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies.

2. To appoint, employ, remove, or provide, with or without compensation, air raid wardens, rescue teams, auxiliary fire and police personnel, and other emergency management workers; provided, that compensated employees shall be subject to any existing civil service or Merit System laws.
3. To establish a primary and one or more secondary control centers to serve as command posts during and emergency.
4. To assign and make available for duty the employees, property, or equipment of the subdivision relating to firefighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency management purposes, within or outside of the physical limits of the subdivision.
5. In the event that the governing body of the political subdivision determines that any of the conditions described in section 31-9-2(a) has occurred or is imminently likely to occur, the governing body shall have the power:
  - a. To waive procedure and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and distribution, with or without compensation of supplies, materials, and facilities, and the appropriation and expenditure of public funds.
  - b. To impose a public safety curfew for its inhabitants. If public safety curfew is imposed as authorized herein, it shall be enforced by the appropriate law enforcement agency within the political subdivision. A public safety curfew imposed under this subsection shall not apply to employees of utilities, cable and telecommunications companies and their contractors engaged in activities necessary to maintain or restore utility, cable, and telecommunications services or to official emergency management personnel engaged in emergency management activities.

## **SECTION IX: WORK HOURS LIMITS**

To keep the overall cost of the disaster down as well as reduce employee exhaustion, the Mayor and Department Heads will work together to ensure employees are assigned shifts and managed in a way that minimizes the amount of overtime worked by each employee.

## **SECTION X: EMPLOYEE COMPENSATION DURING DISASTER**

For information on Employee Compensation during disaster, please refer to the City of Bay Minette Employee Personnel Policy, Section: Compensation, Title: Emergencies, Disasters or Special Events.

## **SECTION XI: PENALTIES FOR NONCOMPLIANCE**

Any person who shall willfully fail or refuse to comply with the orders of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the proclamation of emergency shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided by law.

## **SECTION XII: COUNCIL ACTION**

That Ordinance 574 be repealed and replaced with Ordinance 1029.

**SECTION XIII: REPEALER**

Any ordinance or resolution heretofore adopted by the Council which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

**SECTION XIV: SEVERABILITY**

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**SECTION XV: EFFECTIVE DATE**

This Ordinance shall be in full force and effect upon its adoption by the City Council of the City of Bay Minette and publication as required by law.

**SECTION XVI: POSTING OF ORDINANCE**

Ordinance 1029 shall be posted in three public locations as required by law. Posting locations include Bay Minette City Hall; Bay Minette Public Library and North Baldwin Utilities.

**FURTHER, BE IT RESOLVED AND ORDAINED, BY THE CITY COUNCIL OF BAY MINETTE, ALABAMA IN REGULAR MEETING ASSEMBLED, determined that Ordinance 1029, REPEALING ORDINANCE 574 CIVIL DEFENSE AND ADOPTING EMERGENCY PREPAREDNESS is hereby ADOPTED.**

Done this the 1<sup>st</sup> day of May 2023.

  
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Robert A. Wills, Mayor

ATTEST:

  
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Rita Diedrich, City Clerk

STATE OF ALABAMA  
COUNTY OF BALDWIN  
CITY OF BAY MINETTE

I, the undersigned qualified and acting Clerk of the City of Bay Minette, Alabama, do hereby certify that the above and foregoing is a true copy of an Ordinance lawfully passed and adopted by the Bay Minette City Council, at a regular meeting of such council, held on the 1<sup>st</sup> day of May 2023 and that said Ordinance is on file in the office of the Bay Minette City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Bay Minette, on this the 1<sup>st</sup> day of May 2023.



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Rita Diedrich, City Clerk