



AGENDA ITEM #6

**AGENDA ITEM EXECUTIVE SUMMARY
Committee of the Whole Meeting
July 8, 2019**

Item Title: **Emergencies and Disasters Ordinance**

Staff Contact: Jeffrey D. O'Dell, Village Administrator

COMMITTEE OF THE WHOLE ACTION

Consider a staff recommendation to repeal and replace Article XIX, Emergency Services Disaster Agency, of Chapter 2 Administration of the Village's Code, with a new section entitled Emergencies and Disasters.

Executive Summary:

Late last year, the Village received a Notice of Appointment request from DuPage County naming the Fire Chief as the Emergency Management Coordinator of the Village's Emergency Services Disaster Agency (ESDA). After a review of the request, current ESDA ordinance, and further discussion with the Village Attorney, staff is recommending the Village Board repeal and replace the ESDA section of the Village code.

The Illinois Emergency Management Agency (IEMA) Act does not require the Village to have an ESDA. While the DuPage County Office of Homeland Security and Emergency Management has jurisdiction over the Village, our emergency management duties are currently the responsibility of our public safety chiefs. Should the Village continue to have an ESDA, it will then be required to comply with certain IEMA regulations and compliance deadlines in addition to incurring costs associated with maintaining the agency and program. However, because we will not have an ESDA, we will be required to appoint a liaison officer as authorized by the Act, who shall serve to facilitate the cooperation and protection of the Village with DuPage County Office of Homeland Security and Emergency Management for disaster mitigation, preparedness, response, and recovery. As noted in the attached ordinance, the Village's Fire Chief shall serve as the liaison officer.

The new section of the Village code reflects state statutes and establishes responsibilities and procedures for a declaration of a state of emergency or local disaster and a succession plan should those responsible for making these declarations be absent. The Mayor has the authority to make the declarations, and if absent, succession allows for the Mayor Pro Tem, Village Administrator, and public safety chiefs to assume that authority. In addition, the new section of the Village Code allows for

other orders of action to ensure the public safety and welfare are served such as curfew and further regulations on businesses. Publication of a declaration, effective periods for those declarations, and authority for establishing alternative government business meeting locations are also included in the new section of the Village code. Finally, as noted above, the Village's Fire Chief is appointed as its emergency management coordinator for cooperation with the County on all emergency management activities.

The management team and Village Attorney have worked closely together over the last couple of months to finalize the ordinance and recommends the Village Board pass an ordinance at its July 22, 2019 regular meeting repealing and replacing the section that had previously established an ESDA and add a new section entitled Emergencies and Disasters. This action will further promote the health, safety, and general welfare of the Village of Roselle.

Implications:

Is this item budgeted? N/A

Any other implications to be considered? Yes, Article XX of the Village Code entitled Emergency Management Agency (EMA) will remain intact and is now more compatible with the new Emergencies and Disasters section. As you know, the Fire Department oversees volunteers who serve on the Roselle Emergency Management Agency (REMA). The Fire Chief serves as the liaison officer to REMA and has direct responsibility for the organization, administration, training, and operation of the group.

Attachments:

Ordinance Repealing and Replacing Article XIX

ORDINANCE NO. 2019-

**AN ORDINANCE REPEALING AND REPLACING ARTICLE XIX,
"EMERGENCY SERVICES DISASTER AGENCY" OF CHAPTER 2
"ADMINISTRATION"
OF THE CODE OF ORDINANCES OF THE VILLAGE OF ROSELLE**

WHEREAS, the Village of Roselle is a body politic and corporate, organized and existing pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1, et seq.; and

WHEREAS, the Village of Roselle is within the jurisdiction of and served by the State of Illinois Emergency Management Agency and the DuPage County Office of Homeland Security and Emergency Management; and

WHEREAS, the Village of Roselle is not required by the Illinois Emergency Services and Disaster Agency Act (20 ILCS 3305 et seq.) to have an emergency services and disaster agency; and

WHEREAS, section 5/11-5-2 of the Illinois Municipal Code (65 ILCS 5/11-5-2) authorizes corporate authorities to prevent or suppress riots, routs, affrays, noises, disturbances, trespasses, and disorderly assemblies in public or private places; and

WHEREAS, section 3305/11 of the Illinois Emergency Management Agency Act (20 ILCS 3305/11) authorizes the principal executive officer of a political subdivision, or his or her interim emergency successor to declare a local disaster; and

WHEREAS, section 3305/10 of the Illinois Emergency Management Agency Act (20 ILCS 3305/10) requires a municipality that does not have an emergency services and disaster agency to have a liaison officer designated to facilitate the cooperation and protection of the municipality with the county emergency services and disaster agency in which it is located; and

WHEREAS, the Village of Roselle is a unit of local government as defined in the Illinois Constitution of 1970 and as such, it has the authority under the Illinois Intergovernmental Cooperation Act (5 ILCS 220 et seq.) to enter into agreements with other municipal corporations or political subdivisions of the state; and

WHEREAS, sections 5/1 and 5/2 of the Illinois Emergency Government Relocation Act (50 ILCS 5/1 and 5/2), authorize municipalities to conduct their government business and affairs after enemy attack or in anticipation of enemy attack in an emergency temporary location; and

WHEREAS, section 11-59-1 of the Illinois Municipal Code (65 ILCS 5/11-59-1) authorizes municipalities to provide for the continuity of their administrative and legislative functions in the event of an attack upon the United States; and

WHEREAS, the Illinois Emergency Interim Executive Succession Act (5 ILCS 275/1 et seq.) authorizes municipalities to provide for the emergency interim successors of its officers; and

WHEREAS, Illinois municipalities have all powers expressly granted to it or necessarily implied to have by Illinois statutes; and

WHEREAS, Illinois law provides authority for municipalities to do all acts and make all regulations which may be necessary or expedient for the promotion of the health, safety, and welfare of the public; and

WHEREAS, the regulation of emergencies and disasters within the corporate boundaries of the Village of Roselle is a matter which affects the health, safety and general welfare of the citizens of the Village of Roselle; and

WHEREAS, the Village President and the Village Board of Trustees have determined that, in the best interests of promoting the health, safety, and welfare of the Village and its residents, it is necessary and desirable to repeal Chapter 2, Article XIX of the Village of Roselle's Code of Ordinances in its entirety, and replace it with the text set forth in Section 2 below, to further comprehensively regulate the handling of emergencies and disasters within the Village; and

WHEREAS, the Village President and the Village Board of Trustees specifically find that the passage of this Ordinance will promote the health, safety, and welfare of the Village of Roselle.

NOW THEREFORE BE IT ORDAINED by the President and Board of Trustees of the Village of Roselle, DuPage and Cook Counties, Illinois as follows:

SECTION 1: That the Preamble to this Ordinance is adopted by reference as if fully set forth herein.

SECTION 2: That Chapter 2, Article XIX entitled "Emergency Services Disaster Agency" of the Roselle Village Code is hereby repealed and rescinded in its entirety and replaced with a new Article XIX, Sections 2-316 through 2-331, which shall read as follows:

ARTICLE XIX. - EMERGENCIES AND DISASTERS

Sec. 2-316. - Definitions.

For the purposes of this article, the following words or phrases shall have the meanings respectively ascribed to them by this section:

Alcoholic liquor or liquor shall have the meaning set forth in section 3-1 of the Village Code of Ordinances.

Attack shall mean any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological or biological means or other weapons or processes, as defined by the Illinois Emergency Interim Executive Succession Act, 5 ILCS 275/3(d), and as may be hereinafter amended.

Curfew shall mean a prohibition declared by the village president during a state of emergency or disaster against any person or persons (except officials of any governmental authority acting with respect to a state of emergency or disaster) being upon any alley, street, highway, parkway, sidewalk, park, playground, parking lot, public property, other open private property, or open private land adjacent to any of the foregoing within the hours specified by the village president in the proclamation or declaration establishing such curfew.

Disaster shall mean an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or technological 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, critical shortages of essential fuels and energy, explosion, riot, hostile military or paramilitary action, public health emergencies, or acts of domestic terrorism, as defined by the Illinois Emergency Management Agency Act, 20 ILCS 3305/4, and as may be hereinafter amended.

Emergency operations plan shall mean the written plan of the village describing the organization, mission, and functions of the village and supporting services for responding to and recovering from disasters and shall include plans that take into account the needs of those individuals with household pets and service animals following a major disaster or emergency, as defined by the Illinois Emergency Management Agency Act, 20 ILCS 3305/4, as amended.

Emergency management shall mean the efforts of the state, the village, and other political subdivisions of the state to develop, plan, analyze, conduct, provide, implement and maintain programs for disaster mitigation, preparedness, response and recovery, as provided by the Illinois Emergency Management Agency Act, 20 ILCS 3305/4, and as may be hereinafter amended.

Firearm(s) and *firearm ammunition* shall have the respective meanings set forth in section 1.1 of act 65 of chapter 430 of the Illinois Compiled Statutes, as amended (430 ILCS 65/1.1).

Flammable liquid shall mean gasoline, kerosene, ether or any other liquid which is flammable, combustible or explosive.

Mobile support team shall mean a group of individuals designated as a team by the governor or director of the Illinois Emergency Management Agency ("IEMA") to train prior to and to be dispatched, if the governor or director of IEMA so determines, to aid and reinforce the state and political subdivision emergency management efforts in response to a disaster, as defined by the Illinois Emergency Management Agency Act, 20 ILCS 3305/4, and as may be hereinafter amended.

Public health emergency shall mean an occurrence or imminent threat of an illness or health condition that:

- (a) is believed to be caused by any of the following:
 - (i) bioterrorism;
 - (ii) the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin;
 - (iii) a natural disaster;
 - (iv) a chemical attack or accidental release; or
 - (v) a nuclear attack or accident; and
- (b) poses a high probability of any of the following harms:
 - (i) a large number of deaths in the affected population;
 - (ii) a large number of serious or long-term disabilities in the affected population; or
 - (iii) widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population, as defined by the Illinois Emergency Management Agency Act, 20 ILCS 3305/4, and as may be hereinafter amended.

State of Emergency shall mean any riot, rout, affray, disorderly assembly or unlawful assembly by three (3) or more persons acting together which is determined by the village president to be substantially characterized by the use of actual force or violence or by a clear and present danger of the use of force and violence against persons or property in the village or by the clear and present danger of the use of force and violence so as to interfere with the lawful and peaceable exercise of rights by persons within the village or the lawful and

peaceable use of property within the village, as authorized by the Illinois Municipal Code, 65 ILCS 5/11-5-2, and as may hereinafter be amended.

Sec. 2-317. - Declaration of state of emergency.

(a) Whenever the village president shall determine that a state of emergency exists in accordance with the standards of the definition of "state of emergency" as set forth in section 2-316 of this article, the village president shall have the extraordinary power and authority to exercise by executive order all such powers of the corporate authorities and other officers of the village as may be reasonably necessary or appropriate to respond to the emergency; provided, that prior to exercising any such extraordinary power and authority, the village president shall have executed, under oath, a written declaration of a state of emergency containing the following:

- (1) A statement of certain facts known to the village president, either directly or upon information and belief, which are believed by him/her to constitute a state of emergency;
- (2) An express declaration that a state of emergency exists; and
- (3) Such further orders and directives as the village president may deem necessary or appropriate for the protection of the health, safety, and general welfare of the public.

(b) In the absence of the village president, the same power and authority stated in paragraph (a) of this section shall be granted to those persons in the following line of succession:

- (1) Village president pro tempore.
- (2) Village administrator or acting village administrator.
- (3) Police Chief or acting police chief

Sec. 2-318. - Declaration of local disaster.

As authorized by the Illinois Emergency Management Agency Act, 3305/11, as may be hereinafter amended:

- (a) Whenever the village president shall determine that a disaster exists within the village limits and in accordance with the standards of the definition of "disaster" as set forth in section 2-316 of this article, the village president shall have the extraordinary power and authority to exercise by executive order all such powers of the corporate authorities and other officers of the village as may be reasonably necessary to or appropriate to eliminate or minimize the dangers arising from the disaster and for the protection of the health, safety, and welfare of the public; provided that prior to exercising any such extraordinary power and authority, the village president shall have executed under oath a written declaration of a local disaster containing the following:
- (1) A statement of certain facts known to the village president, either directly or upon information and belief, which are believed by him/her to constitute a local disaster;
 - (2) An express declaration that a local disaster exists; and
 - (3) Such further orders and directives as the village president may deem necessary or appropriate for the protection of the health, safety, and general welfare of the public.
- (b) In the absence of the village president, the same power and authority stated in paragraph (a) of this section shall be granted to those persons in the following line of succession:
- (1) Village president pro tempore.
 - (2) Village administrator or acting village administrator
 - (3) Fire Chief or acting fire chief.
- (c) The effect of the village president's declaration of a local disaster is to activate the village's emergency operations plan and to authorize the furnishing of aid and assistance thereunder.

Sec. 2-319. - Curfew; regulation of certain businesses.

As authorized by the Illinois Municipal Code, 65 ILCS 5/11-1-5, as may be hereinafter amended, concurrently with the execution of a declaration of a state of emergency or a declaration of a local disaster under sections 2-317 or 2-318 of this article, or at any time after such declaration but prior to the expiration thereof, the village president may in his/her sole discretion and in the interest of public safety and welfare make any one or more or all of the following orders:

- (1) Order the imposition of a curfew within certain hours specified by the village president in the order imposing such curfew;
- (2) Order the closing of any business holding a liquor license for the sale of alcoholic liquor where such sales constitute the major part of the business of the licensee;
- (3) Order the discontinuance of sale of alcoholic liquor by any person or business licensed for such sale under the applicable village ordinances;
- (4) Order the discontinuance of sale, distribution, dispensing or giving away in any manner of any firearms, or firearm ammunition, or both;
- (5) Order the discontinuance of sale, distribution, dispensing or giving away of any flammable liquid, except sales of gasoline or fuel oil delivered directly into a tank permanently affixed to a motor vehicle or a building;
- (6) Order such other safeguards and precautions as are, in the opinion of the village president, necessary or appropriate for the protection of life and property in the village and for the elimination of such state of emergency, local disaster, or public health emergency; provided, however, that such orders shall not supersede the regularly constituted authority of the village administrator, police chief, fire chief, or public works director.

Sec. 2-320. - Publication of declaration of state of emergency and or local disaster.

As authorized by the Illinois Municipal Code, 65 ILCS 5/11-1-6 and the Illinois Emergency Management Agency Act, 20 ILCS 3305/11, as they may hereinafter be amended, as promptly as practicable after the execution of any order or proclamation by the village president declaring, continuing, or terminating a state of emergency or a local

disaster, pursuant to the provisions of sections 2-31 or 2-318 of this article, such declaration shall be filed with the village clerk and published by posting notices thereof at the following locations and transmitting through the following mediums:

- (1) On the outside of the front door of the Village Hall;
- (2) On the outside of the front door of the village police and fire stations;
- (3) On the outside of the front door of the United States Post Office in the village;
- (4) On the Village's website;
- (5) Through social media and other electronic mediums for broadcast and publication; and
- (6) At such other place or places within the village as the village president may in his/her discretion direct.

In addition, the village president may direct that copies of such declaration of a state of emergency or local disaster be delivered as soon as practicable to any newspapers published or circulated within the village and to such radio, television and other broadcasting stations either within or without the village as may be reasonably necessary or appropriate to effect notice of such declaration of a state of emergency or local disaster to persons within the village as promptly as practicable. Nothing contained in this section shall be a condition to any lawful arrest, prosecution or conviction of any person for a violation of any provisions of this article, provided that the village president shall not have arbitrarily or capriciously failed or refused to publish a declaration of a state of emergency or a local disaster in accordance with the provisions hereof.

Sec. 2-321. - Effective period of declaration of state of emergency.

As authorized by the Illinois Municipal Code, 65 ILCS 5/11-1-6, as may hereinafter be amended, a state of emergency may be declared terminated at any time by the village president by a written declaration executed by the village president and published in the manner provided in section 2-320 of this article, and in any event a declaration of a state of emergency shall expire and terminate automatically and without any further act by the village president not later than the adjournment of the first regular meeting of the village board of trustees after execution of the declaration of emergency; provided however, that the village board may from time to time thereafter, by motion,

extend such state of emergency and any orders issued by the village president in connection therewith until a time fixed in such motion, but not later than:

(1) The adjournment of the next succeeding meeting of the village board;
or

(2) Forty-eight (48) hours after the time of such extension whichever shall first occur.

Sec. 2-322. - Effective period of declaration of local disaster.

As authorized by the Illinois Emergency Management Agency Act, 20 ILCS 3305/11, as may hereinafter be amended, any declaration of a local disaster authorized by this article shall be effective for seven (7) days, at which time the village board shall meet in regular or special session to determine whether or not the local disaster still exists. If, in the opinion of the majority of the village board the local disaster still exists, the declaration and any order of the village president shall continue in effect until the next regular meeting of the village board, unless terminated by a majority vote at a special meeting called for such purpose. Such declaration shall not be continued or renewed for a period in excess of seven (7) days except by or with the consent of the village board.

Sec. 2-323. - Emergency locations; governmental powers.

(a) Whenever, due to a declaration of a state of emergency resulting from the effects of enemy attack or the anticipated effects of a threatened enemy attack, it becomes imprudent, inexpedient or impossible to conduct the affairs of local government at the regular or usual place or places thereof, the corporate authorities may meet at any place within or outside of the village limits on the call of the village president or any two (2) members of the village board, and shall proceed to establish and designate by ordinance, resolution, or other manner, alternate or substitute sites or places as the emergency temporary location or locations of government where all, or any part of the public business may be transacted and conducted during the emergency situation. Such sites or places may be within or without the territorial limits of the village, provided that the village has the consent of the public/private owner, as defined by the Illinois Emergency Government Relocation Act, 50 ILCS 5/1, and as may hereinafter be amended.

- (b) During the period when the public business is being conducted at the emergency temporary location or locations, the governing body and other officers of the village shall have and possess and shall exercise at such location or locations, all of the executive, legislative, and judicial powers and functions conferred upon such body and officers by or under the laws of the State of Illinois. Such powers and functions may be exercised in the light of the exigencies of the emergency situation without regard to or compliance with time consuming procedures and formalities prescribed by law and pertaining thereto, and all acts of such body and officers shall be valid and binding as if performed within the territorial limits of the village, as defined by the Illinois Emergency Government Relocation Act, 50 ILCS 5/2, and as may hereinafter be amended,

Sec. 2-324. - Liaison officer.

The village fire chief shall serve as the village's emergency management coordinator and, as authorized by the Illinois Emergency Management Agency Act, 20 ILCS 3305/10, as may hereinafter be amended, shall serve as the village's liaison officer who shall facilitate the cooperation and protection of the village with the DuPage County Office of Homeland Security and Emergency Management in the work of disaster mitigation, preparedness, response, and recovery. In the event of the absence, resignation, death or inability of the village fire chief to serve as the emergency management coordinator and as the liaison officer, the village administrator shall serve as the emergency management coordinator and as the liaison officer. In the absence of either the village fire chief or the village administrator, the same power and authority stated above, shall be granted to those persons listed in the following line of succession:

- (a) Fire Chief;
- (b) Village Administrator;
- (c) Deputy Fire Chief
- (d) Police Chief
- (e) Deputy Police Chief
- (c) Public Works Director;

- (d) Person appointed by the village president and confirmed by the board of trustees at its earliest opportunity.

Sec. 2-325. - Emergency operations plan (EOP).

The liaison officer shall prepare for the corporate authorities of the village, an emergency operations plan which shall conform to the tenets of the National Incident Management System and shall serve as a link between the village, and other local municipalities and the state of Illinois in disaster response and recovery efforts, as authorized by the Illinois Emergency Management Agency Act, 20 ILCS 3305/1 *et seq*, as may hereinafter be amended,

Sec. 2-326. - IEMA notification.

The village president or his/her designee shall annually notify the Illinois Emergency Management Agency of the manner in which the village is providing or securing emergency management, identify the village's liaison officer and furnish such other information requested by the Illinois Emergency Management Agency, as authorized by the Illinois Emergency Management Agency Act, 20 ILCS 3305/10(f), as may hereinafter be amended.

Sec. 2-327. - Mutual aid agreements; memorandums of understanding.

As authorized by the Illinois Emergency Management Agency Act, 20 ILCS 3305/10(j), as may hereinafter be amended, the village liaison officer or the village administrator may negotiate new mutual aid agreements, or revise existing agreements with other municipal corporations or political subdivisions of the state, however, no such agreement shall be effective until it has been approved by the Village Board. However, those mutual aid agreements already in effect shall remain in effect. The village liaison officer or the village administrator may negotiate new memorandums of understanding, or revise existing memorandums of understanding with private entities for the provision of shelter, goods and services for village residents during a declaration of local disaster however, no such memorandum of understanding shall be effective until it has been approved by the village board. However, those memorandums of understanding already in effect shall remain in effect.

Sec. 2-328. - Purchases and expenditures.

In the event of a declaration of a local disaster or public health emergency, the village liaison, village administrator, and mayor are authorized, on behalf of the village,

to procure such shelter, services, supplies, equipment or material as may be necessary in view of the exigency without regard to statutory procedures or formalities normally prescribed by law pertaining to village contracts or obligations, provided that the village liaison, village administrator and mayor, where reasonably available, shall all agree to each act of procurement to be made under this section, as authorized by the Illinois Emergency Management Agency Act, 20 ILCS 3305/10(j), as may hereinafter be amended.

Sec. 2-329. - Declaration of disaster by governor.

A proclamation of disaster by the governor of Illinois pertaining to any part of the geographic area of the Village shall activate the village's emergency operations plan and authorizes the deployment and use of any forces that the emergency operations plan applies and as well as the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled or arranged to be made available under any mutual aid agreement, memorandum of understanding or other lawful arrangement relating to disasters, as provided by the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(11), as may hereinafter be amended.

Sec. 2-330. - Mobile support team.

As authorized by the Illinois Emergency Management Agency Act, 20 ILCS 3305/8, as may hereinafter be amended, employees and officers of the village who are called by the governor or the director of the Illinois Emergency Management Agency to serve on a mobile support team shall receive the compensation and have the powers, duties, rights and immunities incident to such employment or office. Employees of the village who are not normally paid for their services shall receive at least one dollar per year compensation from the state of Illinois for serving on a mobile response team when called to do so by the governor or the director of the Illinois Emergency Management Agency.

Sec. 2-331. - Violations.

Any person who violates the provisions of any curfew declared or order made by the village president pursuant to the provisions of section 2-319 of this article shall be guilty of a violation of this ordinance and shall be subject to the appropriate fine and/or imprisonment as provided by local, state or federal statute.

SECTION 4: That any Village Ordinance or Resolution, or part thereof, in conflict with the provisions of this Ordinance is, to the extent of such conflict, expressly repealed.

SECTION 5: If any provision of this Ordinance is held invalid by a court of competent jurisdiction, such provision shall be stricken and shall not affect any other provision of this Ordinance.

SECTION 6: This Ordinance shall be in full force and effect after its passage, approval, and publication in pamphlet form as provided by law.

Mayor, Village of Roselle

ATTEST:

Village Clerk