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3  
4 **A RESOLUTION/ORDINANCE**

5  
6 Amending Chapter 99 of the Milwaukee County Code of General Ordinances to conform  
7 to Wisconsin State Statutes § 323.14 and § 323.15 establishing an emergency  
8 management plan, program, and the appointment of an Emergency Management  
9 Director, by recommending adoption of the following:

10  
11  
12 WHEREAS, Wis. Stat. § 323.14(1)(a)(2) provides that “[i]n counties having a  
13 county executive under s. 59.17, the county board shall designate the county executive  
14 or confirm his or her appointee as county head of emergency management”; and

15  
16 WHEREAS, one of the duties of the county head of emergency management is  
17 to respond, on behalf of the county, to state of emergencies declared by the Governor  
18 under Wis. Stat. § 323.15(4); and

19  
20 WHEREAS, the 2015 Adopted Budget created the Department of Emergency  
21 Management that included a Director of Emergency Management and on January 31,  
22 2015 the Milwaukee County Board of Supervisors adopted File No. 14-919 amending  
23 the Milwaukee County Code of General Ordinances (MCGO) Section 99.02(1) to  
24 acknowledge the creation of the department; and

25  
26 WHEREAS, Section 99.02 of the MCGO was amended to read that “in  
27 accordance with s. 323.14(1)(a)(2), Wis. Stats., the county executive is hereby  
28 designated as the county emergency management director. In addition to the duties  
29 herein set forth, the county executive shall coordinate and direct, all administrative and  
30 management functions of the county emergency management program in accordance  
31 with ch.323, Wis. Stats”; and

32  
33 WHEREAS, Section 99.04 of the MCGO states that “in the event of a declaration  
34 of emergency proclaimed by the governor, pursuant to his powers under ch. 166, Wis.  
35 Stats., the sheriff shall assume direct control of the county emergency management  
36 program, and shall execute all directives and orders received from the governor of this  
37 state or included in resolutions, ordinances or other pronouncements of the county  
38 board”; and

WHEREAS, Wis. Stat. § 323.14(1)(a)(2) and the MCGO conflict as MCGO Sections 99.04 and 99.085(a) references the sheriff as the controlling authority of the county when the Governor declares an emergency and that the sheriff is responsible for implementation of subsurface and surface rescue and recovery operations; and

WHEREAS, on March 13, 2020, the Milwaukee County Office of Corporation Counsel authored an opinion on Section 99.04 of the MCGO hereto attached to this file and concluded that Chapter 99 was updated to reflect changes in state law and renumber references in the MCGO from state statute chapter 166 to 323, however *sheriff* still appears improperly in subsections 99.04, 99.05, 99.06, 99.07 and 99.085 and Wis.Stat.166 is referenced in sections 99.03, 99.04, 99.06 and 99.08 which is now obsolete; and

WHEREAS, the opinion of Corporation Counsel further suggests that when Chapter 99 was amended in 2015, that the failure to replace *sheriff* with *emergency management director* was an oversight and that a court would likely rule in favor of finding that the Emergency Management Director acts as the head of the emergency management program when the Governor declares an emergency; and

WHEREAS, the Committee on Judiciary, Safety, and General Services, at its meeting of September 10, 2020, recommended adoption of File No. 20-643 (vote 5-0); now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby amends Chapter 99 of the Milwaukee County Code of General Ordinances by adopting the following:

## **AN ORDINANCE**

The Milwaukee County Board of Supervisors ordains the following:

**Section 1. Chapter 99 of the Milwaukee County Code of General Ordinances is hereby amended as follows:**

**Section 99.03 – Policy-making/rule-making committee.**

The committee on judiciary, safety and general services of the county board is established as the standing committee of the county board that shall retain policy-making and rule-making powers in the establishment and development of county emergency management plans and programs under ch. 323 ~~166.03(4)(e)~~, Wis. Stats.

80 **Section 99.04 – State of emergency declared by the governor.**  
81

82 In the event of a declaration of emergency proclaimed by the governor, pursuant to  
83 his powers under ch. ~~323 466~~, Wis. Stats., the emergency management director ~~sheriff~~  
84 shall assume direct control of the county emergency management program, and shall  
85 execute all directives and orders received from the governor of this state or included in  
86 resolutions, ordinances or other pronouncements of the county board.  
87

88 **Section 99.05 – Utilization of existing services and facilities.**  
89

90 (1) *Policy.* In carrying out county emergency management responsibilities under this  
91 chapter, all services, equipment, supplies and facilities of the various  
92 departments of county government may be utilized. All departments of county  
93 government, and their personnel, are directed to cooperate and extend such  
94 services, equipment, supplies and facilities as are required of them.  
95

96 (2) *Responsibility.* In order to assure that in the event of an emergency all the  
97 facilities of the existing county government are expanded to the fullest to meet  
98 such emergency, the following specific responsibilities are assigned to the  
99 following department heads named as coordinators of county emergency  
100 management:  
101

102 (a) Director of emergency management—coordinator of emergency operating  
103 center operations, special staff officer to county executive (operations)  
104 ~~sheriff~~.  
105

106 (b) Director of department of ~~administration~~ administrative services—  
107 coordinator of administration and facilities.  
108

109 (c) Sheriff—coordinator of public safety and security.  
110

111 (d) Director of human services—coordinator of health and welfare.  
112

113 (e) Director of transportation ~~public works and development~~—coordinator of  
114 highways, transit ~~public works~~ and airport ~~sanitation~~.  
115

116 (f) Corporation counsel—special staff officer to county executive and county  
117 board (legal).  
118

119 (3) *Duties.* All departments and institutions shall be charted on a functional  
120 organization chart based on their responsibilities and duties, as outlined in the

121 current county emergency operations plan and pursuant to ch. 323 466, Wis.  
122 Stats.

123 **Section 99.06 – Unification and consolidation of county emergency management**  
124 **functions.**

125  
126 To reduce the overall cost of the emergency management to the county, and to  
127 increase the efficiency and effectiveness to the various emergency management units  
128 within the county, the emergency management director ~~sheriff~~, wherever appropriate,  
129 may negotiate agreements of mutual aid with other municipalities or counties in the  
130 metropolitan community pursuant to ch. 323 466, s. 59.03(2)(a) ~~59.083(1)~~ or 66.0301  
131 ~~66.30~~, Wis. Stats. Such agreements shall not be binding on the county until approved  
132 by the county board of supervisors.

133  
134 **Section 99.07 – Federal and state contributions to civil defense.**

135  
136 The emergency management director ~~sheriff~~, when appropriate, shall apply in the  
137 name of the county for federal and state funds and sign, in the name of the county, any  
138 necessary granting agreements with the state and federal governments.

139  
140 **Section 99.08 – Designation of alternate site for county government.**

141  
142 Whenever, during the continuance of a state of emergency proclaimed by the  
143 governor under ch. 323 466, Wis. Stats., it becomes imprudent, inexpedient or  
144 impossible to conduct the affairs of the county at the regular or usual place of business  
145 in the courthouse within the City of Milwaukee, the county board, upon call of the  
146 presiding officer or his/her successor, shall assemble and meet at any place within or  
147 without the territorial limits of the county pursuant to ch. 323 466, Wis. Stats. Said  
148 meeting place is hereby designated to be the alternate or substitute as a temporary  
149 emergency location for the conduct and transaction of all public business by the county  
150 board, and other officers of the county shall exercise as such location pursuant to ch.  
151 323 466, Wis. Stats., all of the executive, legislative, administrative and judicial powers  
152 and functions conferred upon this governing body and officers by or under the laws of  
153 this state, and all acts of this governing body and officers shall be valid and binding as if  
154 performed within the territorial limits of the county.

155  
156 **Section 99.085 – Intent and policy; definitions; assistance to other agencies;**  
157 **sheriff's duties.**

158  
159 (1) *Declaration of policy.* It is the intent of the county board to implement and comply  
160 with ss. 59.54(2) ~~59.07(42)~~ and 59.27(11) ~~59.23(11)~~, Wis. Stats., and thereby  
161 appropriate money for the purchase of boats and other equipment allowing the

162 sheriff to conduct operations in county waters for the rescue of human beings  
163 and recovery of human bodies.

164 (2) *Definitions.* "Emergencies" shall be defined as events arising out of a natural or  
165 civil disaster as declared by the governor, the directives of the county executive  
166 ~~sheriff~~, or resolutions, ordinances or other pronouncements of the county board  
167 as provided in section 99.04 of this chapter.  
168

169 (3) *Requests from other governmental agencies.* When, pursuant to s. 59.28(2)  
170 ~~59.24(2)~~, Wis. Stats., the sheriff receives an order or request to assist other law  
171 enforcement agencies, municipal, state and federal, in search and rescue  
172 operations, the sheriff may respond with such assistance without a formal  
173 declaration of emergency, as provided in subsection (2) of this section.  
174

175 (4) *Sheriff to implement.*  
176

177 (a) The sheriff is directed to designate adequate personnel to act as standby alert  
178 for subsurface and surface rescue and recovery operations and is directed to  
179 provide an adequate training program for such personnel.  
180

181 (b) ~~He/She~~ The sheriff is further ordered to maintain and preserve the equipment  
182 for rescue and recovery in a good and usable condition.  
183

184 (c) The sheriff is further directed to request the county board for proper  
185 budgetary appropriations for the operation of this standby program.  
186

187 **Section 2.** The provisions of this Ordinance shall become effective upon passage and  
188 publication.  
189

190  
191 09/10/20  
192 S:\Committees\2020\Sept\JSGS\Resolutions\20-643 Clancy resolution ordinance amending chapter 99.docx