

CHAPTER 30

PUBLIC SAFETY

ARTICLE I - CIVIL EMERGENCY

30-1-1 **DEFINITIONS.**

“CIVIL EMERGENCY” is hereby defined to be:

(A) A “riot or unlawful assembly” characterized by the use of actual force or violence or any power to execute by **three (3)** or more persons acting together without authority of law; or

(B) Any “natural disaster” or “man-made calamity”, including flood, conflagration, cyclone, tornado, earthquake, or explosion within the corporate limits of the Village resulting in 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.

“CURFEW” is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the Village excepting officials of any governmental unit and persons officially designated to duty with reference to the civil emergency.

30-1-2 DECLARATION OF EMERGENCY. Whenever an emergency as defined in **Section 30-1-1** exists, the Mayor shall declare the existence by means of a written declaration, setting forth the facts which constitute the emergency.

30-1-3 CURFEW. After proclamation of a civil emergency by the Mayor, he may order a general curfew applicable to such geographical areas of the Village or to the Village as a whole as he deems advisable and applicable during such hours of the day or night as he deems necessary in the interest of the public safety and welfare.

30-1-4 **AUTHORITY OF MAYOR TO ISSUE ORDERS.** After the proclamation of a civil emergency, the Mayor may also, in the interest of public safety and welfare, make any or all of the following orders.

(A) 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.

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

(C) Order the discontinuance of selling, distributing or giving away of gasoline or other flammable liquid or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

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

(E) Issue such other orders as are imminently necessary for the protection of life and property.

30-1-5 **EFFECTIVENESS.** The proclamation herein authorized shall be effective for a period of **forty-eight (48) hours** unless sooner terminated by a proclamation of the Mayor indicating that the civil emergency no longer exists. The Mayor shall have the power to reproclaim the existence of a civil emergency at the end of each **forty-eight (48) hour** period during the time the civil emergency exists.

30-1-6 **NOTIFICATION.** Upon issuing the proclamation herein authorized, the Mayor shall notify the news media situated within the Village and shall cause **three (3) copies** of the proclamation declaring the existence of the emergency to be posted at the following places within the Village:

(A) The Village Hall.

(B) The Post Office.

(C) The Fire House.

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

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 Village 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 Village Board.

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 Village Board.

30-2-3 **DUTIES OF THE CHIEF OF POLICE.** The Chief of Police shall exercise general management and control of the Police Department.

(A) He shall supervise over and be responsible for the conduct and performance of all officers and employees of said department.

(B) He shall be the custodian of all stolen goods or other property received and retained under police authority.

(C) He shall be the custodian of all vehicles, equipment, structures, and property provided by the Village for the use of said department.

(D) He shall enforce the provisions of this Code and make such inspections as necessary for the purpose.

(E) He shall perform such other duties as may be assigned to him by the provisions of this Code or by the Corporate Authorities. (See Sec. 5.103 - Village Code)

(F) **Police Record.** He shall provide a suitable police record in which each officer making an arrest shall enter the name of the person arrested, where arrested, on what charge, what property, if any, was taken or found on such person, and how disposed of, and shall also record his own name as the officer making the arrest. The disposition of all cases arising out of such arrests shall be shown on such record.

30-2-4 **APPOINTMENT OF PATROLMEN AND SERGEANT.** A sufficient number of patrolmen and a sergeant shall be appointed by the Mayor, by and with the advice and consent of the Village Board, to serve for **one (1) year** or until his successor is appointed and qualified. A police officer and the sergeant may be appointed by the Mayor and Village Board if he meets the necessary qualifications, notwithstanding the fact that the patrolman or the sergeant is not a resident of the Village when appointed or when he is to serve as such an official. **(Ord. No. 98-03; 03-18-98)**

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

30-2-6 **DUTIES.** The policeman and the sergeant 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 Village and with the duty of protecting the rights of persons and property and of enforcing all laws and also all orders of the Village Board. 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 Village Board, execute all its orders and close the Board 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 Village or laws of the State of Illinois. In addition, the sergeant shall assist the Chief of Police, as requested, and shall perform administrative duties as prescribed by the Chief of Police, including, but not limited to, evaluating the performance of patrolmen, compiling department activity statistics, providing on-the-job training of patrolmen and coordinating specific programs and activities on behalf of the Department. **(Ord. No. 98-03; 03-18-98)**

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

30-2-8 **APPOINTMENT OF PATROLMEN.** A sufficient number of patrolmen shall be appointed by the Mayor, by and with the advice and consent of the Village Board, and they shall severally hold office from year to year, or until the appointment and qualification of their respective successors and shall each, before entering into the performance of their duties, take the oath or affirmation required by law.

30-2-9 **SPECIAL POLICEMEN.** The Mayor may, on special occasions when, in his judgment for public peace and order of the Village 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 Village Board 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.

30-2-10 **LEGAL PROCESSES.** All police shall have the power and authority to execute Village warrants or other similar legal processes outside the corporate limits of the Village and within such distance therefrom as authorized by law in all cases when any

ordinance of the Village Board 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 Village.

30-2-11 **ASSISTING POLICE OFFICER.** Every police officer of the Village 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.

30-2-12 **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.

30-2-13 **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.

30-2-14 **AIDING IN ESCAPE.** It shall be unlawful for any person in this Village 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.

30-2-15 **USE OF INTOXICATING LIQUOR.** No member on an active tour of duty or while wearing the official policeman's badge of the Village shall indulge in the use of intoxicating liquor of any kind and intoxication at any time shall be sufficient cause for removal.

30-2-16 **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 Village 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 Village Treasurer.

30-2-17 **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.

30-2-18 **STOLEN PROPERTY.** The Chief of Police shall be the custodian of all lost and abandoned or stolen property in the Village. **(See 65 ILCS Sec. 5/11-1-1 through 5/11-1-7)**

30-2-19 **TRAINING STANDARDS.**

(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 Standards Board.

(B) The aforesaid hiring standard, particularly with respect to part-time police officers employed by the Village of New Berlin, Sangamon County, Illinois, shall be submitted to the Illinois Law Enforcement Training Standards Board, as required by statute. **(Ord. No. 97-11; 11-19-97) (65 ILCS 5/3.1-30-21)**

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

ARTICLE III

EMERGENCY SERVICES AND DISASTER AGENCY
(ESDA)

30-3-1 **DEFINITIONS.**

“Emergency Services” means the preparation for and the carrying out of such functions, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, accident, or other manmade or natural causes. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and 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 the preparation for the carrying out of the foregoing functions.

“Disaster” means an occurrence of threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including but not limited to, fire, flood, earthquake, wind, storm, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, riot, accident, or hostile military or para-military action. “Disaster” includes but is not limited to all occurrences and threats thereof which are contemplated by the concept of “Emergency Services and Disaster Operations”.

“Disaster Operations” means the functions created in accordance with the provisions of this Code to be performed by the Village and other political subdivisions to alleviate the effects of disasters.

“Coordinator” means the staff assistant to the President of the Village of New Berlin with the duty of carrying out the requirements of this Code.

“Political Subdivision” means any county, city, village or incorporated town.

“United States” means the several states, the District of Columbia, and possessions thereof.

30-3-2 **LIMITATIONS.** Nothing in this Code shall be construed to:

(A) Interfere with the course or conduct of a private labor dispute, except that action 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 the dissemination of news or comment of public affairs; but any communications facility or organization (including but not limited to

newspapers and radio and television stations) may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster or emergency;

(C) After the jurisdiction or responsibilities of police forces, firefighting forces, units of the armed forces of the United States, or any personnel thereof, when on active duty; but the Village of New Berlin Emergency Preparedness Plan shall place reliance upon such forces available for performance of functions related to disaster emergencies;

(D) Limit, modify, or abridge the authority of the Village President or the Board of Trustees vested in them under the Constitution, Statutes, or common law of this State or Village, independent of or in conjunction with any provisions of this Code.

30-3-3 ESTABLISHMENT.

(A) There is hereby created an Emergency Services and Disaster Agency to prevent, minimize, repair and alleviate injury or damage resulting from disaster caused by enemy attack, sabotage, or other hostile action, or from natural or manmade disaster, in accordance with "The Illinois Emergency Management Act of 1992".

(B) This agency will supersede any Civil Defense agency heretofore authorized, and shall be known as the New Berlin Emergency Services and Disaster Agency (hereinafter E.S.D.A.).

(C) The New Berlin E.S.D.A. shall consist of the Coordinator and other such technical, clerical, and administrative personnel as may be selected by the Coordinator with the approval of the Village President or Village Administrator. The Coordinator may make such expenditures within his appropriation in accordance with the guidelines set forth by the Village for expenditures, as may be necessary to carry out the purpose of this Code.

(D) The New Berlin E.S.D.A. shall have jurisdiction over and serve the entire Village of New Berlin, Village property not located within the Corporate Limits of the Village, and with the approval of the Village Board of Trustees, any other area which may decide to contract with the Village of New Berlin for emergency services and disaster assistance.

30-3-4 COORDINATOR.

(A) The Coordinator of the New Berlin E.S.D.A. shall be appointed by the President of the Village of New Berlin with the concurrence of the Board of Trustees and shall serve until removed by same.

(B) The Coordinator shall have direct responsibility for the organization, administration, training and operation of the New Berlin E.S.D.A. as prescribed in the Village of New Berlin Emergency Preparedness Plan subject to the

direction and control of the Village President. He shall coordinate the activities of all organizations for emergency services and disaster operations within the area served by the New Berlin E.S.D.A. and shall maintain liaison and cooperate with the Emergency Services and Disaster Agency of the County of Sangamon.

(C) In the event of the absence, resignation, death, or inability of the Coordinator to serve, the President of the Village of New Berlin, or any person designated by him, shall act as Coordinator until a new appointment is made as provided in this Code.

30-3-5 FUNCTIONS.

(A) Prepare and keep current a disaster emergency plan for the New Berlin E.S.D.A.

(B) Interrelate with business, labor, industry, agriculture, civic and volunteer organizations and community leaders in the development of such plan.

(C) Prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local departments and offices and of the disaster chain of command.

(D) Cooperate with all other Emergency Services and Disaster Agencies.

(E) Establish, train and maintain such communications unit(s) as may be deemed proper by the Village Board of Trustees.

(F) Establish, train and maintain such other volunteer E.S.D.A. units as may be deemed proper by the Coordinator or the Village President to place the Village in a position to promptly and efficiently respond to disaster.

(G) Prepare, for issuance by the Village President or Board of Trustees, resolutions, proclamations, and regulations as necessary or appropriate in coping with disaster.

(H) Cooperate with the federal, state and County or local 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.

(I) Do all other things necessary, incidental or appropriate for the implementation of this Code.

30-3-6 LOCAL DISASTER EMERGENCIES.

(A) A Local Disaster Emergency may only be declared only by the Village President or Village Board of Trustees. If declared by the Village President, it shall not continue for a period in excess of **seven (7) days** except by or with consent of the Village Board of Trustees. 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 Village Clerk.

(B) The effect of a Local Disaster Emergency is to activate the response and recovery aspects of the New Berlin Emergency Preparedness Plan and to authorize the furnishing of aid and assistance thereunder.

30-3-7 **PURCHASES AND EXPENDITURES.** The Board of Trustees may, on the recommendation of the Coordinator, authorize any purchases or contracts necessary to place the Village in a position to effectively combat any disaster resulting from the explosion of any nuclear or other bomb or missile, and to protect the public health and safety, protect property, and provide emergency assistance to victims in the case of such disaster, or from manmade or natural disaster.

30-3-8 **OATH.** Every person appointed to serve in any capacity in the New Berlin E.S.D.A. shall, before entering upon his duties, subscribe to the oath as set forth in the "Illinois Emergency Management Act of 1992", which oath shall be filed with the ESDA Coordinator of Sangamon County.

30-3-9 **TESTING OF DISASTER WARNING DEVICES.** The testing of disaster warning devices including outdoor warning sirens shall be held only on the **first (1st) Tuesday** of each month at **10:00** in the morning.

30-3-10 **AUTHORITY TO ACCEPT SERVICES, GIFTS, GRANTS OR LOANS.** Whenever the Federal, State or County governments or any agency or officer thereof or whenever any person, firm or corporation shall offer to the Village of New Berlin services, equipment, supplies, materials or funds by way of gift or grant for purposes of Emergency Services and Disaster Operations, the Village, acting through the Board of Trustees, may authorize any officer of the Village to receive such services, equipment, supplies, materials, or funds on behalf of the Village.

30-3-11 **IMMUNITY.** Neither the municipality, the agency or any member thereof or any person acting at their direction, engaged in any emergency services and disaster operation or disaster activities, while complying with or attempting to comply with this Code or any rule or regulation 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.

30-3-12 **APPROPRIATION AND LEVY OF TAX FOR EMERGENCY SERVICES AND DISASTER OPERATIONS.** The Village Board may make appropriations for emergency services and disaster operations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision. The Village Board may also levy for emergency services and disaster 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 Village 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.

30-3-13 **COMPENSATION.** The Village Board, by its annual appropriations ordinance, may provide for the payment of the salary of the Coordinator and such other office staff and personnel as may be expressly provided for in this Article. Nothing herein contained shall prohibit any member of the agency from receiving compensation from the State of Illinois Emergency Management Agency under any provision of this agency.

(Ord. No. 03-03; 01-15-03)