

Edward M. Augustus, Jr.
City Manager



CITY OF WORCESTER

DECLARATION OF EMERGENCY

WHEREAS, on January 30, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the entire United States to aid the nation's healthcare community in responding to the 2019 novel Coronavirus ("COVID-19"); and

WHEREAS, on March 10, 2020, Massachusetts Governor Charles D. Baker issued a proclamation that a State of Emergency exists in the Commonwealth of Massachusetts relative to COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a pandemic; and

WHEREAS, on March 13, 2020, President Donald J. Trump declared a national emergency to deal with COVID-19; and

WHEREAS, the disease caused by COVID-19 is a contagious, and at times fatal, respiratory disease, and

WHEREAS, the effects of its extreme risk of person-to-person transmission significantly affects the life and health of the city's population; and

WHEREAS, both travel-related and community contact spread cases of COVID-19 have been detected in the Commonwealth and Worcester; and

WHEREAS, as of March 15, 2020, there are 2 presumptive cases of COVID-19 in Worcester; and

WHEREAS, it is necessary to take the necessary actions to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of the people of Worcester; and

WHEREAS, declaring a state of emergency will facilitate and expedite the acquisition and use of city, state and federal resources;



OFFICE OF THE CITY MANAGER, CITY HALL, WORCESTER, MA 01608
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NOW THEREFORE, I, Edward M. Augustus, Jr., by virtue of the authority vested in me by the city charter to act as the chief conservator of the peace within the city, and pursuant to Article Seven, Section 8 of the Worcester Revised Ordinances 2015, Part Two, do hereby declare that a state of emergency exists in the entire city of Worcester and I shall from time to time issue recommendations, directives and orders as the circumstances require in furtherance of this declaration.

This declaration of a state of emergency is effective immediately and shall exist until further notice.

ORDERD at City Hall at 4:00 am/pm
this 15th day of March, 2020



Edward M. Augustus, Jr.
City Manager

RESCINDED at _____ am/pm
this ____ day of _____, 2020

Edward M. Augustus, Jr.
City Manager

City of Worcester, Massachusetts

Edward M. Augustus, Jr.
City Manager

Michael E. Traynor
City Solicitor



March 14, 2020

Edward M. Augustus, Jr.
City Manager
City of Worcester, Massachusetts

Re: Authority of the City Manager under a Declaration of Emergency

Dear Mr. Augustus:

The city manager of the City of Worcester is the chief executive officer of the city and possesses all the power, right and duties commonly associated with a municipal chief executive officer. One such power, and duty, is to act as the chief conservator of the peace within the city. (Worcester home rule charter, Section 3-1). While no single state law directly authorizes the chief executive office of a city to declare a "state of emergency" there is both inherent and explicit authority that authorize you to exercise certain powers in an emergency situation.

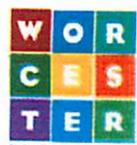
As the chief conservator of the peace the city manager inherently has the authority to exercise extraordinary powers to conserve the public peace, while tailoring such action(s) to the exigency of the circumstances and the necessity to protect the public.

A number of state statutes exist that specifically authorize the exercise of certain powers in an emergency situation:

- M.G.L. c. 40, §37A – Curfews
- M.G.L. c. 138, §68 – Prohibition of Alcohol Sales
- M.G.L. c. 21G, §§15-17
- M.G.L. c. 44, §31 – Expenditure in Excess of Appropriation
- M.G.L. c. 30B, §8, M.G.L. c. 149, §44A(4) – Waivers from Public Bidding and Procurement Laws

In amplification of the city manager's inherent powers under the Home Rule Charter, Article 7, Section 8 of the Revised Ordinances of 2015, Part Two, specifically authorizes the city manager to declare a state of emergency. The ordinance, a copy of which is attached, sets out the procedure the city manager is to follow when declaring a state of emergency and explicit powers and authority that may be exercised.

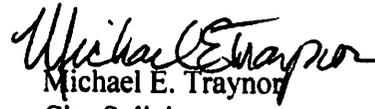
Law Department
Worcester City Hall, 455 Main Street, Room 301 Worcester, Massachusetts 01608
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The ordinance calls for the city manager's state of emergency to state the reasons for its issuance, the geographic area governed by the declaration, what properties or types of property may be appropriated to respond to the emergency (if any) and the extent to which ordinarily lawful activity shall be prohibited or impaired. The declaration shall be transmitted to the city clerk as soon as practicable and the city council may, by two-thirds vote, repeal, rescind or modify any such declaration. The ordinance further provides the city manager with the authority to accept on behalf of the city, any services, equipment, supplies, material or funds by way of gift, grant or loan necessary to abate the emergency.

With respect to the current COVID-19 pandemic and its impact on the city of Worcester, at your request I have prepared a State of Emergency declaration for your issuance. That document is also attached. This declaration is broadly stated with the provision that you may issue specific directives and orders as circumstances so require.

Very truly yours,


Michael E. Traynor
City Solicitor

Attachments (2)

Worcester Revised Ordinances – Part Two – Article Seven

§ 8. Declarations of Emergencies

(a) Whenever any natural disaster, heavy snow or ice storm, drought, or fire, or chemical, biological and nuclear accident or attack, or riot, mob or other act of lawlessness or civil disorder, endangers the health, safety and good order of persons or property within the city, the city manager may declare a state of emergency. Any such declaration shall state the reasons for its issuance, the geographic area governed, what property or types of property may be appropriated to respond to the specified emergency and the extent to which ordinarily lawful activity shall be prohibited or impaired. The city manager shall, as soon as practicable, transmit any such declaration to the city clerk. The city council may, by two-thirds vote, repeal, rescind or modify any such declaration.

(b) During any state of emergency as described herein, the city manager may, within the limits of the amount appropriated therefore, appoint such experts, clerks, assistants, and such personnel as the work of the department may require, and he may remove them. The city manager shall have the authority to appoint district coordinators as may be required. The city manager may make such expenditures within the appropriation therefore, or from other funds available to him, as may be necessary to execute effectively the purpose of chapter 639, Acts of 1950, or any other applicable law. The city manager may take command of any or all motor vehicles and other mechanical means of transportation, and all equipment related thereto, owned or controlled by the city or any of its departments, boards, commissions and agencies, for the duration of the state of emergency and deem such vehicles emergency vehicles. All city employees in possession of such vehicles and equipment shall comply with the directives of the city manager regarding the use of any such vehicle.

(c) The city manager on behalf of the city shall have the authority to receive on behalf of the city, services, equipment, supplies, material or funds by way of gift, grant or loan, for purposes of civil defense, ordered by the federal or state government, or any agency or office thereof, or any person, firm or corporation, subject to the terms of the offer and the rules and regulations, if any, of the agency or entity making the offer.

(d) All references to chapter 639, Acts of 1950, shall be applicable to act or acts in amendment or continuation of or substitution for chapter 639. Nothing in this article shall be deemed to limit or otherwise abridge the emergency powers or direction and control over emergency management or civil defense vested in the city manager by virtue of the Home Rule Charter, any statute or the common law.