

CITY MODEL
EMERGENCY ORDINANCE RELATING TO EMERGENCY
ORGANIZATION AND FUNCTIONS

Disclaimer: This is merely intended to be a sample ordinance. Local jurisdictions must consult local legal counsel in drafting or amending their ordinances.

The (Name of City) governing body does ordain as follows:

Section 1 – PURPOSES

The declared purposes of this ordinance are to provide for the preparation and carrying out of plans for the protection of persons and property within this jurisdiction in the event of an emergency; the direction of the emergency organization; and the coordination of the emergency functions with all other public agencies, corporations, organizations, and affected private persons.

Section 2 – DEFINITION

As used in this ordinance, “emergency” shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this jurisdiction caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities, requiring the combined forces of other political subdivisions to combat.

Section 3 – DISASTER COUNCIL MEMBERSHIP

The (Name of City) Disaster Council is hereby created and shall consist of the following:

- A. The mayor, who shall be chair.
- B. The director of emergency services who shall be vice chair¹.
- C. The assistant director of emergency services².
- D. Such chiefs of emergency services as are provided for in a current emergency plan of this jurisdiction, adopted pursuant to this ordinance³.
- E. Such representatives of civic, business, labor, veterans, professional, or other organizations having an official emergency responsibility, as may be appointed by the director with the advice and consent of the governing body.

Section 4 – DISASTER COUNCIL POWERS AND DUTIES

It shall be the duty of the (Name of City) Disaster Council, and it is hereby empowered, to develop and recommend for adoption by this governing body, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet at least once per year, upon call of the chair or, upon call of the vice chair (in the absence of the chair).

Section 5 – DIRECTOR AND ASSISTANT DIRECTOR OF EMERGENCY SERVICES

- A. There is hereby created the office of director of emergency services. The (City Manager, Chief Administrative Officer, or Mayor), shall be the director of emergency services¹.
- B. There is hereby created the office of assistant director of emergency services, who shall be appointed by the director.

Section 6 – POWERS AND DUTIES OF THE DIRECTOR AND ASSISTANT DIRECTOR OF EMERGENCY SERVICES

- A. The director is hereby empowered to:
 - (1) Request the governing body to proclaim the existence or threatened existence of a “local emergency” if the governing body is in session, or to issue such proclamation if the governing body is not in session⁴. Whenever a local emergency is proclaimed by the director, the governing body shall take action to ratify the proclamation within seven (7) days thereafter or the proclamation shall have no further force or effect⁵.
 - (2) Request the Governor to proclaim a “state of emergency” when, in the opinion of the director, the circumstances are beyond the jurisdiction’s capacity to adequately respond to or recover from the emergency. ⁶.
 - (3) Control and direct the effort of this emergency organization for the accomplishment of the purposes of this ordinance.
 - (4) Direct cooperation between and coordination of services and staff of this emergency organization; and resolve questions of authority and responsibility that may arise between them.
 - (5) Represent this jurisdiction in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.
 - (6) In the event of the proclamation of a “local emergency” as herein provided, the proclamation of a “state of emergency” by the Governor, or the existence of a “state of war emergency,” the director is hereby empowered:
 - (a) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the governing body;
 - (b) To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the jurisdiction for the fair value thereof and, if required immediately, to commandeer the same for public use;

- (c) To require emergency services of any officer or employee and, in the event of the proclamation of a “state of emergency” in the county in which this city is located or the existence of a “state of war emergency,” to command the aid of as many citizens of this community as deemed necessary in the execution of duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster services workers;
 - (d) To requisition necessary personnel or material of the departments or agencies; and
 - (e) To execute all ordinary power as **(City Manager, Chief Administrative Officer, or Mayor)**, all of the special powers conferred by this ordinance or by resolution or emergency plan pursuant hereto adopted by the governing body, all powers conferred by any statute, by any agreement approved by the governing body, and by any other lawful authority⁷.
- B. The director of emergency services shall designate the order of succession to that office, to take effect in the event the director is unavailable to attend meetings and otherwise perform duties during an emergency. Such order of succession shall be approved by the Governing body.
- C. The assistant director shall, under the supervision of the director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency programs of this jurisdiction; and shall have such other powers and duties as may be assigned by the director.

Section 7 – EMERGENCY ORGANIZATION

All officers and employees, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations, and persons who may by agreement or operation of law, including persons impressed into service under the provisions of SEC. 6.A. (6) (c) of this ordinance, be charged with duties incident to the protection of life and property during such emergency, shall constitute the emergency organization of the city of _____ **(Name of City)** ⁸.

Section 8 – COMPLIANCE WITH THE CALIFORNIA EMERGENCY SERVICES ACT

The _____ **(Name of City)** Disaster Council shall comply with the California Emergency Services Act.

Section 9 – EMERGENCY PLAN

The _____ **(Name of City)** Disaster Council shall be responsible for the development of the Emergency Plan, which plan shall provide for the effective mobilization of all of the resources of this jurisdiction, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization, powers and duties, services, and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the governing body.

Section 10 – EXPENDITURES

Any expenditure made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of _____ **(Name of City)** ⁹.

Section 11 – PUNISHMENT OF VIOLATIONS

It shall be a misdemeanor, punishable by a fine of not to exceed one thousand dollars (\$1,000), or by imprisonment for not to exceed six (6) months, or both, for any person, during an emergency, to:

- A. Willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this ordinance, or in the performance of any duty imposed upon him by virtue of this ordinance.
- B. Do any act forbidden by any lawful rule or regulation issued pursuant to this ordinance, if such act is of such a nature as to give or be likely to give assistance to the enemy or imperil the lives or property of inhabitants of this city, or to prevent, hinder, or delay the defense or protection thereof.
- C. Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the State.

Section 12 – REPEAL OF CONFLICTING ORDINANCES¹⁰

Section 13 – EFFECTIVE DATE

This ordinance shall become effective thirty (30) days from and after its passage.

Section 14 – SEVERABILITY

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this ordinance are declared to be severable.

ENDNOTES

¹In city manager or chief administrative officer jurisdictions, that officer should be named director of emergency services; where there is no city manager or chief administrative officer, or in strong mayor jurisdictions, the mayor should be named director.

In the latter case, subsection B of this section should be deleted and the following subsections should be relettered since, under SEC. 5.A. *supra*, the mayor would be appointed director of emergency services.

²Where the mayor is the director of emergency services (see footnote 1) this subsection would read as follows: “The assistant director of emergency services, who shall be vice chair.”

³See Sections 5 and 6, providing for the structure, duties, and functions of the emergency organization.

⁴See Emergency Proclamations – State Emergency Plan (April 2009).

⁵Note the provisions of Section 8630 of the California Emergency Services Act which require that the governing body review, at least every fourteen days until a local emergency is terminated, the need for continuing the local emergency, and further require that the governing body terminate the local emergency at the earliest possible date the conditions warrant.

⁶Section 8625 (b) of the California Emergency Services Act provides that such request is to be made, (1) in the case of a city, by the mayor or chief executive, (2) in the case of a county by the chairman of the board of supervisor’s or the county administrative officer.

⁷General law cities see Section 38791 of the Government Code, regarding authority to provide for a chief executive with special powers during emergencies.

⁸The State of California has provided workers’ compensation benefits for all registered volunteers of an accredited disaster council organization. Requirements for the accrediting of local disaster councils and for the manner in which volunteers must be registered in order to be protected by these workers’ compensation benefits are contained in rules and regulations of the California Governor’s Office of Emergency Services adopted pursuant to Section 8585.5 of the California Emergency Services Act.

⁹See Section 53021 of the Government Code.

¹⁰Under the provisions of Section 8668 (a) of the California Emergency Services Act, existing civil defense and disaster ordinances will remain in full force and effect until revised, amended, or revoked; therefore the existing ordinances should be expressly repealed by number. In subsequent revisions of a city emergency services ordinance, the following proviso should be included in the repealing section in order to preserve existing rights and privileges:

“Provided, that it is the intent of the city council in enacting this ordinance that it shall be considered a revision and continuation of the ordinance repealed by this ordinance, and the status of volunteers shall not be affected by such repeal; nor shall plans and agreements, rules and regulations, or resolutions adopted pursuant to such repealed ordinance be affected by such repeal until amended, modified, or superseded as provided in this ordinance.”