

OUTLINE OF ALTERNATIVES FOR DECLARATION OF HOMELESS EMERGENCY

Santa Rosa City Council Meeting
July 19, 2016

- I. DECLARATION OF SHELTER CRISIS (Government Code sections 8698 – 8698.2)
- A. Threshold: City Council may declare a Shelter Crisis if it finds that a significant number of persons within the City are without the ability to obtain shelter, resulting in a threat to their health and safety.
- B. Benefits: A Declaration of Shelter Crisis facilitates the use of city facilities for emergency shelter, as follows:
- With respect to City facilities, City may suspend any state or local regulatory statute, regulation, or ordinance prescribing standards of housing, health, or safety to the extent that strict compliance “would in any way prevent, hinder, or delay mitigation of the effects of the shelter crisis.”
 - With respect to City facilities, City may enact alternative health and safety standards to be operative during the shelter crisis, consistent with ensuring minimal public health and safety.
 - City is granted immunity from liability for ordinary negligence in the provision of emergency shelter.
 - Liability remains for gross negligence, recklessness and intentional conduct that causes injury.
 - Limitations:
 - Does not allow for waiver of federal standards, such as the Americans with Disabilities Act.
 - Does not apply to use of private property.
- C. Procedure:
- Declaration by City Council
 - Requires Council’s finding that “a significant number of persons within the jurisdiction ... are without the ability to obtain shelter, and that the situation has resulted in a threat to the health and safety of those persons.”
 - Upon adoption of Declaration, City may immediately invoke the benefits of the statute.

II. DECLARATION OF LOCAL EMERGENCY (Government Code sections 8555, 8558, 8630 – 8634; City Code Chapter 2-24)

A. Threshold: The City Council may declare a Local Emergency if it finds, within the territorial limits of the city:

- “Existence of conditions of disaster or of extreme peril to the safety of persons and property”
- “Caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy,”
- “Which are or are likely to be beyond the control of the services, personnel, equipment, and facilities” of the City and require the combined forces of other political subdivisions to combat.

B. Benefits:

- City may promulgate orders and regulations necessary to provide for the protection of life and property.
 - Orders and regulations may be promulgated by City Council or by an official designated by City Council.
 - City Code section 2-24.050 empowers the Director of Emergency Services “to make and issues rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency.”
 - City Code section 2-24.040 designates the City Manager as the Director of Emergency Services.
 - Orders and regulations take effect immediately.
 - Orders and regulations must be in writing and be given widespread publicity and notice.
- State agencies, at their discretion, may provide mutual aid, including personnel, equipment, and other available resources.
- Other local jurisdictions, at their discretion, may also provide mutual aid, including personnel, equipment, and other available resources.
- The City Code further provides that, upon the declaration of local emergency:
 - The Mayor “shall assume general control of the City government and all its branches and shall be responsible for the suppression of disorders and the restoration of normal conditions.”
 - The City Manager is authorized not only to issue rules and regulations (as noted above), but also to obtain vital supplies and equipment at fair market value, to requisition necessary personnel or material of any City department, to engage the services of City officers and employees, to “command the aid of as many citizens . . . as he deems necessary,” and to take other emergency actions as specified in the Code.

C. Procedure:

- Proclamation by the City Council (or proclamation by City Manager, with ratification by City Council within seven days thereafter).
- The Proclamation must be based upon the findings outlined above.
- The Proclamation takes effect immediately upon issuance.
- The Proclamation must be reviewed and renewed by the City Council every thirty days.
- The Proclamation must be terminated “at the earliest possible date that conditions warrant.”
- The Proclamation triggers notification requirements under Standardized Emergency Management System.

III. REQUEST FOR GUBERNATORIAL PROCLAMATION OF STATE OF EMERGENCY (Government Code sections 8558, 8565 – 8574, and 8625-8629)

A. Threshold: The Governor may proclaim a state of emergency if:

- He finds:
 - “Existence of conditions of disaster or of extreme peril to the safety of persons and property”
 - “Caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a ‘state of war emergency’,”
 - “Which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities” of any single local jurisdiction and require the combined forces of a mutual aid region to combat.
- AND
 - He is requested to do so by, in the case of a city, the Mayor or chief executive (City Manager), or
 - He independently finds that the local authority is inadequate to cope with the emergency.

B. Benefits:

- Governor may make, amend and rescind orders and regulations to address emergency conditions.
 - Orders and regulations take effect immediately.
 - Orders and regulations must be in writing and be given widespread publicity and notice.

- Upon termination of state of emergency, orders and regulations have no further force or effect.
- Governor may take actions to mitigate the effects of the emergency, including:
 - Ascertain local needs for food, clothing and other necessities of life.
 - Plan for, procure and pre-position supplies, medicine, materials and equipment.
 - Use and employ any of the property, services and resources of the state as necessary to address the emergency.
 - Provide for mobile support units.
 - Institute training and public information programs.
 - Survey and plan for the use of any private facilities, services and property, and provide for payment for that use, if necessary.
- Governor may suspend any state regulatory statute (or the orders, rules or regulations of any state agency) if the Governor determines and declares that strict compliance with such statute, order, rule or regulation “would in any way prevent, hinder, or delay the mitigation of the effects of the emergency.”
- Governor may also temporarily suspend any state or local statute, ordinance, regulation or rule imposing non-safety related restrictions on the delivery of food products, pharmaceuticals, and other emergency necessities distributed through retail or institutional channels.
- Governor may direct state agencies to utilize and employ state personnel, equipment and facilities to prevent or alleviate actual and threatened damage due to the emergency.
- Governor may direct state agencies to provide supplemental services and equipment to political subdivisions to restore any service which must be restored in order to provide for the health and safety of the citizens of the affected area.
- Governor may commandeer or utilize any private property or personnel deemed by him necessary in carrying out the responsibilities vested in him as Chief Executive of the state and shall pay the reasonable value thereof.

C. Procedure:

- Pursuant to City Code section 2-24.050, the Director of Emergency Services (City Manager) is authorized to request that the Governor proclaim a state of emergency “when, in the opinion of the Director, the locally available resources are inadequate to cope with the emergency.”
- Once requested, issuance of the Proclamation is within the sole discretion of the Governor.
- The Proclamation takes effect immediately upon issuance.
- The Proclamation must be in writing and be filed in the office of the Secretary of state.
- The Proclamation shall be terminated “at the earliest possible date that conditions warrant.”