

<b>REQUEST FOR COUNCIL ACTION</b> CITY OF SAN DIEGO	CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY)
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TO: CITY COUNCIL	FROM (ORIGINATING DEPARTMENT): Homeland Security	DATE: 10/12/2015
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SUBJECT: Public Emergency Procedures Municipal Code Update.

PRIMARY CONTACT (NAME, PHONE): Katherine Jackson, 619-533-6761	SECONDARY CONTACT (NAME, PHONE): John Valencia, 619-533-6763
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**COMPLETE FOR ACCOUNTING PURPOSES**

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

**COST SUMMARY (IF APPLICABLE):**

**ROUTING AND APPROVALS**

CONTRIBUTORS/REVIEWERS:	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
Liaison Office	ORIG DEPT.	Valencia, John	10/14/2015
Environmental Analysis	CFO		
	DEPUTY CHIEF		
	COO		
	CITY ATTORNEY		
	COUNCIL PRESIDENTS OFFICE		

PREPARATION OF:     RESOLUTIONS     ORDINANCE(S)     AGREEMENT(S)     DEED(S)

Amending Chapter 5, Article 1, Division 1 of the San Diego Municipal Code by amending Sections 51.0101 to 51.0111, all relating to Public Emergency Procedures.

STAFF RECOMMENDATIONS:  
Approve Requested Action.

**SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)**

COUNCIL DISTRICT(S):	All
COMMUNITY AREA(S):	All

ENVIRONMENTAL IMPACT:	The project is exempt from CEQA, Section 15061(b)(3) which states CEQA only applies to projects which have the potential for causing a significant effect on the environment.
CITY CLERK INSTRUCTIONS:	

**COUNCIL ACTION  
EXECUTIVE SUMMARY SHEET  
CITY OF SAN DIEGO**

DATE: 10/12/2015

ORIGINATING DEPARTMENT: Homeland Security

SUBJECT: Public Emergency Procedures Municipal Code Update.

COUNCIL DISTRICT(S): All

CONTACT/PHONE NUMBER: Katherine Jackson/619-533-6761

**DESCRIPTIVE SUMMARY OF ITEM:**

The Office of Homeland Security requests Council adoption of an ordinance amending Chapter 5, Article 1, Division 1 of the San Diego Municipal Code. This Municipal Code update is requested in response to the 2014 Performance Audit of the Office of Homeland Security. The purpose of this Municipal Code update is to better align with the California Office of Emergency Services recommended best practices and reflect the City's change to Strong Mayor government.

**STAFF RECOMMENDATION:**

Approve Requested Action.

**EXECUTIVE SUMMARY OF ITEM BACKGROUND:**

As part of a 2014 Performance Audit of the City Office of Homeland Security, an update of Chapter 5, Article 1, Division 1 of the San Diego Municipal Code was recommended as a Priority Class 3 (lowest priority) recommendation. This section of the Municipal Code addresses public emergency procedures, specifically preparation and execution of emergency plans.

The last major revision to this portion of the Municipal Code was in 1976. Since the 1976 update, there have been significant changes to the California Emergency Services Act, the establishment of the U.S. Department of Homeland Security, development and formalization of the National Incident Management System (NIMS) and the State Emergency Management System (SEMS), and a local transition to Strong Mayor form of government. The purpose of this Municipal Code update is to better align with Federal California Office of Emergency Services recommended best practices and reflect the City's change to Strong Mayor government.

Changes proposed in this amendment include:

- Composition and meeting requirements of the Disaster Council
- Powers and duties of the Director of Emergency Services and Assistant Director of Emergency Services
- Order of succession to the Director of Emergency Services and confirmation requirement
- Filling of vacancies in the Office of the Assistant Director of Emergency Services
- Tasking the Office of Homeland Security with development and maintenance of the City Emergency Operations Plan
- Increased fine for violations
- Renumbering and grammatical changes to conform with the City's Standard Correspondence Manual

This amendment will include the Executive Director of the Office of Homeland Security in the Disaster Council and require regular meetings to increase opportunities for collaboration and

coordination among public safety stakeholders within the City, including additional employee training on the emergency management program.

CITY STRATEGIC PLAN GOAL(S)/OBJECTIVE(S):

Goal #2: Work in partnership with all of our communities to achieve safe and livable neighborhoods.

Objective #1: Protect lives, property, and the environment through timely and effective response in all communities.

FISCAL CONSIDERATIONS: None

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE): N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION (describe any changes made to the item from what was presented at committee):

On February 5, 1974, Council approved O-11230 N.S.

On April 21, 1976, Council approved O-11833 N.S.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Valencia, John

Originating Department

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Deputy Chief/Chief Operating Officer

**Chapter 5**  
**Public Safety, Morals and Welfare**  
**Article 1: Public Emergency Procedures**  
**Division 1: Public Emergency Procedures**  
*(Editors note: Division 1 created 11-3-1988 for clarity.)*

**§51.0101 Purposes**

The declared purposes of this Article are to provide for the preparation and carrying out of plans for the protection of persons and property within this City in the event of an emergency; the direction of an emergency organization; and the coordination of the emergency functions of this City with all other public agencies, corporations, organizations, and affected private persons. This Article shall be carried out in compliance with the Emergency Services Act, found in the California Government Code sections 8550 et. seq. The provisions of this Article are limited by the provisions of the Charter of ~~The~~ the City of San Diego, Sections ~~17~~, 24, ~~27~~ and ~~29527~~.

*(Added 2-5-1974 by O-11230 N.S.)*

**§51.0102 Definition**

As used in this Article, “emergency” shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the public peace, health or safety of persons or property within this City caused by, but not limited to, 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 dispute, 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.~~

*(Amended 4-21-1976 by O-11833 N.S.)*

**§51.0103 Disaster Council Membership**

The City of San Diego Disaster Council is hereby created and shall consist of the following:

- (a) The Mayor, who shall be ~~Chairman~~ and Director of Emergency Services.
- (b) The ~~Director of Emergency Services~~ Chief Operating Officer, who shall be Vice Chair ~~man~~ and Assistant Director of Emergency Services.
- (c) The ~~Assistant Director of Emergency Services.~~ Executive Director of the Office of Homeland Security

(d) Such chiefs of Emergency Services as are provided for in a current emergency plan of this City, adopted pursuant to this Article.

(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 ~~confirmation~~ consent of the City Council.

*(Added 2-5-1974 by O-11230 N.S.)*

#### **§51.0104 Disaster Council — Powers and Duties**

It shall be the duty of ~~The~~ the City of San Diego Disaster Council, and it is hereby empowered, to develop and recommend for adoption by the City Council, 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 upon call of the Chair~~man~~, or, in his absence from the City or inability to call such meeting, upon call of the Vice Chair~~man~~ at least three times each calendar year.

*(Added 2-5-1974 by O-11230 N.S.)*

#### **~~§51.0105 Director and Assistant Director of Emergency Services~~**

~~(a) There is hereby created the office of Director of Emergency Services. The City Manager shall be the Director of Emergency Services.~~

~~(b) There is hereby created the office of Assistant Director of Emergency Services, who shall be appointed by the Director.~~

*(Added 2-5-1974 by O-11230 N.S.)*

#### **§51.01056 Powers and Duties of the Director and Assistant Director of Emergency Services**

(a) The Director is hereby empowered to:

(1) Request the City Council to proclaim the existence or threatened existence of a “local emergency” if the City Council is in session, or to issue such proclamation if the City Council is not in session. Whenever a local emergency is proclaimed by the Director, the City Council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect.

(2) Request the Governor to proclaim a “state of emergency” when, in the opinion of The Director, the locally available resources are inadequate to cope with the emergency.

(3) ~~Control and direct~~ Guide the effort of the emergency organization of this City for the accomplishment of the purposes of this Article.

(4) Direct cooperation ~~between the and~~ coordination of services and staff of the emergency organization of this City; and resolve questions of authority and responsibility that may arise between ~~the~~ elements of the emergency organization.

(5) Represent this City 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 proclamations of a "state of emergency" by the Governor or the Director of the State Office of Emergency Services, 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 City Council;

(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 City for the fair value thereof and, if required immediately, to commandeer the same for public use within the confines of the Charter of The City of San Diego and state law;

(C) To require emergency services of any City 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 ~~he deems~~ deemed necessary in the execution of ~~his assigned~~ duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster service workers;

(D) To requisition necessary personnel or material of any City department or agency; and

(E) To execute all ~~of his~~ ordinary powers as ~~City Manager~~ Mayor, all of the special powers conferred upon ~~him the Director~~ by this ordinance or by resolution or emergency plan pursuant hereto adopted by the City Council, all powers conferred upon ~~him the Director~~ by any statute, by any agreement approved by the City Council, and by any other lawful authority.

(b) ~~The Director of Emergency Services shall designate the order of succession to that office, to take effect in~~ In the event the Director is unavailable ~~to attend meetings~~ or is otherwise unable to perform ~~his necessary~~ duties as the Director of Emergency Services during an emergency, individuals listed below who hold permanent appointments to the

following positions automatically serve as Acting Director of Emergency Services (in descending order): ~~The succession of an individual to the office of Acting Director of Emergency Services is subject to City Council approval within seven days.~~

- 1) Chief Operating Officer
- 2) Assistant Chief Operating Officer
- 3) Deputy Chief Operating Officer, Infrastructure / Public Works
- 4) Police Chief
- 5) Fire Chief

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The succession of an individual to the office of Acting Director of Emergency Services is subject to City Council approval within seven days of the succession.

~~This succession applies only in circumstances in which the Mayor is unable to serve specifically in the role of Director of Emergency Services, and pertains only to those the Director of Emergency Service's associated duties and responsibilities.- This succession does not address vacancies to the Office of the Mayor.~~

~~Such order of succession shall be approved by the City Council.~~

(c) The Assistant Director shall, under the supervision of the Director and with the assistance of the Office of Homeland Security and Emergency Service chiefs, develop emergency plans and manage the emergency programs of this City; develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements for such ordinances, resolutions, and rules and regulations as necessary to implement such plans and agreements, and shall have such other powers and duties as may be assigned by the Director.

(d) In the event the Assistant Director is unable to perform necessary duties, the Director of Emergency Services shall appoint an Acting Assistant Director.

*(Added 2-5-1974 by O-11230 N.S.)*

## **§51.01067 Emergency Organization**

All officers and employees of this City, 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. 51.0106a6c of this ordinance, be charged with duties incident to the protection of life and property in this City during such emergency, shall constitute the emergency organization of ~~The~~ the City of San Diego.

*(Added 2-5-1974 by O-11230 N.S.)*

**§51.01078 Emergency Operations Plan**

The City ~~Office of Homeland Security of San Diego Disaster Council~~ shall be responsible for the development and maintenance of ~~the~~ City of San Diego Emergency Operations Plan, which plan shall provide for the effective mobilization of all the resources of this City, 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 City Council.

*(Added 2-5-1974 by O-11230 N.S.)*

**§51.01089 Expenditures**

Any expenditures made in connection with emergency activities, notwithstanding approved including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City of San Diego.

*(Added 2-5-1974 by O-11230 N.S.)*

**§51.010910 Punishment of Violations**

It shall be a misdemeanor, punishable by a fine of not to exceed five one thousand hundred dollars (\$51,000), or by imprisonment for not to exceed six months, or both, for any person, during an emergency to:

(a) Willfully obstruct, hinder, or delay any peace officer or any member of the Emergency Organization in the enforcement of any lawful rule or regulation issued pursuant to this Article, or in the performance of any duty imposed upon ~~him~~the individual by virtue of this Article.

(b) Do any act forbidden by any lawful rule or regulation issued pursuant to this Article, if such act is of such a nature as to give or be likely to give assistance to the enemy or to 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 an emergency agency the emergency organization~~ of the stateCity.

*(Added 2-5-1974 by O-11230 N.S.)*

**§51.01101 Severability**

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

*(Added 2-5-1974 by O-11230 N.S.)*

**Chapter 5**  
**Public Safety, Morals and Welfare**  
**Article 1: Public Emergency Procedures**  
**Division 1: Public Emergency Procedures**  
*(Editors note: Division 1 created 11-3-1988 for clarity.)*

**§51.0101 Purposes**

The declared purposes of this Article are to provide for the preparation and carrying out of plans for the protection of persons and property within this City in the event of an emergency; the direction of an emergency organization; and the coordination of the emergency functions of this City with all other public agencies, corporations, organizations, and affected private persons. This Article shall be carried out in compliance with the Emergency Services Act, found in the California Government Code sections 8550 et. seq. The provisions of this Article are limited by the provisions of the Charter of the City of San Diego, Sections , 24, 27 and 295.

*(Added 2-5-1974 by O-11230 N.S.)*

**§51.0102 Definition**

As used in this Article, “emergency” shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the public peace, health or safety of persons or property within this City caused by, but not limited to, 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 dispute, 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.

*(Amended 4-21-1976 by O-11833 N.S.)*

**§51.0103 Disaster Council Membership**

The City of San Diego Disaster Council is hereby created and shall consist of the following:

- (a) The Mayor, who shall be Chair and Director of Emergency Services.
- (b) The Chief Operating Officer, who shall be Vice Chair and Assistant Director of Emergency Services
- (c) The Executive Director of the Office of Homeland Security

(d) Such chiefs of Emergency Services as are provided for in a current emergency plan of this City, adopted pursuant to this Article.

(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 confirmation of the City Council.

*(Added 2-5-1974 by O-11230 N.S.)*

#### **§51.0104 Disaster Council — Powers and Duties**

It shall be the duty of the City of San Diego Disaster Council, and it is hereby empowered, to develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements and such ordinances, resolutions, and rules and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet upon call of the Chair, or, in his absence from the City or inability to call such meeting, upon call of the Vice Chair at least three times each calendar year.

*(Added 2-5-1974 by O-11230 N.S.)*

#### **§51.0105 Powers and Duties of the Director and Assistant Director of Emergency Services**

(a) The Director is hereby empowered to:

(1) Request the City Council to proclaim the existence or threatened existence of a “local emergency” if the City Council is in session, or to issue such proclamation if the City Council is not in session. Whenever a local emergency is proclaimed by the Director, the City Council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect.

(2) Request the Governor to proclaim a “state of emergency” when, in the opinion of The Director, the locally available resources are inadequate to cope with the emergency.

(3) Guide the effort of the emergency organization of this City for the accomplishment of the purposes of this Article.

(4) Direct cooperation and coordination of services and staff of the emergency organization of this City; and resolve questions of authority and responsibility that may arise between elements of the emergency organization.

(5) Represent this City 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 proclamations of a “state of emergency” by the Governor or the Director of

the State Office of Emergency Services, 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 City Council;

(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 City for the fair value thereof and, if required immediately, to commandeer the same for public use within the confines of the Charter of The City of San Diego and state law;

(C) To require emergency services of any City 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 assigned duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster service workers;

(D) To requisition necessary personnel or material of any City department or agency; and

(E) To execute all ordinary powers as Mayor, all of the special powers conferred upon the Director by this ordinance or by resolution or emergency plan pursuant hereto adopted by the City Council, all powers conferred upon the Director by any statute, by any agreement approved by the City Council, and by any other lawful authority.

(b) In the event the Director is unavailable or is otherwise unable to perform necessary duties as the Director of Emergency Services during an emergency, individuals listed below who hold permanent appointments to the following positions automatically serve as Acting Director of Emergency Services (in descending order):

- 1) Chief Operating Officer
- 2) Assistant Chief Operating Officer
- 3) Deputy Chief Operating Officer, Infrastructure / Public Works
- 4) Police Chief
- 5) Fire Chief

The succession of an individual to the office of Acting Director of Emergency Services is subject to City Council approval within seven days of the succession.

This succession applies only in circumstances in which the Mayor is unable to serve specifically in the role of Director of Emergency Services, and pertains only to the Director of Emergency Service's associated duties and responsibilities. This succession does not address vacancies to the Office of the Mayor.

(c) The Assistant Director shall, under the supervision of the Director and with the assistance of the Office of Homeland Security and Emergency Service chiefs, manage the emergency programs of this City; develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements for such ordinances, resolutions, and rules and regulations as necessary to implement such plans and agreements, and shall have such other powers and duties as may be assigned by the Director.

(d) In the event the Assistant Director is unable to perform necessary duties, the Director of Emergency Services shall appoint an Acting Assistant Director.

*(Added 2-5-1974 by O-11230 N.S.)*

#### **§51.0106 Emergency Organization**

All officers and employees of this City, 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. 51.0106a6c of this ordinance, be charged with duties incident to the protection of life and property in this City during such emergency, shall constitute the emergency organization of the City of San Diego.

*(Added 2-5-1974 by O-11230 N.S.)*

#### **§51.0107 Emergency Operations Plan**

The City Office of Homeland Security shall be responsible for the development and maintenance of the City of San Diego Emergency Operations Plan, which plan shall provide for the effective mobilization of all the resources of this City, 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 City Council.

*(Added 2-5-1974 by O-11230 N.S.)*

#### **§51.0108 Expenditures**

Any expenditures made in connection with emergency activities, notwithstanding approved mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City of San Diego.

*(Added 2-5-1974 by O-11230 N.S.)*

**§51.0109 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 months, or both, for any person, during an emergency to:

(a) Willfully obstruct, hinder, or delay any peace officer or any member of the Emergency Organization in the enforcement of any lawful rule or regulation issued pursuant to this Article, or in the performance of any duty imposed upon the individual by virtue of this Article.

(b) Do any act forbidden by any lawful rule or regulation issued pursuant to this Article, if such act is of such a nature as to give or be likely to give assistance to the enemy or to 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 organization of the City.

*(Added 2-5-1974 by O-11230 N.S.)*

**§51.0110 Severability**

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

*(Added 2-5-1974 by O-11230 N.S.)*