

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 8.08 OF TITLE 8 OF THE SAN JOSE MUNICIPAL CODE TO CLARIFY ROLES AND RESPONSIBILITIES, DEFINE KEY TERMINOLOGY, AND ADD CONTINUITY OF GOVERNMENT TO ASSIST THE DIRECTOR OF EMERGENCY SERVICES IN PROVIDING DIRECTION TO THE EMERGENCY MANAGEMENT ORGANIZATION**

**WHEREAS**, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure & Policy Making resulting in no changes to the physical environment); and

**WHEREAS**, the City Council of the City of San José is the decision-making body for this Ordinance; and

**WHEREAS**, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

**NOW, THEREFORE**, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Chapter 8.08 of Title 8 of the San José Municipal Code is amended to read as follows:

**CHAPTER 8.08**

**EMERGENCY MANAGEMENT OFFICE OF EMERGENCY SERVICES**

## Part 12

### Emergency Management~~Office of Emergency Services~~

#### 8.08.010 Purpose

The purpose of this Chapter is to establish, in accordance with state laws and regulations, the authorities and systems that provide for the preparation and execution of plans for the protection of persons, property, and the environment within this City in the event of an emergency; provide the direction for the emergency organization; the coordination of emergency and recovery functions of this City with all other public agencies, corporations, organizations and affected persons; and the continuity of the local government.

#### 8.08.020 Definitions

The following definitions shall apply to this Chapter:

##### A. Emergencies:

1. "Local Emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the jurisdictional limits of the City, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are and are likely to be beyond the control of the services, personnel, equipment, and facilities of the political subdivision.

2. "State of Emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the City caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, 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 the City.
  
3. "Presidential Declaration of a Federal Major Disaster or Emergency." For the purposes of a Presidential Declaration of a Federal Major Disaster or Emergency, the following definitions apply:
  - a. A "Major Disaster" is defined as any natural catastrophe (including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the U.S. which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Federal Stafford Disaster Relief and Emergency Assistance Act to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardships, or suffering caused thereby.
  
  - b. An "Emergency" is defined as any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement state and local efforts and capabilities to save lives

and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the U.S.

4. "State of War Emergency" means the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.

B. "EOC" means Emergency Operations Center as further defined in Section 8.08.080.

C. "Incident Command System" ("ICS") is a management system used for on scene field operations for small to complex incidents. The essential concepts of ICS are, unity of command, common terminology, management by objective, flexible and modular organization, and span of control using incident action plans. The ICS functions are command, operations, planning, logistics and finance.

D. "National Incident Management System" ("NIMS") is a federal incident management system. The components of NIMS are: preparedness, management of communications, information, resources, command, and ongoing maintenance of an emergency management program.

E. "OEM" means City Manager's Office of Emergency Management.

F. "Standardized Emergency Management System" ("SEMS"):

1. SEMS is used for managing emergencies involving multiple jurisdictions and agencies. SEMS consists of five (5) organizational levels, which are activated as necessary:

a. Field response;

b. Local government;

c. Operational area;

d. Region (of the state); and

e. State.

2. SEMS incorporates the functions and principles of the Incident Command System (ICS), the California Master Mutual Aid Agreement, existing mutual aid agreements or systems, the operational area concept, and multi-agency or inter-agency coordination.

G. "Unavailable" means that during a local, state, or federal emergency, an officer is either killed, missing, or so seriously injured as to be unable to attend meetings and otherwise perform their duties. Any question as to whether a particular officer is Unavailable shall be settled by the governing body of the City or the remaining available members of said body (including standby officers who are serving on such governing body).

**8.08.030200 Offices Created Director of Emergency Services**

- A. The City Manager shall serve as the Director of Emergency Services with the full power and authority ~~and head~~ of the Office of Director of Emergency Services.
- 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 his or her duties during an emergency.
- C. The Director of Emergency Services shall appoint ~~the an~~ Assistant Director of Emergency Services and shall designate the order of succession ~~to that Office~~.
- D. ~~The Office of Emergency Services Coordinator shall, under the supervision of the Assistant Director and with the assistance of the chiefs of Emergency Services, develop emergency plans, manage the emergency programs of the City and shall have such other powers and duties as may be assigned by the Director.~~  
The Director of Emergency Services shall designate at least one Deputy City Manager to serve as the EOC Director with all the authorities of the Director of Emergency Services.
- E. The Director of Emergency Services shall appoint the Director of the OEM and shall designate the order of succession to that position. The Director of the OEM shall, under the guidance of the EOC Director, have such other powers and duties as may be assigned by the Director of Emergency Services.
- F. The Director of Emergency Services may establish and authorize policies to facilitate the emergency management organization and the City's response to any emergency.

### 8.08.040210 Duties

The ~~Office of Emergency Services~~ Director of Emergency Services shall have the following duties:

- A. Request the City Council to proclaim the existence or threatened existence of a "Local eEmergency" if the City Council is in session, or to issue such proclamation if the City Council is not in session. Whenever a Local eEmergency is proclaimed by the Director, the City Council shall take action to ratify the proclamation within seven (7) days thereafter, or the proclamation shall have no further force or effect.
- B. 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.
- C. Control and direct the efforts of the emergency organization of San Josée for the accomplishment of the purposes of this Chapter.
- D. Direct the cooperation between, and coordination of, services and staff of the emergency organization of San Josée for the accomplishment of the purposes of this Chapter.
- E. Represent San Josée in all dealings with public or private agencies on matters pertaining to emergencies as defined in this Chapter.

**8.08.050220 Emergency Management Organization**

All officers and employees of the 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 be charged with duties incident to the protection of life and property in San José during an emergency, shall constitute the City's emergency management organization.

**8.08.060230 Emergency Operations Plan**

- A. The ~~Emergency Services Council~~Office of Emergency Management, in coordination with designated departmental representatives, shall be responsible for the development of the City's Emergency Operations Plan, which shall provide for the effective mobilization of all the resources of San José, 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.~~
- B. Such plan shall take effect upon approval by resolution of the City Council.

**08.08.070 Director of the Office of Emergency Management**

The Director of the OEM shall coordinate and conduct all day-to-day emergency management and homeland security functions and activities as deemed appropriate by the Director of Emergency Services, and with the assistance of the directors of departments identified in the Emergency Operations Plan and the Chiefs of Police and Fire, develop emergency policies, programs, plans, procedures, training, and exercises in accordance with SEMS and NIMS.

### **8.08.080 Emergency Operations Center**

- A. Within the City there shall be designated an EOC which, during times of emergency, serves as a coordination, management and continuity of government center for the local government response.
- B. The OEM may designate a secondary location as an alternate or back-up EOC.
- C. The management and operation of the EOC shall be under the purview of the OEM.
- D. The Director of the OEM shall develop and maintain policies and procedures that ensure the readiness of the EOC.

### **8.08.090 Emergency Management - Incident Command System (ICS), Standardized Emergency Management System (SEMS), National Incident Management System (NIMS)**

As appropriate, all emergencies within the City shall be managed in accordance with the Incident Command System, the Standardized Emergency Management System, and the National Incident Management System.

### **8.08.100 Continuity of Governance**

Each elected official and department head shall designate in writing an alternate(s) to serve when Unavailable so as to maintain continuity of government services within their office or department. A copy of such written designation shall be filed with both the

Clerk of the City Council and the Director of Emergency Services and shall be updated as appropriate.

**8.08.110240 Expenditures**

Any expenditures 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 San José.

**8.08.120250 Powers During Local Emergency or State of Emergency**

In the event of a proclamation of a Local Emergency, or the proclamation 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 of Emergency Services 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 needed for the protection of life and property, and to obligate the City for the fair value thereof and, if required immediately, to commandeer for public use.
- C. To require emergency services of any City officer or employee and, in the event of the proclamation of a State of Emergency in Santa Clara County or the existence of a State of War Emergency, to command the aid of as many citizens of this community as he or she deems necessary. 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.
- E. To execute all of the ordinary powers as City Manager, all of the special powers conferred upon him or her by this Chapter or by Resolution or by the Emergency Operations Plan adopted by the City Council, as well as all powers conferred by any statute, by any agreement approved by the City Council, and by any other lawful authority.

#### **8.08.130260 Acts Constituting Misdemeanors During An Emergency**

It shall be a violation of this Code 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 Chapter, or in the performance of any duty imposed by virtue of this Chapter.
- B. Do any act forbidden by any lawful rule or regulation issued pursuant to this Chapter if such act is 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 agency of the City or state.
- D. Violate any curfew established by any lawful rule, regulation, order, or direction issued pursuant to this Chapter.

**Part ~~21~~**  
**~~Emergency Services~~Disaster Council**

**8.08.~~200010~~ Emergency Services~~Disaster~~ Council**

The City ~~Emergency Services~~Disaster Council, formerly known as the Emergency Services Council, is hereby created.

**8.08.~~210020~~ Membership**

The Disaster Council shall consist of the following members:

A. The City Manager shall be the Director of Emergency Services, and shall be Chair;

B. The Assistant Director of Emergency Services, who shall be Vice Chair;

C. The Mayor;

D. A designated Deputy City Manager who may be appointed to serve as EOC Director;

~~D~~E. The Director of the OEM~~Emergency Services Coordinator~~;

~~E~~F. The Chiefs of Police and Fire and the directors of departments identified in the Emergency Operations Plan~~Such chiefs of Emergency Services as are provided for in the current Emergency Plan of San Jose, adopted pursuant to resolution;~~  
and

~~FG.~~ Representatives of other organizations having an official emergency responsibility, as may be appointed by the Director of Emergency Services ~~with the advice and consent of the City Council.~~

**8.08.220030 Functions, Powers and Duties**

A. ~~The Emergency Services Disaster Council may review and make recommendations to the City Council on: shall recommend to the City Council emergency and mutual aid plans and agreements, resolutions, ordinances, and rules and regulations as are necessary to implement the plans and agreements.~~

~~1. The Emergency Operations Plan;~~

~~2. Mutual-aid agreements relating to emergency management, not including those relating to fire and law enforcement;~~

~~3. The planned organization and integration of volunteer organizations into the City's emergency responses; and~~

~~4. Other items related to emergency management.~~

~~B. The Disaster Council may exercise such powers and duties as are necessary to substantially comply with the rules and regulations established by the Office of Emergency Services for the purpose of being certified by that Office pursuant to Government Code Section 8612.~~

CB. The ~~Emergency Services~~Disaster Council shall meet upon call of the Chair or, in his or her absence from the City or inability to call such meeting, upon call of the Vice Chair.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk