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APPROVED AS TO FORM AND LEGALITY

Roc Diello
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL
ORDINANCE NO. 3487 C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 8.50 TO REFLECT CHANGES IN THE CITY'S EMERGENCY ORGANIZATION, THE CITY'S DISASTER COUNCIL, AND CHANGES IN STATE RULES AND REGULATIONS. THE NEW TITLE OF OMC 8.50 SHALL BE "OAKLAND EMERGENCY SERVICES ORGANIZATION AND DISASTER COUNCIL"

WHEREAS, the California Emergency Services Act, California Gov. Code § 8550 et seq. ("Emergency Act") declares the state's responsibility to mitigate the effects of natural, manmade, and war-caused emergencies which result in conditions of disaster or in extreme peril to life, property, and the resources of the state; and generally to protect the health and safety and preserve the lives and property of the people of the state; and

WHEREAS, the policy and intent of the Emergency Act is that all emergency services functions of the state be coordinated with the comparable functions of the state's political subdivisions, of the federal government and its various departments and agencies, of other states, and of private agencies of every type, to the end that the most effective use may be made of all manpower, resources, and facilities for dealing with emergencies and disasters; and

WHEREAS, the Emergency Act and related regulations cover an entire range of disaster and emergency powers and duties of state and local government to deal with natural or manmade disasters, establish California's Office of Emergency Services (Cal OES), and provides for official state emergency plans which local entities are required to administer in their jurisdictions; and

WHEREAS, Article 14 of the Emergency Act pertaining to state political subdivisions: (1) authorizes local entities to form their Emergency Organizations and Disaster Councils; (2) authorizes local city councils to delegate authority to proclaim a local emergency to a designated city official; and (3) affirms local authority to enter into mutual aid agreements and render mutual aid to affected areas in accordance with local ordinances, resolutions, emergency plans, and enabling agreements; and

WHEREAS, in 2007 the Oakland City Council passed Ordinance No. 12841 C.M.S. which is codified in Chapter 8.50 of the Oakland Municipal Code. Through the passage of

this ordinance and relevant legislation, policies, and regulations the City Council approved the creation of the City's Emergency Management and Disaster Preparedness Council ("Disaster Council"); delegated authority to the City Administrator to proclaim a local emergency subject to ratification by the City Council; and authorized the City to enter into mutual aid agreements with state and regional partners, and to adopt the City's Emergency Response Plan and related plans and incident annexes, as amended from time to time, which comply with California's Standardized Emergency Management System ("SEMS") and the National Incident Management System ("NIMS") regulations and guidelines; and

WHEREAS, since 2007 changes in emergency regulations, operations and standards at the state and local levels have occurred. In 2009, the California Legislature merged the powers, purposes, and responsibilities of the former Office of Emergency Services with those of the Office of Homeland Security into the new California Emergency Management Agency ("Cal EMA"). On July 1, 2013, Governor Edmund G. Brown Jr.'s Reorganization Plan eliminated Cal EMA, restored it to the Governor's Office, and renamed it the California Governor's Office of Emergency Services ("Cal OES"). In 2015, Cal OES published new rules and regulations for implementing changes to the California Emergency Services Act, the California Disaster Assistance Act, Emergency Compacts, and California Disaster and Civil Defense Master Mutual Aid Agreement; and

WHEREAS, changes at the local level include the 2015 changes to the Oakland Fire Department's organization and the reporting structure of the Fire Department's Emergency Management Services Division (OMC Section 2.29.030). The City's Emergency Organization and Disaster Council rules and practices have also continued to evolve to improve the City's emergency services responses; and

WHEREAS, the City Council finds and declares it is necessary to amend Chapter 8.50 to conform to changes in California's emergency laws, rules, and regulations; and to reflect changes in the City's emergency organization, operations and services in order to enhance City's ability to respond to and manage emergencies.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them part of this ordinance.

SECTION 2. Oakland Municipal Code Chapter 8.50 titled Emergency Management Board and Disaster Preparedness Council, is hereby amended to add, delete and modify sections by indicating new chapter and section numbers and titles in **bold type**, additions by **underscoring**, and deletions by **strike-through** type, as shown in the "Redlined Version" included as "Attachment A" and as set forth below:

Chapter 8.50

EMERGENCIES AND DISASTERS

This Ordinance shall be known as “Oakland Emergency Services Organization and Disaster Council.”

8.50.010 Purpose.

The purposes of this Chapter are to provide for the City’s emergency services organization; provide for the duties and authorities of the City’s Disaster Council and the emergency organization; and provide for emergency plans so that the City and mutual aid partners, public agencies, corporations, organizations, and affected private persons and entities can work together to coordinate emergency services for the protection of persons, property, and the environment in the event of an emergency.

8.50.020 Definitions.

Unless the provision or context otherwise requires, the definitions contained in this section govern the construction of this Chapter.

- A. "Local Emergency" means the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of the City caused by such conditions as air pollution, fire, flood, landslide storm, epidemic/pandemic, riot, earthquake, drought, hazardous materials incidents, sudden and severe energy shortage, plant or animal infestation, terrorism, the Governor's warning of an earthquake, conditions resulting from war or imminent threat of war, or other conditions which are or are likely to be beyond the capability or control of the services, personnel, equipment, facilities, or finances of the City, requiring the combined forces of other political subdivisions to combat. This definition shall be deemed to be consistent with the California Emergency Act's definition, as amended from time to time.
- B. "State Emergency" has the same meaning stated in the California Emergency Services Act, as amended from time to time.
- C. "Emergency Services Organization" means all officials, 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, including persons impressed into service under the provisions of this Chapter or state law, be charged with duties incident to the protection of life and property in this City during such emergency.
- D. "Emergency Activation" refers to the City's activation of the Emergency Operations Center ("EOC") to enable City leaders and the entire City

Emergency Organization to respond to and manage responses to an emergency or disaster in accordance with the City's Emergency Plan. The EOC is under the Emergency Management Services Division of the Oakland Fire Department.

- E. "Emergency Plan" means the City's official and approved Emergency Operations Plan and Emergency Support Functions, and other related plans, incident annexes and documents, as amended from time to time, as those are defined in the California Emergency Services Act. The Emergency Plan shall describe the principles and methods to be applied in carrying out emergency operations or rendering mutual aid during emergencies; the Plan shall include such elements as continuity of government, the emergency services of government, mobilization of resources, mutual aid, and public information.
- F. "Mutual Aid" means a regional response to an emergency, as authorized under the California Emergency Services Act. Mutual Aid is covered under local, regional, and state agreements and an emergency proclamation is not required to enable a Mutual Aid response.

8.50.030 Emergency Disaster Council - Establishment and Membership.

Pursuant to Article 10 of the California Emergency Services Act, the City's Emergency Management and Disaster Preparedness Council ("Disaster Council" or "EMADPC") is hereby established and replaces the City's previous Emergency Management Board. The membership of the Disaster Council shall be as follows:

- A. The Mayor, who shall be the Chair.
- B. The City Administrator, who shall be the Vice Chair.
- C. The Emergency Services Manager, who shall be the Secretary. This position is responsible for conducting quarterly meetings of the Disaster Council and is responsible for managing and overseeing the operations of the Emergency Management Services Division of the Oakland Fire Department.
- D. Such agency directors and emergency services officials as are provided for the City's Emergency Plan adopted pursuant to this ordinance.
- E. Such representatives of civil, business, labor, veterans, professional, governmental, community-based non-profits and faith-based organizations, as may be appointed by the director with the advice and consent of the governing body of the Emergency Disaster Council.

8.50.040 Emergency Disaster Council - Powers and Duties.

- A. The Disaster Council shall have the following duties and 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, rules and regulations as are necessary to implement such plans and agreements.
- B. The Disaster Council shall meet regularly and at least once per year, upon call of the Chair or, if the Chair is absent, upon the call of the Vice Chair, to evaluate and prioritize the programs and resources needed for emergency preparedness, mitigation, response and recovery activities. It shall review the goals and objectives of the City Council and the Mayor to ensure said goals are integrated into the work of the Emergency Disaster Council.
- C. The Disaster Council shall be responsible for the development of the City's Emergency Plan which shall be adopted by the City Council and/or approved by the City Administrator and then forwarded to the State of California Office of Emergency Services, as required by law.

8.50.050 Emergency Services Organization

The City's Emergency Services Organization and its corresponding powers, duties and responsibilities shall be as follows in conformance with state law:

- A. The Emergency Management Services Division of the Oakland Fire Department shall serve as the operational and organization center for the City's emergency disaster planning, response and recovery efforts.
- B. Mayor. During emergencies and disasters the Mayor shall be the official spokesperson for the City, establishing executive policies to manage the emergency and providing oversight and leadership during the response and disaster recovery process.
- C. City Administrator. During emergencies and disasters the City Administrator shall act as the Director of the Emergency Operations Center ("EOC"), and is empowered to exercise the following powers and responsibilities:
 - 1. Control and direct the work of the City's Emergency Organization for the accomplishment of the purposes of this ordinance. Direct cooperation between and coordination of services and staff of the Emergency Organization, and resolve questions of authority and responsibility that may arise between them.
 - 2. Represent this jurisdiction in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.

3. Proclaim a Local Emergency, when in the opinion of the City Administrator the circumstances indicate the existence or threatened existence of a Local Emergency. Whenever a Local Emergency is proclaimed by the City Administrator, the City Council shall take action to ratify the proclamation within seven days thereafter, or the proclamation shall have no further force or effect. The City Council and City Administrator shall review the need for continuing the Local Emergency at least once every 30 days until the City Council officially terminates the Local Emergency. The Local Emergency shall be terminated as soon as reasonably possible.
4. Request the Governor to proclaim a State of Emergency when in the opinion of the City Administrator the circumstances are beyond the City's capacity to adequately respond to or recover from the emergency.
5. In the event of the proclamation of a Local Emergency by the City Administrator, the proclamation of a State of Emergency by the Governor, or the existence of a State of War Emergency, the City Administrator, as the EOC Director, is hereby empowered:
 - (a) To promulgate orders, rules, and regulations on matters reasonably related to the protection of life and property and the preservation of public peace and order, in accordance with Article 14 of California Emergency Services Act. Such rules and regulations must be confirmed at the earliest practicable time by the governing body as required by law;
 - (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 requisition necessary personnel or material of City departments and agencies, and 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 execute all ordinary powers vested on the City Administrator, and all the special powers conferred by law, statute, and any other lawful authority, including those powers delegated to the City Administrator

by ordinance, resolution, the Emergency Plan, and by any agreement approved by the governing body.

7. The City Administrator shall designate representatives in the event the City Administrator is unavailable to attend meetings or otherwise perform her/his duties during an emergency, consistent with state law.
- D. **Emergency Services Manager.** During emergencies and disasters the Emergency Services Manager shall serve as the EOC Assistant Director and shall, under the supervision of the City Administrator and with the assistance emergency service personnel and officers, develop emergency plans and manage the emergency programs of the City. The Emergency Services Manager provides overall management of the City's Emergency Operations Center and shall have such other powers and duties as may be assigned by the City Administrator.
- E. **City Departments/Agencies.** During emergencies and disasters, designated City department representatives are responsible for directing and coordinating predesignated departmental functions as required by the Disaster Council and the Emergency Plan.
- F. 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, including persons pressed into service pursuant to this Chapter, charged with duties incident to the protection of life and property in this City during such emergency, shall constitute the City's emergency services organization. City employees, volunteers, and other persons who are charged with responsibilities under the City's emergency services organization, shall be considered disaster service workers as provided by law. City is responsible for ensuring all personnel assigned specific responsibilities in support of the City's emergency response and recovery plans are adequately trained, certified, and prepared to assume those responsibilities (Cal. Gov. Code § 3100).

8.50.060 Emergency Plan.

- A. The Emergency Services Manager, working with the Disaster Council, is responsible for developing and annual updating the City's Emergency Plan; and for maintaining, testing and training required under the Plan.
- B. The Emergency Plan shall provide for the effective mobilization of all of City resources to meet any condition constituting a local emergency, state of emergency, or state of war emergency. It further shall provide for the organization, powers and duties, services, and staff of the City's Emergency Organization. The Emergency Plan, as amended from time to time, shall comply with the California Emergency Services Act, and conform to the guidelines and objectives of the National Incident Management System

("NIMS") and the California's Standardized Emergency Management System ("SEMS"). Such Plan or parts thereof shall take effect upon City Council adoption of a resolution or by approval of the City Administrator, as appropriate.

- C. The Emergency Plan shall incorporate the four phases of emergency management and include fiscal/funding and mutual aid provisions, as required under the California Emergency Act and in accordance with the following objectives:
1. Preparedness: Identify and implement plans, standard operating procedures and training programs that prepare the City (employees, citizens, community based organizations, and local businesses) for major emergencies.
 2. Mitigation: Identify, evaluate and prioritize projects that can reduce or eliminate threats that face the City of Oakland and to minimize the City's hazards.
 3. Response: Identify and implement operating systems that will provide emergency assistance, reduce probabilities of additional injuries, speed recovery activities, and ensure effective field response and Emergency Operations Center functions.
 4. Recovery: Identify and/or establish resources, relationships and agreements in advance of any emergency that will enable the City to return to normalcy as quickly as possible.
 5. Fiscal/Funding: Identify and procure funds to implement projects recommended by members of the Emergency Disaster Council and ensure adoption of an annual budget to support emergency programs/projects, ensuring all financial resources are explored that can assist in recovering from a major disaster.
 6. Mutual Aid: (a) Provide for multi-agency and inter-agency response and coordination to respond to emergencies and disasters, consistent with the California Disaster and Civil Defense Master Mutual Aid Agreement ("MMAA"), the Operational Area ("OA") concept, the Standardized Emergency Management System ("SEMS"), and the Federal Emergency Management Agency's ("FEMA") National Incident Management System ("NIMS"), as amended from time to time; and (b) during regular times when no emergency has been declared, the Emergency Management Services Division works with first responders (i.e., emergency medical services, fire, law enforcement and public works) to provide emergency services and conduct their duties in accordance with their regularly vested authority under state and local laws.

8.50.070 Expenditures.

Expenditures incurred in activities related to an emergency or disaster, including preparation, response, mutual aid, and recovery activities, shall be deemed to be conclusively for the protection and benefit of the inhabitants and property of the City.

8.50.080 Obstruction or hindrance of emergency operations, violation of emergency laws or regulations, unauthorized wearing, carrying or displaying of emergency identification, punishment of violations.

It shall be a misdemeanor, punishable by a fine not to exceed one thousand dollars, or by imprisonment not to exceed six months, or by both, for any person to commit any of the following acts during an emergency:

- 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 upon him by virtue of this Chapter.
- B. Act in a manner forbidden by any lawful rule or regulation issued pursuant to this Chapter, if such act is of such a nature as to give or be likely to result in imperiling the lives or property of inhabitants of the 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 City or the State.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 4. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

SECTION 5. Effect on Conflicting Ordinances. It is the intent of the City Council in enacting this Chapter that it shall be considered a revision and continuation of related ordinances and resolutions affected by this Chapter, until such time as said legislation is formally amended, modified, superseded or revoked. No rules, regulations, plans, or agreements adopted pursuant to related legislation shall be affected until such time as formally amended, modified, or superseded as provided in this Chapter.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 20 2017

PASSED BY THE FOLLOWING VOTE:

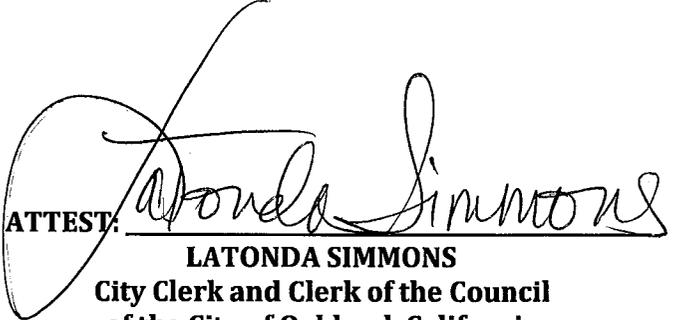
AYES - ~~XXXXX~~, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB,
KAPLAN AND PRESIDENT REID - 7

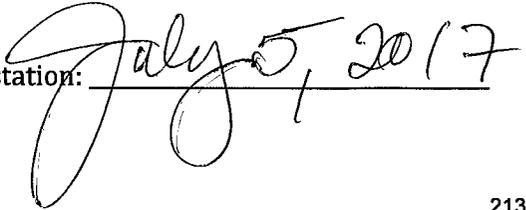
NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - ~~XXXXX~~ - 1

ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation: 

2139967

NOTICE AND DIGEST

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 8.50 TO REFLECT CHANGES IN THE CITY'S EMERGENCY ORGANIZATION, THE CITY'S DISASTER COUNCIL, AND CHANGES IN STATE RULES AND REGULATIONS. THE NEW TITLE OF OMC 8.50 SHALL BE "OAKLAND EMERGENCY SERVICES ORGANIZATION AND DISASTER COUNCIL"

This ordinance amends the Oakland Municipal Code, Chapter 8.50, to conform to changes in state rules and regulations. It further reflects changes in the City's emergency services organization and the City's disaster council.

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