



CITY ATTORNEY'S OFFICE

INTRODUCED BY COUNCILMEMBER _____

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 8.50 (EMERGENCY SERVICES ORGANIZATION AND DISASTER COUNCIL) TO REQUIRE COUNCIL TO REVIEW THE NEED FOR CONTINUING A LOCAL EMERGENCY AT LEAST ONCE EVERY 60 DAYS, IN CONFORMANCE WITH STATE LAW

WHEREAS, the California Emergency Services Act, California Gov. Code § 8550 et seq. ("Emergency Services 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, Article 14 of the Emergency Services Act provides that a local emergency may be declared by the governing body of a city or an official designated by ordinance adopted by the governing body; and

WHEREAS, in 2007, the Oakland City Council passed Ordinance No. 12841 C.M.S., codified in Chapter 8.50 of the Oakland Municipal Code, and therein approved the creation of the City's Emergency Management and Disaster Preparedness Council ("Disaster Council"); and delegated authority to the City Administrator to proclaim a local emergency subject to ratification by the City Council; and

WHEREAS, in 2017, the Oakland City Council passed Ordinance No. 13437 C.M.S., which amended 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; and

WHEREAS, at the time Chapter 8.50 was adopted in 2007 and later amended in 2017, the Emergency Services Act required local governments to review the need for continuing the local emergency at least once every 30 days until the governing body terminates the local emergency; and

WHEREAS, in 2018, the California legislature enacted Assembly Bill 2098 which amended the Emergency Services Act to require review of a local emergency by the governing body, as described above, to occur at least once every 60 days instead of every 30 days; and

WHEREAS, the City Council finds and declares it is desirable to amend Chapter 8.50 to conform to changes in state law to require review of a local emergency every 60 days; and

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

SECTION 1. Modification of Section 8.50.050 of the Oakland Municipal Code. Section 8.50.050 of the Oakland Municipal Code is hereby amended as follows (additions are shown as double underline and deletions are shown as ~~strikethrough~~):

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 Chapter. 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 (7) 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 ~~thirty (30)~~ sixty (60) 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.

6. Reserved.

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 manager 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).

SECTION 2. 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 3. 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 4. Termination of Emergency Order Provision Suspending OMC 8.50.050.C.3. Item twelve of the City Administrator’s March 23, 2020, Emergency Order that suspended the Oakland Municipal Code 8.50.050.C.3 requirement for Council to review the need for continuing local emergency is terminated.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, AND
PRESIDENT FORTUNATO BAS

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 8.50 (EMERGENCY SERVICES ORGANIZATION AND DISASTER COUNCIL) TO REQUIRE COUNCIL TO REVIEW THE NEED FOR CONTINUING A LOCAL EMERGENCY AT LEAST ONCE EVERY 60 DAYS, IN CONFORMANCE WITH STATE LAW

This Ordinance amends Oakland Municipal Code Chapter 8.50 to change the requirement for Council to review the need for continuing a local emergency from at least once every 30 days to at least once every 60 days, to conform to the State Emergency Services Act.