

Chapter 8.40

Disaster Emergency Regulations

Sections:

- 8.40.010 Definitions.
- 8.40.020 Procedures.
- 8.40.030 Disaster Emergency Response Powers.
- 8.40.040 Compensation.
- 8.40.050 Line of Succession.
- 8.40.060 Conflicting Ordinances, Orders, Rules and Regulations Suspended.
- 8.40.070 Violation of Regulations.
- 8.40.080 Penalty.
- 8.40.090 Applicability of State Law.

8.40.010 Definitions.

A. Disaster Emergency: An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill, or water contamination requiring action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or a condition of riot, insurrection, or invasion existing in the City.

B. Emergency: A serious situation or occurrence that happens unexpectedly and demands immediate action, or creates urgent need for action or assistance.

8.40.020 Procedures

A. Declaration of Disaster Emergency. The City Council shall have the power to declare through a resolution that a disaster emergency exists and resources for the emergency are at or beyond city capacity, or the threat of such event is imminent. If a quorum of the City Council cannot be formed, the Mayor shall have the authority to declare a disaster or emergency on a temporary basis until a quorum of Council can be seated.

B. Declaration in Writing. The resolution declaring a State of Disaster Emergency by the Council or Mayor shall be in writing and shall describe the nature of the emergency; the area

threatened, the conditions which have brought it about, and the conditions that would remedy it in the opinion of Council based on the available information. The City Manager shall be responsible for publication and dissemination of information to the public and shall file the declaration with the City Clerk and forward a copy to the Colorado Division of Homeland Security and Emergency Management.

C. Effect of Declaration. The issuance of a declaration of a disaster emergency shall automatically empower the City Manager to exercise any and all of the emergency powers permitted by state and local law and as set forth in the resolution. The City Council shall convene to perform its legislative powers as the situation demands and shall receive reports through the City Manager and evaluate and enact policies and other incident support as required. In case of a disaster emergency requiring immediate action of the City Council to protect public health, safety, or welfare, the City Council may convene an emergency meeting without any advance public notice or with such limited advance public notice as the Mayor or other presiding officer finds feasible in circumstances, with full compliance with the Charter requirements relating to notice to be achieved as soon as possible thereafter. Nothing in this Chapter shall abridge or curtail the powers of the City Council to properly and adequately respond to the emergency. A declaration of disaster emergency may grant the City Manager the authority to access emergency reserves, including reserves maintained pursuant to Section 5 of Article XX of the Colorado Constitution, and to request assistance from the Colorado Division of Homeland Security and Emergency Management.

D. Duration. A state of disaster emergency shall remain in effect until the Council or City Manager declares that the threat of danger has passed or that the disaster emergency conditions no longer exist. Notwithstanding the forgoing, a state of disaster emergency shall not be continued or renewed for a period in excess of seven days unless the City Council expressly approves a longer duration. The City Council may by motion terminate the state of disaster emergency at any time. Upon continuation or termination of a state of disaster emergency, the City Manager shall immediately issue and publish a notice affecting the same. Any declaration continuing or terminating a state of disaster emergency shall be filed with the City Clerk and a copy shall be forwarded to the Colorado Division of Homeland Security and Emergency Management.

8.40.030 Disaster Emergency Response Powers.

A. Upon the issuance of the declaration of disaster emergency and for as long as said declaration is in effect, the City Manager of this code shall have and may exercise any and all emergency powers granted by applicable state or local law subsequent to issuance of the disaster emergency declaration.

B. During the course of a declared disaster emergency a city employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that an emergency situation exists and that an entry on private property is required in order to protect life or minimize an imminent threat to property.

C. During the course of a declared disaster emergency, the City Manager may, on behalf of the city, enter into reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other contracts or plans with other governmental entities necessary for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.

D. During the course of a declaration disaster emergency, the City Manager may promulgate such regulations as the manager deems necessary, to protect life and property and preserve critical resources. These regulations shall be confirmed at the earliest practical time by the City Council, shall be circulated to the public, and shall be disseminated to the news media. These regulations may include, but shall not be limited to powers granted by applicable state or local law. Specifically, during the course of any declared emergency, the City Manager may:

1. Suspend the provisions of this code that prescribe conduct of city business, if strict compliance would in any way prevent, hinder, or delay necessary action in coping with the emergency.

2. Transfer, reassign or otherwise change the direction, personnel, or functions of city departments for the purpose of performing or facilitating emergency services.

3. Direct and compel evacuation of persons from any stricken or threatened area within the city if the City Manager deems the action necessary for the immediate preservation of life or property or other emergency mitigation, response, or recovery measures.

4. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.

5. Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises therein.

6. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, or combustibles with the city.

7. Make provision for the availability and use of temporary emergency housing.

8. Waive all provisions for competitive bidding and direct the purchase agent to purchase necessary supplies in the open market at not more than commercial prices.

9. Prohibit or restrict the movement of vehicles in order to facilitate the work of disaster response forces or to facilitate the mass movement of persons to or from critical areas within or without the city.

10. Declare a public curfew.

11. Close or regulate the business hours of any commercial establishment in the city when such closing or regulation is in the public interest.

12. Cause to be carried out such other reasonable measures or regulations as are necessary to preserve public peace, health, and safety.

E. During the course of a declared disaster emergency, the City Manager is authorized to exercise all powers permitted by the City Charter and state law to require emergency services of any city officer or employee and command the aid of as many citizens of the city as the manager deems necessary in the execution of the manager's duties. Such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for civil defense workers.

8.40.040 Compensation. Compensation for services or private property used by the city in responding to an emergency shall be compensated as specified by contract or as required by state law, subject to the principals and procedures set forth in C.R.S. § 24-33.5-711 and Articles 1 to 7 of Title 38 of the Colorado Revised Statutes. (Ord. 4, 2022)

8.40.050 Line of Succession.

A. If the Mayor is unable to perform the duties of the Mayor set forth in this Chapter, then the duties conferred upon the Mayor shall be performed in descending order, as follows: by the Mayor Pro-Tem, then by the City Council Member most senior in length of service, then by the City Council Member whose last name begins with a letter that is closest to the beginning of the alphabet.

B. The City Manager shall, at the start of each calendar year, publish and submit to City Council an order of succession of city officials who shall execute the duties and powers described in this Chapter for execution by the City Manager in the event that the City Manager is unavailable to manage a disaster emergency.

C. In any calendar year in which the City Manager fails to publish and submit such list to City Council, the line of succession of authority to manage a disaster emergency shall include those occupying the following positions (if applicable) in the following order:

1. The City Manager or Acting City Manager
2. The Deputy/Assistant City Manager
3. The last appointed Acting City Manager still employed with the City
4. The Community Development Director
5. The Director of Public Works
6. The Finance Director; or
7. The Chief of Police
8. In the event none of the above noted people are available to serve, the next highest ranking person within each of the various departments, in the line of succession as indicated above, shall serve.

D. However, the succession of authority provided in this section shall always be subject to the power of the City Council to determine, by appropriate motion, that any Council Member or staff member shall take responsibility for the management of a disaster emergency.

8.40.060. Conflicting Ordinance, Orders, Rules and Regulations Suspended. Any ordinances, orders, rules or regulations promulgated during a declared disaster emergency shall take precedence over existing ordinances, orders, rules and regulations if a conflict arises during the state of disaster emergency.

8.40.070 Violation of Regulations. It shall be unlawful for any person to violate any of the provisions of this Chapter or of the ordinances, orders, rules or regulations issued pursuant to the authority contained in this Chapter, or to willfully obstruct, hinder, or delay any person in the exercise of any duty or authority pursuant to the provisions of this chapter. Police, code enforcement and such other law enforcement and peace officers as may be authorized by the City Manager

shall be authorized to enforce the ordinances, orders, rules and regulations made or issued pursuant to this Chapter.

8.40.080 Penalty. Any person convicted of a violation of any section of this Chapter or any ordinance, order, rule or regulation issued pursuant to the authority contained herein shall be punished by a fine of up to \$1000.00 or by imprisonment of up to one year in jail or by both such fine and imprisonment.

8.40.090 Applicability of State Law. The Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701 *et seq.*, as now existing or hereafter amended, shall govern the implementation of the duties, powers, immunities and other provisions set forth in this Chapter to the extent applicable.

The State of Colorado Emergency Relief statute (C.R.S. § 24-33.5-1102) allows the Governor to provide the distribution of medicine, food, and supplies.

The State of Colorado Grants to Individuals statute (C.R.S. § 24-33.5-1106) authorizes the Governor to accept a grant from the federal government to provide financial assistance to an individual or family in a single major disaster declared by the President.