

ORDINANCE NO. 2071

**AN ORDINANCE OF THE CITY OF SANTA CLARA,
CALIFORNIA, AMENDING CHAPTER 2.140 (“DISASTER
COUNCIL”) OF “THE CODE OF THE CITY OF SANTA
CLARA, CALIFORNIA”**

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, on April 13, 1971, the City Council approved Ordinance No. 1241 amending Sections 2-90, 2-98, 2-22 and Chapter 9 (“Disasters”) of “The Code of the City of Santa Clara, California” (SCCC), to define emergencies, emergency organization and plans, and identify Disaster Council membership, powers, and duties, as well as a legal framework which established how the City would operate during a disaster or emergency;

WHEREAS, since 1971, no updates to the City’s Disaster Council Ordinance have been made, despite the occurrence of several major statewide and national catastrophic disasters that have precipitated the creation of several statewide and national laws, systems, frameworks, funding mechanisms and best practices for the incident management enterprise;

WHEREAS, since 1971, emergency management has emerged as a discipline with developed academic foundations for guiding principles and best practices; and

WHEREAS, in order to update the procedures applicable to emergency management in the City of Santa Clara to reflect modern best practices as well as statewide and national mandates, the City Council deems it to be in the best interests of the City to amend Chapter 2.140 (currently entitled “Disaster Council”) as set forth below.

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NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: That Chapter 2.140 (currently entitled “Disaster Council”) of Title 2 (entitled “Administration and Personnel”) of “The Code of the City of Santa Clara, California” (“SCCC”) is amended to read as follows:

“Chapter 2.140
EMERGENCY MANAGEMENT AND DISASTER COUNCIL

Sections:

2.140.010 Purposes.

2.140.020 Definitions.

2.140.030 Emergency organization.

2.140.040 Disaster Council membership.

2.140.050 Disaster Council powers and duties.

2.140.060 Office of Director of Emergency Services.

2.140.070 Powers and duties of the Director of Emergency Services.

2.140.080 Local emergency; termination.

2.140.090 Activation of the City EOC.

2.140.100 Authority for emergency orders and regulations.

2.140.110 Suspension of ordinances, rules, and regulations.

2.140.120 Operational Area membership.

2.140.130 Standardized Emergency Management System (SEMS).

2.140.140 Office of Emergency Management created - officers and staff.

2.140.150 Powers and duties of the Emergency Management Officer.

2.140.160 Emergency Operations Plan.

2.140.170 Mutual aid.

2.140.180 Expenditures.

2.140.190 Compensation of volunteers – Official immunity.

2.140.200 Punishment of violations.

2.140.010 Purposes.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons, property, and the environment within this city in the event of an emergency; the establishment, coordination, and direction of the emergency organization; the establishment, coordination, and direction of the Office of Emergency Management; and the coordination of the emergency functions of this City with all other public agencies, corporations, organizations, and affected private persons.

2.140.020 Definitions.

As used in this chapter, the following terms shall, unless the context clearly indicates otherwise, have the respective meanings herein set forth:

(a) Emergency, including a state of war emergency, state of emergency, and local emergency, shall have the meanings set forth in Government Code Section 8558, as that section may be amended or renumbered.

(b) Emergency Operations Center ("EOC") means a location from which the function of centralized emergency management is performed.

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(c) Emergency Response Agency means any governmental agency or organization responding to an emergency, whether in the field, at the scene of an incident, or to an EOC or other operations center, in response to an emergency, or providing mutual aid support to such an organization, and may include, but is not limited to, emergency response services such as Fire, Law Enforcement, Emergency Medical, and Public Health.

(d) Emergency Response Personnel means personnel involved with an agency's response to an emergency and/or responsible for mitigation activities.

(e) Emergency Services means all activities carried out pursuant to the California Emergency Services Act, Gov. Code § 8550 et seq, as those sections may be amended or renumbered.

(f) Incident means an occurrence or event, caused either by humans or by natural phenomena, that requires action by Emergency Response Personnel to prevent or minimize loss of life or damage to property and/or natural resources.

(g) Operational Area means the County and all local governmental entities within the County's geographical area. Under Government Code Sections 8559 and 8605 (as those sections may be amended or renumbered), each county geographic area has been designated as an operational area to be used for the coordination of emergency activities and to serve as a link in the system of communications and coordination between the State's EOCs and the EOCs of the local governmental entities comprising the operational area. This definition does not change the definition of Operational Area as used in the existing fire and rescue mutual aid system.

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2.140.030 Emergency organization.

All employees of the City of Santa Clara are designated as disaster service workers under Government Code Sections 3100 et seq., as that section may be amended or renumbered.

All officers and employees of the City, together with those volunteer forces registered to aid them during a duly proclaimed emergency; and all groups, organizations, and persons who may by agreement or by operation of law, including persons impressed into service under the provisions of Government Code Section 8585.5 (as that section may be amended or renumbered), be charged with duties incident to the protection of life, property, or environment in the City during such emergency, shall constitute the City Emergency Organization.

The City Emergency Organization also includes the American Red Cross, members of the Collaborating Agencies' Disaster Relief Effort (CADRE), Civil Air Patrol, and such other organizations and groups as may offer and have their services accepted prior to, during, or after an emergency.

2.140.040 Disaster Council membership.

The Santa Clara Disaster Council is hereby created and shall consist of the following:

- (a) The Director of Emergency Services (City Manager) who shall be chairman.
- (b) The Mayor, or his/her designee, who shall be vice-chairman.
- (c) The members of the City Council, the City Attorney, City Clerk, and the City Manager's Emergency Management Officer.
- (d) The Deputy Director, appointed by the City Manager, who, in the absence of, or at the direction of the Director, shall act on his/her behalf.

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(e) Certain service chiefs or department heads as selected by the Director of Emergency Services.

2.140.050 Disaster Council powers and duties.

The Disaster Council shall have the following duties, powers, and responsibilities, and such other as they may be entrusted with by the City Council, as necessary:

- (a) Meet at the discretion of the Chair, but no less than annually.
- (b) Advise on and recommend for adoption emergency plans and mutual aid agreements based on the Standardized Emergency Management System (SEMS) as defined in the California Code of Regulations, Title 19, Division 2, Sections 2400 – 2450 (as those sections may be amended or renumbered).
- (c) Provide guidance to develop disaster exercises, assist with threat assessments, review emergency plans and as necessary their hazard or function-specific annexes, identify local resources and facilitate multi-agency/inter-agency coordination within its membership and other local governments and special districts.
- (d) Provides oversight and support for engaging community members in homeland security, emergency planning and response, and promoting community preparedness and family safety through public education and outreach.
- (e) Provide oversight responsibility for the California State Disaster Service Worker (DSW) and Disaster Service Worker Volunteer Program (DSWVP), inclusive of the delegation of authority to designated City officials for the swearing in of new Disaster Service Workers and Disaster Service Worker Volunteers.

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(f) The Disaster Council may exercise such powers and duties as are necessary to substantially comply with the rules and regulations established by the California Office of Emergency Services for the purpose of being certified by that Office pursuant to Government Code Section 8612, as that section may be amended or renumbered.

2.140.060 Office of Director of Emergency Services.

There is hereby created the Office of Director of Emergency Services.

(a) The City Manager shall be the Director of Emergency Services.

(b) A Deputy Director of Emergency Services shall be appointed by the Director and shall act for the Director when the Director is incapacitated or otherwise unable to carry out his/her duties. The Deputy Director of Emergency Services shall be appointed from an incumbent in the City service.

2.140.070 Powers and duties of the Director of Emergency Services.

The Director of Emergency Services, or his/her successor, is hereby empowered to:

(a) Proclaim the existence or threatened existence of a "local emergency" which shall be ratified and renewed by the City Council in accordance with Govt. Code § 8630, as that section may be amended or renumbered.

(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 effort of the emergency organization of this City for the accomplishment of the purposes of this chapter.

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

(e) Represent this City in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.

(f) In the event of the proclamation of a "local emergency" as herein provided, 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 is hereby empowered to:

(1) Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency;

(2) 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;

(3) Require emergency services of any City officer or employee and, in the event of the declaration 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 necessary in the execution of his/her duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by State law for registered disaster service workers;

(4) Requisition necessary personnel or material of any City department or agency; and

(5) Execute all his/her ordinary powers as City Manager, all of the special powers conferred upon him by this chapter or by resolution or emergency plan pursuant hereto adopted by the City Council, all power conferred upon him by any statute, by an agreement approved by the City Council, and by any other lawful authority.

(6) This subsection shall be construed to grant the broadest powers permissible to the Director to effectively deal with a proclaimed emergency.

2.140.080 Local emergency; termination.

The City Council shall review the need to continue a local emergency, either proclaimed by the Council or ratified by the Council following proclamation by the Director of Emergency Services, at the interval set forth in Government Code Section 8630, as that section may be amended or renumbered, and shall proclaim the termination of such local emergency at the earliest practicable date that conditions warrant.

2.140.090 Activation of the City EOC.

The following personnel are authorized to activate the City EOC: the City Manager (Emergency Services Director), Deputy Director of Emergency Services, Chief Operating Officer, the City Emergency Management Officer, or any individual designated on a temporary basis by the Emergency Services Director to have such power.

2.140.100 Authority for emergency orders and regulations.

The City Council, to provide prompt response to emergency situations following the proclamation of a local emergency as authorized in this Division, or the proclamation of a state of emergency or existence of a state of war emergency, specifically delegates to the Director of Emergency Services the authority to promulgate orders and regulations to provide for the protection of life, property, and the environment, where necessary to preserve the public order and safety. To have legal effect, all such orders and regulations must be in writing and signed by the promulgating official, and must be ratified at the next regular meeting of the City Council.

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2.140.110 Suspension of ordinances, rules, and regulations.

Following the proclamation of a local emergency as authorized in this Division, the Director of Emergency Services may temporarily suspend enforcement of any City ordinance, rule, regulation, or policy, including those relating to the procurement of goods or services and any associated competitive bidding requirements and/or administrative processes, if he or she determines and declares that strict compliance with that ordinance, rule, regulation, or policy would prevent, hinder, or delay the response to the local emergency. All such actions shall be in writing and signed by the promulgating official, and must be ratified at the next regular meeting of the City Council.

2.140.120 Operational Area membership.

The City of Santa Clara is a member municipality in the Santa Clara County Operational Area in accordance with County Ordinance Section A8-5 and in accordance with Government Code Sections 8559 and 8605 (as those sections may be amended or renumbered), and in accordance with the California Standardized Emergency Management System (SEMS).

2.140.130 Standardized Emergency Management System (SEMS).

SEMS is the adopted emergency management system in the City. SEMS utilizes the Incident Command System (ICS), multi/interagency coordination, mutual aid, and the Operational Area concept to facilitate priority setting, interagency cooperation, and the efficient flow of resources and information during an emergency. The City Emergency Organization shall structure its response to any emergency using SEMS and shall include the use of SEMS in all emergency plans and procedures.

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2.140.140 Office of Emergency Management created - officers and staff.

There is created within the Office of the City Manager the City of Santa Clara Office of Emergency Management (OEM). The City Emergency Management Officer (who may also be referred to as the Emergency Services Officer) shall lead the City OEM.

2.140.150 Powers and duties of the Emergency Management Officer.

The Emergency Management Officer shall:

(a) Coordinate emergency management activities in pre-emergency planning, during an emergency, and in post-emergency activities as the chief staff officer of the Director of Emergency Services in the Office of Emergency Management.

(b) Represent the City in dealings with public and private agencies pertaining to emergency planning.

(c) Organize, develop, and coordinate the City's participation in Operational Area emergency programs, working with City departments, governmental entities, supporting agencies, and volunteer groups.

(d) Prepare and maintain the basic emergency plans for the City and submit such plans to the Director of Emergency Services.

(e) Attend, participate in, and if nominated to or requested to serve on the EOAC.

(f) Exercise the City EOC in whole or part, at least annually.

(g) Perform other duties as may be assigned by the Director of Emergency Services.

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2.140.160 Emergency Operations Plan.

The City Office of Emergency Management shall be responsible for the development of the City Emergency Operations Plan (EOP), which shall provide for the use of SEMS and the effective mobilization of all of 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 City Emergency Organization. Such plan shall take effect upon adoption by the City Council.

The Office of Emergency Management shall be responsible for the development of all identified hazard and risk annexes in support of the EOP with the appropriate City agencies and governmental partners.

It shall be the responsibility of all EOC section chiefs and alternates to have a thorough knowledge of the EOP and to ensure that their respective supporting services and key personnel are properly trained and organized to meet all of their responsibilities in the event of an emergency.

2.140.170 Mutual aid.

It is the purpose of the City Council in enacting this chapter to facilitate the rendering of mutual aid to and for the people of this City. Emergency plans adopted and approved by the City Council shall provide for the interchange of mutual aid and for coordination with the emergency plans of the County operational area.

2.140.180 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 the City of Santa Clara.

2.140.090 Compensation of volunteers – Official immunity.

All persons, other than officers and employees of the City, volunteering services in the City Emergency Organization pursuant to the provisions of this chapter and pursuant to the California Governor's Office of Emergency Services Disaster Service Worker Volunteer Program guidance, shall serve without compensation from the City. While engaged in such services, they shall have the same immunity as officers and employees of the City performing similar duties. Approved DSW volunteers shall be registered with the appropriate City agency in order to be eligible for worker's compensation benefits, as provided in Labor Code Section 3201 et seq., and Government Code Section 8585.5, as those sections may be amended or renumbered.

All DSW volunteers shall be administered the oath or affirmation set forth in Government Code Sections 3102 and 3103, as those sections may be amended or renumbered. The City Manager (Emergency Services Director) shall maintain a list of officers authorized by Government Code Section 3104 to administer oaths.

2.140.200 Punishment of violations.

Beginning on the date when an emergency is proclaimed by the Director of Emergency Services and ending when such declaration of emergency is terminated, it shall be a violation of this Code – punishable in the City's prosecutorial discretion as a criminal, civil, and/or administrative action – for any person, contractor, business, or other entity 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 upon him or her by virtue of this Chapter.

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(b) Do any act forbidden by any lawful rule or regulation issued pursuant to this Chapter, if that act gives or is likely to give assistance to the enemy (during a state of war emergency), or to imperil the lives, property, or environment 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 any emergency services agency of the State of California, or any political subdivision thereof.

(d) Sell, or offer to sell, any consumer food items, repair or reconstruction services, emergency supplies, medical supplies, or gasoline for an amount which is ten or more percent greater than the price charged by that person, contractor, business or other entity for said goods or services immediately prior to the proclamation of emergency unless said person, business, contractor or other entity can prove that the increase was directly attributable to additional costs imposed on it by the supplier of the goods or for labor and materials used to provide the service. For purposes of this subsection, the following definitions shall apply:

(1) A “consumer food item” is any article which is used or intended for use for food, drink, confection, or condiment by humans or animals.

(2) “Repair or reconstruction services” are those contractor services for repairs to residential and commercial property of any type which are damaged as a result of the disaster. This includes the removal of debris (including a damaged tree) and garbage.

(3) “Emergency supplies” shall include but are not limited to water, flashlights, radios, batteries, candles, blankets, soaps, and diapers.

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(4) “Medical supplies” shall include but are not limited to prescription and nonprescription drugs, bandages, gauzes, and isopropyl alcohol.

(e) Violate any curfew established by any lawful rule, regulation, order, or direction issued pursuant to this Chapter.

(f) Buy, sell, remove, deface, cover, hide, destroy, or tamper with any sign, tag or placard posted by a member of the emergency organization on a building or structure damaged by a disaster.

(g) Post any sign, tag, or placard not authorized by the emergency organization on a building or structure damaged by a disaster.”

SECTION 2: Ordinances Repealed. With exception of the provisions protected by the savings clause, all ordinances (or parts of ordinances) in conflict with or inconsistent with this ordinance are hereby repealed.

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SECTION 3: Savings clause. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

SECTION 4: Effective date. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

PASSED FOR THE PURPOSE OF PUBLICATION this 27TH day of August, 2024, by the following vote:

AYES:	COUNCILORS:	Becker, Chahal, Hardy, Jain, Park and Watanabe, and Mayor Gillmor
NOES:	COUNCILORS:	None
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST:


NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: None