

**CITY OF DANA POINT
AGENDA REPORT**

Reviewed By:	
DH	___
CM	___
CA	___

DATE: MARCH 6, 2007

TO: CITY MANAGER/CITY COUNCIL

FROM: MIKE ROSE, EMERGENCY SERVICES COORDINATOR

SUBJECT: LOCAL DISASTER COUNCIL ORDINANCE UPDATE

RECOMMENDED ACTION:

That the City Council consider amending Municipal Code, Chapter 2.20, "Emergency Organization", by conducting a second reading by title only and adopting, the attached Ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF DANA POINT, CALIFORNIA, AMENDING CHAPTER
2.20 ENTITLED "EMERGENCY ORGANIZATION" OF THE
DANA POINT MUNICIPAL CODE

ISSUES:

Should Chapter 2.20 of the Dana Point Municipal Code entitled, "Emergency Organization," be updated to reflect the State of California Disaster Council ordinance? This update will ensure that the City is authorized to properly register potential Disaster Service Workers before and during a major disaster effecting the City.

BACKGROUND:

The California Emergency Council (CEC) has existed since the early 1900's, and continues to advise the Governor and review preparation for disasters and other emergencies. One of the statutory duties of the California Emergency Council is to approve local Disaster Councils, required by law to be accredited. (Govt. Code, §8612.) Accreditation is necessary in order for the Disaster Council to register disaster service worker volunteers in the DSW Volunteer Program (DSWVP). The DSWVP provides volunteers with Workers' Compensation if they are injured performing disaster service work and, in addition, provides limited immunity from liability.

The City of Dana Point Community Emergency Response Team (CERT) program is designed to act as a "pool" of pre-registered Disaster Service Workers that are capable of providing volunteer support to emergency response personnel following a major disaster. Many of our CERT program participants have achieved an "advanced" level

of training sufficient to qualify them, under our established guidelines, for pre-registration.

Currently, Chapter 2.20 of the Municipal Code has different language than the standard Disaster Council ordinance developed by, and for, the State of California. By updating our Municipal Code to reflect the language the State recommends, we will be better able to ensure proper registration of our potential Disaster Service Workers.

DISCUSSION:

The City's Community Emergency Response Team (CERT) program is rapidly gaining attention from residents in and around our City. To date, we have graduated 25 participants and by the end of February that number will have at least doubled. Before the end this year, we anticipate having graduated over 100 participants through this program. Many of our program participants are expressing a very strong interest in remaining as active member in our "Advanced CERT" Volunteer Program.

The Advanced CERT program is designed as a vehicle of community volunteerism for those graduates of the Basic CERT program that desire to stay involved with Disaster Preparedness in Dana Point and have expressed their desire to help with the City's response following a major disaster. Volunteers involved with the Advanced program have participated in substantial additional training beyond the Basic program and are capable of supporting emergency operations in areas of light search and rescue, mass care, and shelter operations.

Updating this municipal code section to mirror the State of California Disaster Service Worker Ordinance, allows us the ability to pre-register these Advanced Cert Program participants as State Disaster Service Workers. Volunteers must be registered prior to providing service during a disaster response in order to be protected by the State's Workers Compensation program. Registering these volunteers alleviates the potential liability on the City in the event that these individuals are injured in the course of providing assistance.

NOTIFICATION AND FOLLOW-UP:

Notification to the State of California Office of Emergency Services

FISCAL IMPACT:

None.

ALTERNATIVE ACTIONS:

1. Make no changes to the municipal code

ACTION DOCUMENTS:

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ACTION DOCUMENT A**ORDINANCE NO. 07-**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 2.20 ENTITLED "EMERGENCY ORGANIZATION" OF THE DANA POINT MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF DANA POINT DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2.20 "Emergency Organization" of the Dana Point Municipal Code is hereby amended to read as follows:

Chapter 2.20

EMERGENCY ORGANIZATION**Sections:**

2.20.010 General Purposes.

2.20.020 Definitions.

2.20.030 Disaster Council Membership

2.20.040 Disaster Council Powers and Duties

2.20.050 Director and Assistant Director of Emergency Services

2.20.060 Powers and Duties of the Director and Assistant Director of Emergency Services

2.20.070 Emergency Organization

2.20.080 Emergency Plan

2.20.090 Orders by Members of Emergency Organization

2.20.100 Line of Succession for Council Members

2.20.110 Emergency Operations Center

2.20.120 Prohibited Acts During Emergencies.

2.20.200 Proclamation of Emergency—Additional Powers of the Director of Emergency Services

2.20.210 Requisition of Equipment or Personnel

2.20.220 Penalty for Violation

2.20.010 General Purposes.

The purposes of this Chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within the City in the event of an emergency or disaster; the direction of the emergency organization; and the coordination of the emergency functions of the City with the County and all other public agencies, corporations, organizations, and affected private persons.

2.20.020 Definitions.

As used in this Chapter:

(a) "Emergency" shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this city caused by such conditions as air pollution, fire flood, storm, epidemic, riot earthquake, or other conditions including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities for this city, requiring the combined forces of other political subdivisions to combat.

(b) "State of War Emergency" means a 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.

(c) "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 state caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, earthquake, or other conditions, but other than conditions resulting from a labor controversy or conditions causing a State of War Emergency, which, by reason of magnitude are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single city, county, or city and county and require combined forces of a mutual aid region or regions to combat.

(d) "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 City or County of Orange caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City and require the combined forces of other political subdivisions to combat.

(e) Any other term or phrase used herein which is not defined herein but is defined within the Emergency Services Act, Government Code Section 8550, *et seq.*, shall have the meaning ascribed therein.

2.20.030 Disaster Council Membership

The City of Dana Point Disaster Council ("Disaster Council") is hereby created and shall consist of the following:

(a) The Mayor, who shall be Chair;

(b) The Director of Emergency Services ("Director"), who shall be the City Manager and Vice-Chair;

- (c) The Assistant Director of Emergency Services (“Assistant Director”);
- (d) Such Chiefs of Emergency Services as are provided for in the current emergency plan of this City, adopted pursuant to this Ordinance;
- (e) Such representatives of civic, business, labor, veterans, professional, or other organizations having an official emergency responsibility, as may be appointed by the Director with the advice and consent of the City Council.

2.20.040 Disaster Council Powers and Duties

It shall be the duty of the Disaster Council, and it 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 and rules and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet upon call of the Chair or, in the Chair’s absence from the City or inability to call such meeting, upon call of the Vice-Chair.

2.20.050 Director and Assistant Director of Emergency Services

- (a) There is hereby created the office of Director of Emergency Services. The City Manager shall be the Director of Emergency Services.
- (b) There is hereby created the office of Assistant Director of Emergency Service, who shall be appointed by the Director.

2.20.060 Powers and Duties of the Director and Assistant Director of Emergency Services

The Director is hereby empowered to:

- (a) Request the City Council to proclaim the existence of a Local Emergency if the Council is in session, or to issue such proclamation if the Council is not in session. Whenever a Local Emergency 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. The City Council shall review the necessity for continuing the Local Emergency no less frequently than every fourteen days until the emergency is terminated.
- (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.
- (d) To, during the existence of a State of War Emergency or the proclaimed existence of a State of Emergency or a Local Emergency affecting the City:

- (1) Control and direct the activities of the City's emergency organization to accomplish the purposes of this Chapter;
 - (2) Use all City resources for the preservation of life and property and to reduce the effects of disaster;
 - (3) Resolve questions of authority and responsibility that may arise in disaster operations;
 - (4) Obtain supplies, equipment, and other resources found lacking and needed for the preservation of life and property by either binding the City for the fair value thereof or by commandeering the same;
 - (5) Direct cooperation between and coordination of services and staff of the emergency organization;
 - (6) Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by any condition proclaimed an emergency as provided herein; provided; however, such rules and regulations must be confirmed at the earliest practicable time by the City Council;
 - (7) Represent the City in all dealings with public or private agencies on matters pertaining to emergencies;
 - (8) Require performance of emergency services by any City officer or employee and, in the event of the proclamation of a State of Emergency in Orange County, or the existence of a State of War Emergency, to command the aid of as many citizens of the community as the Director deems necessary in the execution of the Director's duties. Such persons shall be entitled to all privileges, benefits, and immunities as are provided by state and local laws for registered disaster service workers.
- (e) In addition to the powers granted herein, the Director shall have such powers incidental to the performance of the Director's duties as shall be necessary to allow the Emergency Plan to be effectively carried out, it being the intent of this Chapter that the enumerated powers herein are not limitations upon the Director's powers.
- (f) 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. Such order of succession shall be approved by the City Council.
- (g) The Assistant Director shall, under the supervision of the Director and with assistance of the Chief's of Emergency Services, develop emergency

plans and manage the emergency programs of the City; and have such other powers and duties as may be assigned by the Director.

2.20.070 Emergency Organization

All officers and employees of this 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 provisions of SEC 2.20.060(d)(8) of this code, be charged with duties incident to the protection of life and property in this city during such emergency, shall constitute the emergency organization of the City of Dana Point.

2.20.080 Emergency Plan

The Disaster Council shall be responsible for the development of the City of Dana Point Emergency Plan ("Emergency Plan"), which shall provide for the effective mobilization of all the resources of the 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 emergency organization. Such plan shall take effect upon adoption by resolution of the City Council.

2.20.090 Orders by Members of Emergency Organization

During the existence of a State of War Emergency or of a proclaimed State of Emergency or Local Emergency affecting the City, each member of the City Disaster Council shall have authority to require that all persons within the City follow reasonable orders given by that member that are within the scope of that member's functions in order to execute the Emergency Plan. The willful failure of any person to follow such reasonable order(s) is unlawful and a misdemeanor.

2.20.100 Line of Succession for Council Members.

The line of succession for the position of Mayor during a State of Emergency, State of War Emergency, Local Emergency, or other condition of disaster, unless otherwise ordered by the City Council, shall be Mayor pro tempore followed by the remaining City Council members in the order of their seniority, excluding standby successors who may have been appointed pursuant to Section 8638 of the California Government Code.

2.20.110 Emergency Operating Centers.

Unless exigencies render the same impossible or unduly hazardous to safety, the primary emergency operating center shall normally be maintained at the City Hall.

2.20.120 Prohibited Acts During Emergencies.

It is unlawful and a misdemeanor for any person, during a State of Emergency, State of War Emergency, Local Emergency, or other condition of disaster, to:

- (a) Willfully obstruct, hinder, or delay any member of the Disaster Council in the enforcement of any law or lawful rule, regulation or order issued pursuant to this Chapter, or in the performance of any duty imposed upon such Disaster Council member by virtue of this Chapter;
- (b) Do any act forbidden by any lawful rule, regulation, or order issued pursuant to this Chapter if such act is of a nature as to give, or be likely to give, assistance to the enemy or to imperil life or property or to prevent, hinder or delay the defense or protection of persons or property; or
- (c) Wear, carry, or display, without authority, any means of identification specified by any emergency services or disaster or civil defense agency of the federal or state governments.

2.20.200 Proclamation of Emergency – Additional Powers of the Director of Emergency Services.

After the issuance of a proclamation of local emergency, the Director shall have the power to make, issue, and enforce rules and regulations on matters reasonably related to the protection of life and property as affected by said emergency; provided, however, such rules and regulations shall be confirmed as soon as practicable by the City Council. In addition to those powers and duties set forth in Section 2.20.060, the Disaster Director is granted, but shall not be limited to, the following powers:

- (a) Curfew. The Director may order a general curfew applicable to the entire City or such geographical areas thereof as deemed necessary to protect the public health, safety, welfare, and morals.

As used herein "curfew" means a prohibition against any person or persons walking, running, loitering, standing, riding or motoring upon any alley, street, highway, public property or private property except as authorized by the owner, lessee or person in charge of such private property. Persons officially delegated to duty with reference to such civil emergency and representatives of news media, physicians, nurses, ambulance operators performing medical services, utility personnel maintaining essential public services, firemen and law enforcement officers, and other such personnel as well as those specifically authorized by duly delegated authority are exempted from the foregoing curfew requirements.

(b) Business Closing. The Director may order the closing of any business establishments anywhere within the City, such businesses to include, but need not be limited to, those selling alcoholic beverages, gasoline, or firearms.

(c) Alcoholic Beverages. The Director may order that no person shall consume any alcoholic beverages in a public street or place which is publicly owned or in any other public or private area on which the consumption of such alcoholic beverages is found by the Director, on just cause, to precipitate a clear and present danger to the well-being of the community during the emergency;

(d) Weapons. The Director may order that no persons shall carry or possess any gun, bomb, fire bomb, knife, rock, or other such weapon or item, the use of which would tend to inflict great bodily harm on persons or damage to property;

(e) Street Closures. The Director may designate any public street, thoroughfare, or vehicular parking area closed to motor vehicles and pedestrian traffic during the course of such an emergency.

The foregoing specific authorizations, and other such authorizations as may be deemed necessary during such emergencies, are declared to be imminently necessary for the protection of life and property during an emergency period.

2.20.220 Penalty for Violation.

Any person violating any provision of this Chapter, or executive order issued pursuant thereto, is guilty of a misdemeanor.

SECTION 2. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 3. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2007.

DIANE HARKEY, MAYOR

ATTEST:

KATHY WARD, CITY CLERK

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) ss.
 CITY OF DANA POINT)

I, Kathy Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Ordinance No. ____ was duly introduced and placed upon its first reading at a regular meeting of the City Council on the _____ day of _____, 2007, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2007, by the following roll-call vote, to wit:

AYES: COUNCILMEMBERS:
 NOES: COUNCILMEMBERS:
 ABSENT: COUNCILMEMBERS:
 ABSTAIN: COUNCILMEMBERS:

 KATHY WARD
 CITY CLERK

PUBLIC NOTICE OF INTRODUCTION OF ORDINANCECITY OF DANA POINTORDINANCE NO.

NOTICE IS HEREBY GIVEN that on _____, the City Council of the City of Dana Point introduced Ordinance No. ____, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 2.20 ENTITLED "EMERGENCY ORGANIZATION" OF THE DANA POINT MUNICIPAL CODE

This Ordinance amends Section 2.20 of the Dana Point Municipal Code according to the State of California recommendations to comply with the requirements of application to become an Accredited "Local Disaster Council." Recognition as an accredited Local Disaster Council will provide for State of California Workers' Compensation coverage for registered Disaster Service Worker Volunteers and those persons impressed into service during disasters or declared "States of Emergency."

A certified copy of the full text of Ordinance No. ____ is available for review in the Office of the City Clerk, City of Dana Point, 33282 Golden Lantern, Dana Point.

KATHY WARD
CITY CLERK

PUBLISH:

PUBLIC NOTICE OF ADOPTION OF ORDINANCE

CITY OF DANA POINT

ORDINANCE NO.

NOTICE IS HEREBY GIVEN that on _____, the City Council of the City of Dana Point adopted Ordinance No. _____, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 2.20 ENTITLED "EMERGENCY ORGANIZATION" OF THE DANA POINT MUNICIPAL CODE

This Ordinance amends Section 2.20 of the Dana Point Municipal Code according to the State of California recommendations to comply with the requirements of application to become an Accredited "Local Disaster Council." Recognition as an accredited Local Disaster Council will provide for State of California Workers' Compensation coverage for registered Disaster Service Worker Volunteers and those persons impressed into service during disasters or declared "States of Emergency."

A certified copy of the full text of Ordinance No. _____ is available for review in the Office of the City Clerk, City of Dana Point, 33282 Golden Lantern, Dana Point.

Ordinance No. _____ was adopted by the following roll call:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

KATHY WARD
CITY CLERK

PUBLISH:

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

AFFIDAVIT OF POSTING

Kathy Ward, being first duly sworn, deposes, and says:

That she is the duly appointed and qualified City Clerk of the City of Dana Point:

That in compliance with State Laws of the State of California, ORDINANCE NO. _____, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, AMENDING CHAPTER 2.20 ENTITLED "EMERGENCY ORGANIZATION" OF THE DANA POINT MUNICIPAL CODE

a certified copy of the full text of Ordinance No. ____, along with the names of those City Council Members voting for and against said Ordinance, was caused to be posted in the Office of the City Clerk.

KATHY WARD
CITY CLERK

(SEAL)