

Counsel's Corner



Emergency Plans and Powers

Since the early 1990's, New York State has faced many natural, as well as man-made disasters which have severely impacted many of the municipalities of the State. Since 1990, New York has experienced a hurricane, several severe winter storms, floods, mudslides, tornados, train derailments and the terrorist attacks in 1993, and 2001, on the World Trade Center. In the wake of disasters like these, it can become evident as to whether or not your municipality has an emergency plan in place that is both functional and legal.



One of the most pivotal sections of New York State Statute dealing with disaster situations is Article 2-B of the Executive Law. This article grants local chief executives extraordinary power during the course of a disaster, as well as authorizing each municipality to prepare a disaster preparedness plan. In cities, towns and villages, any such disaster preparedness plans must also be coordinated with the county plan. The State Disaster Preparedness Commission is available to provide guidance and advice to all municipalities in the development of these plans. All plans for disaster preparedness developed by local governments or any revisions thereto must be submitted annually to the Commission by December 31st, in order to facilitate state coordination of disaster operation.

Any such plans must include, but not be limited to:

Prevention

- identification of potential disasters and disaster sites;
- recommended disaster prevention projects, policies, priorities and programs, with suggested implementation schedules which outline federal, state and local roles;
- such other measures as reasonably can be taken to prevent disasters or mitigate their impact.

Response

- centralized coordination of resources, manpower and services, utilizing existing organizations and lines of authority and centralized direction of requests for assistance;
- the location, procurement, construction, processing, transportation, storing, maintenance, renovation, distribution or use of materials, facilities and services which may be required in the time of a disaster;
- a system of warning populations who may be endangered;
- a specific plan for rapid and efficient communication and for the integration of local communication facilities during a disaster including the assignment of responsibilities and the establishment of communication priorities and liaison with municipal, private, state and federal communication facilities;
- a plan for coordinated evacuation procedures including the establishment of temporary housing and other necessary facilities;
- criteria for establishing priorities with respect to the restoration of vital services and debris removal;
- a plan for continued effective operation of the criminal justice system;
- provisions for training local government personnel and volunteers



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in disaster response operations;

- providing information to the public;
- care for the injured and needy and identification and removal of the dead;
- utilization and coordination of programs to assist victims;
- control of ingress and egress from the disaster site;
- arrangements to administer state and federal disaster assistance;
- procedures under which municipal and emergency organization personnel and resources will be used in the event of a disaster;
- a system for obtaining and coordinating disaster information including the centralized assessment of local disaster effects and the resultant needs;
- continued operation of governments and political subdivisions.

Recovery

- recommendations for replacement, reconstruction, removal or relocation of damaged and destroyed public or private facilities, proposed new amendments to zoning, subdivision, building, sanitary or fire prevention regulations and recommendations for economic and community development in order to minimize the impact of future disasters on the community;
- provisions for cooperation with state and federal agencies in recovery efforts;
- provisions for training and educating local disaster officials or organizations in the preparation of applications for federal and state disaster recovery assistance.

Under Executive Law §24, a local chief executive is authorized to declare a local state of emergency within the municipality and to issue local emergency orders to protect life and property or to bring the emergency under control. These orders may provide for such things as: curfews; prohibition/control of traffic and the presence of persons on public streets or places; regulation/closing of places of amusement and assembly; suspension/limitation of the sale, dispensing, use or transportation of alcoholic beverages, firearms, explosives and other flammable materials and liquids; the establishment/designation of emergency shelters and/or emergency medical shelters; and, after a request has been made to the governor for assistance or, the governor

has declared a state disaster emergency, suspension of any of its local laws which may prevent, hinder or delay actions necessary to coping with the disaster.¹

A local emergency order is effective from the time and in the manner proscribed in the order and must be published as soon as practicable in a newspaper of general circulation in the area affected by the order and provided to the media for publication and broadcast. These orders terminate five days after issuance or, when the emergency is over, whichever happens sooner. The local emergency order of a chief executive of a municipality must be executed in triplicate and filed within 72 hours, or as soon as practicable, in the office of the municipal clerk, the office of the county clerk and the office of the secretary of state.

For a sample emergency order or a declaration of a local state of emergency, please contact the NYCOM legal staff and see the NYCOM publication "The Authority of a Municipal Chief Executive During an Emergency".

Endnotes

1. N.Y.S. Executive Law §24(1)(g).

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