

AGENDA ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
June 20, 2018

Agenda Item:

Second Reading/Hearing: Ordinance No. 2018-08. An Ordinance of the Village Council of the Village of Estero, Florida, Establishing Procedures for the Declaration of a State of Local Emergency; Providing Definitions; Purpose and Intent; Authority to Declare a State of Local Emergency; Method of Declaring and Terminating a State of Local Emergency; Authority of Village Council; Effect of Declaration of a State of Local Emergency; Prohibitions During Declared State of Local Emergency; Access to Emergency Preparedness Fund; Penalties for Violations; Repeal of Prior Ordinances; Conflict and Severability; and Providing an Effective Date.

Description:

Natural and man-made disasters present unique challenges to the Village, and thus, require a unique response.

Ordinance No. 2018-08 addresses this reality by delineating disaster response authority to both the Village Council and Village Manager. The method and authority to declare a state of local emergency, as well as both the internal and external effects of said declaration, as well as the procurement guidelines during such emergencies, are also outlined.

The objective of this Ordinance is to clarify Village Council and Village Manager responsibilities and authorities in the event of a local emergency.

Recommended Action:

Motion to adopt Ordinance No. 2018-08.

Financial Impacts:

Minor cost associated with advertising the Ordinance.

Attachment:

1. Ordinance No. 2018-08 with revisions as suggested by Councilmember Levitan and Kyle Coleman

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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2018 - 08

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, ESTABLISHING PROCEDURES FOR THE DECLARATION OF A STATE OF LOCAL EMERGENCY; PROVIDING DEFINITIONS; PURPOSE AND INTENT; AUTHORITY TO DECLARE A LOCAL STATE OF EMERGENCY; METHOD OF DECLARING AND TERMINATING A LOCAL STATE OF EMERGENCY; AUTHORITY OF VILLAGE COUNCIL; EFFECT OF DECLARATION OF A STATE OF LOCAL EMERGENCY; PROHIBITIONS DURING DECLARED STATE OF LOCAL EMERGENCY; EMERGENCY MEASURES AND ACCESS TO EMERGENCY PREPAREDNESS FUND; PENALTIES FOR VIOLATIONS; REPEAL OF PRIOR ORDINANCES; CODIFICATION; CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Village of Estero, Florida, desires to establish procedures for the declaration of a state of local emergency in the event of a natural or manmade disaster or emergency that affects or threatens to affect the Village; and

WHEREAS, Chapter 252, Florida Statutes, authorizes municipalities to declare a state of local emergency and to waive procedures and formalities otherwise required of political subdivisions to take whatever prudent action is necessary to ensure the health, safety, and welfare of the Village in the event of a state of local emergency; and

WHEREAS, there may be instances when it is difficult or impossible to obtain a quorum of council members for the purpose of convening an emergency meeting to declare a state of local emergency; and

WHEREAS, the Village Council desires to designate certain Village officials, delegate to those officials the authority to declare a state of local emergency, and authorize certain actions by those officials to respond to the emergency when it is reasonably determined that a quorum of the Village Council is physically unable to meet; and

WHEREAS, because of the existing and continuing possibility of the occurrence of a natural or man-made disaster or emergency and potential damage and destruction resulting therefrom and, in order to ensure the readiness of the Village to manage such events and generally provide for the protection of the public health, safety and welfare, it is hereby determined to be in the best interests of the Village of Estero that the following Ordinance be adopted.

46 **NOW, THEREFORE, IT IS HEREBY ORDAINED** by the Village Council of the
47 Village of Estero, Florida:

48
49 **Section 1.** The forgoing recitals are true and correct and are incorporated herein by
50 this reference.

51
52 **Section 2.** **Definitions.**

53
54 For the purpose of this Article, the term:

55
56 (a) "Disaster" shall have the meanings ascribed by Section 252.34, Florida Statutes, and
57 as may be amended from time to time by the Legislature or as construed by the
58 courts of this state.

59
60 (b) "Emergency" shall have the meanings ascribed by Section 252.34, Florida Statutes,
61 and as may be amended from time to time by the Legislature or as construed by the
62 courts of this state.

63
64 **Section 3.** **Purpose and Intent.**

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66 It is the intent of the Village Council to delegate to certain officials the authority to declare a
67 state of local emergency in the event a natural or man-made threat to the Village, its facilities,
68 or its inhabitants, which results or may result in substantial harm or damage to or loss of
69 property, and to authorize those officials to take certain actions to respond to the emergency at
70 hand.

71
72 **Section 4.** **Authority to Declare a Local State of Emergency.**

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74 When an emergency situation has placed the Village, its facilities, or its inhabitants in danger
75 of loss of life or property, the Village Council is authorized at any regular, special or emergency
76 meeting to adopt a resolution declaring a local state of emergency.

77
78 When a meeting of the Village Council cannot practically be convened due to lack of a quorum
79 ~~or otherwise~~, a local state of emergency may be declared by the Mayor, the Vice Mayor in the
80 Mayor's unavailability, or by any other councilmember in the absence of the Mayor and Vice
81 Mayor. In an instance where the emergency has led to the unavailability of all councilmembers
82 then the Village Manager or their designee is thereby authorized to declare a local state of
83 emergency. Unavailability of members of the Village Council constituting a quorum shall be
84 determined by the Village Manager or in his or her absence, by the Mayor or Vice Mayor, by
85 email inquiries and phone calls to all of the members of the Village Council.

86
87 Despite the lack of a quorum due to the unavailability of members of the Village Council,
88 every reasonable effort shall be made to contact, continually update, and request the opinions
89 of all members of the Village Council, wherever they are located, with respect to the actions
90 being authorized hereunder.

136 ~~traveling to and from their jobs, provided that such employees have in their~~
137 ~~possession personal identification and identification of the business where they are~~
138 ~~employed.~~
139

- 140 (c) It shall be unlawful for a person or her or his agent or employee to rent or sell or offer
141 to rent or sell at an unconscionable price within the Village, any essential commodity
142 including, but not limited to, supplies, services, provisions, or equipment that is
143 necessary for consumption or use as a direct result of the emergency. The evidentiary
144 standards and defenses contained in Section 501.160, Florida Statutes, as amended,
145 shall be used to determine whether a price is unconscionable.
146

147 **Section 9. Emergency Measures and Access to Emergency Funds.**
148

149 In addition to any other powers conferred by law, upon the declaration of a local state of
150 emergency, the Village Manager or ~~his or her~~ their designees will have the power and authority
151 to order and promulgate all or any of the following emergency measures in whole or in part as
152 necessary to protect the health, safety, or welfare of persons or property and to waive any
153 procedural formalities otherwise required by law pertaining to these measures:
154

- 155 (a) To utilize emergency or reserve funds of the Village may be accessed by the Village
156 Manager for any purpose.
157
158 (b) The appropriate, incur debt and expend such other funds as necessary.
159
160 (c) To incur obligations and enter into contracts consistent with Village's emergency
161 procurement regulations.
162
163 (d) To request federal, state, or local assistance or to invoke mutual-aid agreements.
164
165 (e) To obtain and distribute equipment, materials, and supplies for emergency purposes.
166
167 (f) To coordinate and implement emergency management programs, including mutual
168 aid programs, applicable to the emergency conditions.
169
170 (g) To appoint, employ, remove, or provide such personnel, with or without
171 compensation, as needed.
172
173 (h) To establish, as necessary, primary and secondary emergency operating centers to
174 provide continuity of government, victim relief, or direction and control of emergency
175 operations.
176
177 (i) To suspend or limit the sale of alcohol.
178

- 179 (j) To assign or make available for duty the resources and facilities of the Village,
180 including employees, property, or equipment to other entities for emergency operation
181 purposes within or outside the Village limits.
182
- 183 (k) To make provisions for availability and use of temporary emergency housing or
184 warehousing of relief supplies.
185
- 186 (l) To utilize all available resources of the Village as reasonably necessary to cope with
187 the emergency.
188

189 **Section 10. Penalties for Violations.**

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191 Any person who violates any provision of this Article shall, upon conviction, be guilty of a
192 misdemeanor and shall be subject to a fine not exceeding Five Hundred Dollars (\$500.00) or
193 by imprisonment not exceeding sixty (60) days, or both.
194

195 **Section 11. Repeal of Prior Ordinances.**

196
197 Lee County Ordinance 87-1 as codified in Chapter 13½, Sections 13½-31 thru 13½-38 the
198 Code of Laws and Ordinances of Estero is hereby repealed in its entirety and have no force
199 and effect. In addition, all sections or parts of section of the Code of the Village of Estero, any
200 other Ordinance(s) or Resolution(s) of the Village in conflict herewith are hereby repealed to
201 the extent of such conflict.
202

203 **Section 12. Codification.**

204
205 The Village Council intends that this Ordinance be made part of the Code of the Laws and
206 Ordinances, of the Village of Estero, Florida; and that the sections of this Ordinance can be
207 renumbered or re-lettered to the appropriate word or phrase to accomplish codification, and
208 regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or re-
209 lettered and typographical errors and clarification of ambiguous wording that do not affect the
210 intent can be corrected with the authorization of the Village Manager without the need for a
211 public hearing.
212

213 **Section 13. Conflict and Severability.**

214
215 In the event any portion or section of this Ordinance is determined to be invalid, illegal or
216 unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect
217 the remaining portions or sections of this Ordinance which shall remain in full force and effect.
218

219 **Section 14. Effective Date.**

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221 This Ordinance shall take effect immediately upon its adoption by the Village Council.
222
223

224 PASSED on first reading this 6th day of June, 2018.

225

226 PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero,
227 Florida this 20th day of June, 2018.

228

229 Attest:

VILLAGE OF ESTERO, FLORIDA

230

231

232 By: _____
233 Kathy Hall, MMC, Village Clerk

By: _____
James R. Boesch, Mayor

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235

236 Reviewed for legal sufficiency:

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239 By: _____
240 Burt Saunders, Esq., Village Attorney

241

242	Vote:	AYE	NAY
243	Mayor Boesch	_____	_____
244	Vice Mayor Ribble	_____	_____
245	Councilmember Batos	_____	_____
246	Councilmember Errington	_____	_____
247	Councilmember Levitan	_____	_____
248	Councilmember McLain	_____	_____
249	Councilmember Wilson	_____	_____