

AGENDA ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
June 6, 2018

Agenda Item:

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 pass first reading of Ordinance No. 2018-08.

Financial Impacts:

Minor cost associated with advertising the Ordinance.

Attachment:

1. Ordinance No. 2018-08

1 **VILLAGE OF ESTERO, FLORIDA**

2
3 **ORDINANCE NO. 2018 - 08**

4
5 **AN ORDINANCE OF THE VILLAGE COUNCIL OF**
6 **THE VILLAGE OF ESTERO, FLORIDA,**
7 **ESTABLISHING PROCEDURES FOR THE**
8 **DECLARATION OF A STATE OF LOCAL**
9 **EMERGENCY; PROVIDING DEFINITIONS; PURPOSE**
10 **AND INTENT; AUTHORITY TO DECLARE A LOCAL**
11 **STATE OF EMERGENCY; METHOD OF DECLARING**
12 **AND TERMINATING A LOCAL STATE OF**
13 **EMERGENCY; AUTHORITY OF VILLAGE COUNCIL;**
14 **EFFECT OF DECLARATION OF A STATE OF LOCAL**
15 **EMERGENCY; PROHIBITIONS DURING DECLARED**
16 **STATE OF LOCAL EMERGENCY; EMERGENCY**
17 **MEASURES AND ACCESS TO EMERGENCY**
18 **PREPAREDNESS FUND; PENALTIES FOR**
19 **VIOLATIONS; REPEAL OF PRIOR ORDINANCES;**
20 **CODIFICATION; CONFLICT AND SEVERABILITY;**
21 **AND PROVIDING AN EFFECTIVE DATE.**
22

23 **WHEREAS,** the Village Council of the Village of Estero, Florida, desires to
24 establish procedures for the declaration of a state of local emergency in the event of a natural
25 or manmade disaster or emergency that affects or threatens to affect the Village; and
26

27 **WHEREAS,** Chapter 252, Florida Statutes, authorizes municipalities to declare a
28 state of local emergency and to waive procedures and formalities otherwise required of
29 political subdivisions to take whatever prudent action is necessary to ensure the health,
30 safety, and welfare of the Village in the event of a state of local emergency; and
31

32 **WHEREAS,** there may be instances when it is difficult or impossible to obtain a
33 quorum of council members for the purpose of convening an emergency meeting to declare a
34 state of local emergency; and
35

36 **WHEREAS,** the Village Council desires to designate certain Village officials,
37 delegate to those officials the authority to declare a state of local emergency, and authorize
38 certain actions by those officials to respond to the emergency when a quorum of the Village
39 Council is physically unable to meet; and
40

41 **WHEREAS,** because of the existing and continuing possibility of the occurrence of a
42 natural or man-made disaster or emergency and potential damage and destruction resulting
43 therefrom and, in order to ensure the readiness of the Village to manage such events and
44 generally provide for the protection of the public health, safety and welfare, it is hereby

45 determined to be in the best interests of the Village of Estero that the following Ordinance be
46 adopted.

47

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

50

51 **Section 1.** The forgoing recitals are true and correct and are incorporated herein
52 by this reference.

53

54 **Section 2. Definitions.**

55

56 For the purpose of this Article, the term:

57

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

61

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

65

66 **Section 3. Purpose and Intent.**

67

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

73

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

75

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

79

80 When a meeting of the Village Council cannot practically be convened due to lack of a
81 quorum or otherwise, a local state of emergency may be declared by the Mayor, the Vice
82 Mayor in the Mayor's unavailability, or by any other councilmember in the absence of the
83 Mayor and Vice Mayor. In an instance where the emergency has led to the unavailability of
84 all councilmembers then the Village Manager or their designee is thereby authorized to
85 declare a local state of emergency.

86

87

88

89 **Section 5. Declaration of Local State of Emergency by Written Proclamation;**
90 **Termination.**

91
92 A local state of emergency will be declared by written proclamation which is signed by an
93 authorized Village official pursuant to Section 4. Such local state of emergency will continue
94 until the Mayor, Vice Mayor, Village Manager or Village Manager’s designee finds that the
95 threat or danger no longer exists or until a meeting of a quorum of the Council is convened
96 and terminates the state of local emergency by written proclamation. The duration of a local
97 state of emergency cannot exceed seven (7) days without being extended, as necessary, by an
98 authorized Village official through the issuance of additional proclamations, in seven (7) day
99 increments.

100
101 **Section 6. Authority of Village Council.**

102
103 Nothing in this Article shall be construed to limit the authority of the Village Council to
104 declare, extend or terminate a state of local emergency, limit or take any actions or authority
105 prescribed herein when convened in a regular, special, or emergency meeting. Furthermore,
106 the Village Council is empowered to ratify all prior emergency actions of authorized Village
107 officials in response to the local state of emergency.

108
109 **Section 7. Effect of Declaration of Local State of Emergency.**

110
111 A declaration of state of local emergency shall activate applicable Village emergency
112 management programs and constitutes authority for the Village to act in accordance with
113 emergency procedures as authorized by law. Such authority includes but is not limited to the
114 powers conferred by the State Emergency Management Act, Chapter 252, Florida Statutes.

115
116 **Section 8. Prohibitions During Declared State of Local Emergency.**

117
118 Whenever a local state of emergency declared pursuant to this Article is in effect, the
119 following prohibitions shall apply throughout the Village, unless and until one or more of
120 such prohibitions have been waived or modified by action of the Village Council at a general,
121 special or emergency meeting:

- 122
123 (a) It shall be unlawful and an offense against the Village for any person, firm, or
124 corporation to use a potable water supply for any purpose other than cooking,
125 drinking or bathing.
126
127 (b) It shall be unlawful for any person to be out on the public rights-of-way or other
128 public areas of the Village between dusk and dawn, except for law enforcement
129 officers, members of the Estero Fire District, emergency medical personnel, Village
130 council members, other persons authorized by the Village manager, and regular
131 employees of local businesses while traveling to and from their jobs, provided that
132 such employees have in their possession personal identification and identification of
133 the business where they are employed.

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

141

142 **Section 9. Emergency Measures and Access to Emergency Funds.**

143

144 In addition to any other powers conferred by law, upon the declaration of a local state of
145 emergency, the Village Manager or their designees will have the power and authority to
146 order and promulgate all or any of the following emergency measures in whole or in part as
147 necessary to protect the health, safety, or welfare of persons or property and to waive any
148 procedural formalities otherwise required by law pertaining to these measures:

149

150 (a) To utilize emergency or reserve funds of the Village may be accessed by the Village
151 Manager for any purpose.

152

153 (b) The appropriate, incur debt and expend such other funds as necessary.

154

155 (c) To incur obligations and enter into contracts consistent with Village's emergency
156 procurement regulations.

157

158 (d) To request federal, state, or local assistance or to invoke mutual-aid agreements.

159

160 (e) To obtain and distribute equipment, materials, and supplies for emergency purposes.

161

162 (f) To coordinate and implement emergency management programs, including mutual
163 aid programs, applicable to the emergency conditions.

164

165 (g) To appoint, employ, remove, or provide such personnel, with or without
166 compensation, as needed.

167

168 (h) To establish, as necessary, primary and secondary emergency operating centers to
169 provide continuity of government, victim relief, or direction and control of
170 emergency operations.

171

172 (i) To suspend or limit the sale of alcohol.

173

174 (j) To assign or make available for duty the resources and facilities of the Village,
175 including employees, property, or equipment to other entities for emergency
176 operation purposes within or outside the Village limits.

177

- 178 (k) To make provisions for availability and use of temporary emergency housing or
179 warehousing of relief supplies.
180 (l) To utilize all available resources of the Village as reasonably necessary to cope with
181 the emergency.
182

183 **Section 10. Penalties for Violations.**
184

185 Any person who violates any provision of this Article shall, upon conviction, be guilty of a
186 misdemeanor and shall be subject to a fine not exceeding Five Hundred Dollars (\$500.00) or
187 by imprisonment not exceeding sixty (60) days, or both.
188

189 **Section 11. Repeal of Prior Ordinances.**
190

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

197 **Section 12. Codification.**
198

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

207 **Section 13. Conflict and Severability.**
208

209 In the event any portion or section of this Ordinance is determined to be invalid, illegal or
210 unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect
211 the remaining portions or sections of this Ordinance which shall remain in full force and
212 effect.
213

214 **Section 14. Effective Date.**
215

216 This Ordinance shall take effect immediately upon its adoption by the Village Council.
217

218 **PASSED** on first reading this 6th day of June, 2018.
219

220 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of
221 Estero, Florida this _____ day of _____, 2018.
222

223 Attest:

VILLAGE OF ESTERO, FLORIDA

224

225

226 By: _____
227 Kathy Hall, MMC, Village Clerk

By: _____
James R. Boesch, Mayor

228

229

230 Reviewed for legal sufficiency:

231

232

233 By: _____
234 Burt Saunders, Esq., Village Attorney

235

236 Vote: AYE NAY

237 Mayor Boesch _____ _____

238 Vice Mayor Ribble _____ _____

239 Councilmember Batos _____ _____

240 Councilmember Errington _____ _____

241 Councilmember Levitan _____ _____

242 Councilmember McLain _____ _____

243 Councilmember Wilson _____ _____