

ORDINANCE NO. 28
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AMENDING WILDOMAR MUNICIPAL CODE CHAPTER 2.08 PROVIDING FOR THE ADMINISTRATION OF DISASTER OPERATION AND RELIEF IN THE CITY OF WILDOMAR

THE CITY COUNCIL OF THE CITY OF WILDOMAR, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Amendment to Chapter 2.08 of the Wildomar Municipal Code.

Chapter 2.08

DISASTER RELIEF

Sections :

Section 2.08.010	Purposes
Section 2.08.020	Definitions
Section 2.08.030	Disaster Council Membership
Section 2.08.040	Disaster Council Powers and Duties
Section 2.08.050	Director and Assistant Director of Emergency Services
Section 2.08.060	Powers and Duties of the Director
Section 2.08.070	Emergency organization.
Section 2.08.080	Emergency Plan.
Section 2.08.090	Emergency Expenditures
Section 2.08.100	Punishment of Violations.

Section 2.08.010 PURPOSES

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

Section 2.08.020 DEFINITION

- A. As used in this ordinance, "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, or 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, or with respect to regulated utilities, a sudden and severe energy shortage requiring extraordinary measures beyond the authority vested in the California Public Utilities Commission.

- B. The term “Local Emergency” means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, 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 of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requiring extraordinary measures beyond the authority vested in the California Public Utilities Commission.

- C. The term “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, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a State of War Emergency, which conditions, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requiring extraordinary measures beyond the authority vested in the California Public Utilities Commission.

- D. D. The term “State of War Emergency” means the 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.

Section 2.08.030 DISASTER COUNCIL MEMBERSHIP

The City of Wildomar Disaster Council is hereby created and shall consist of the following:

- A. The mayor, who shall be chair.

- B. The director of emergency services, City Manager who shall be vice chair¹.

- C. The assistant director of emergency services appointed by the City Manager

- D. The Public Works Director.

- E. Additional department directors, elected officials or technical advisors as designated by the Director of Emergency Services based upon the emergency.

- F. Such chiefs of emergency services as are provided for in a current emergency plan of this city, adopted pursuant to this ordinance³.

- G. 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.

Section 2.080.040 DISASTER COUNCIL POWERS AND DUTIES

It shall be the duty of the Wildomar 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, upon call of the vice chair (in the absence of the chair).

Section 2.080.050 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 services¹.
- B. There is hereby created the office of assistant director of emergency services, who shall be appointed by the director.

Section 2.080.060 POWERS AND DUTIES OF THE DIRECTOR AND ASSISTANT DIRECTOR OF EMERGENCY SERVICES

- A. The director is hereby empowered to:
- (1) Request the city council to proclaim the existence or threatened existence of a "local emergency" if the city council is in session, or to issue such proclamation if the City Council is not in session⁴. 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 effect⁵.
 - (2) 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 emergency⁶.
 - (3) Control and direct the effort of the city's emergency organization for the accomplishment of the purposes of this ordinance.
 - (4) Direct cooperation between and coordination of services and staff of the city's emergency organization; and resolve questions of authority and responsibility that may arise between them.
 - (5) Represent this city in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.

- (6) 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 Secretary of California Emergency Management, or the existence of a “state of war emergency,” the director is hereby empowered:
- (a) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council;
 - (b) To 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. In so acquiring such property, the city waives no immunities and incurs no liabilities other than those at common law or those liabilities created by applicable state or federal law;
 - (c) To require emergency services of any city officer or employee and, in the event of the proclamation 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 deemed necessary in the execution of duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster services workers;
 - (d) To requisition necessary personnel or material of the city’s departments or agencies; and
 - (e) To execute all ordinary power as City Manager all of the special powers conferred by this ordinance or by resolution or emergency plan pursuant hereto adopted by the city council, all powers conferred by any statute, by any agreement approved by the city council, and by any other lawful authority⁷.
- B. 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 duties during an emergency. Such order of succession shall be approved by the city council.
- C. The Assistant Director shall, under the supervision of the Director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency programs of this city; and shall have such other powers and duties as may be assigned by the director.

Section 2.080.070

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 the provisions of SEC. 6.A. (6) (c) of this ordinance, 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 City of Wildomar⁸.

Section 2.080.080

EMERGENCY PLAN

The Wildomar Disaster Council shall be responsible for the development of the city's Emergency Plan, which plan shall provide for 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 emergency organization. Such plan shall take effect upon adoption by resolution of the city council.

Section 2.080.090

EXPENDITURES

Any expenditure 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 Wildomar⁹.

- A. In the case of an emergency, supplies, materials, equipment and services may be made without the benefit of the bidding requirements set forth herein when an item of supply, material, equipment and service, is immediately necessary for the continued operation of a department, or for the preservation of life or property, or when such purchase is required for the health, safety and welfare of the people, providing that there is a present, immediate and existing emergency.
- B. In the event of a public calamity such as an earthquake, major fire or national disaster, the Director shall have authority (up to \$100,000.00 thousand dollars) to make decisions regarding purchases which must be made to protect life and property. The Director of Finance shall maintain a detailed accounting of all expenditures related to the emergency and submit upon termination of such emergency, a detailed report to the City Manager who, in turn, will provide the report to the City Council.

Section 2.080.100

PUNISHMENT OF VIOLATIONS

It shall be a misdemeanor, punishable by a fine of not to exceed one thousand dollars (\$1,000), or by imprisonment for not to exceed six (6) months, or both, for any person, during an emergency, 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 ordinance, or in the performance of any duty imposed upon him by virtue of this ordinance.
- B. Do any act forbidden by any lawful rule or regulation issued pursuant to this ordinance, if such act is of such a nature as to give or be likely to give assistance to the enemy or imperil the lives or property of inhabitants of this 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 the emergency agency of the State.

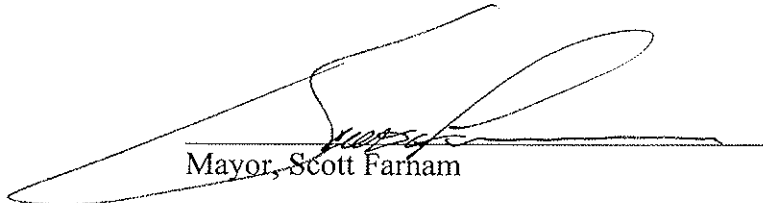
Section 2: **EFFECTIVE DATE**

This ordinance shall become effective thirty (30) days from and after its passage.

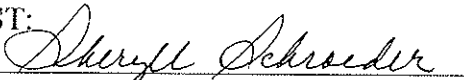
Section 3: **SEVERABILITY**

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this ordinance are declared to be severable.

ADOPTED, SIGNED and **APPROVED** this 13th day of May, 2009.



Mayor, Scott Farham

ATTEST:


City Clerk, Sheryll Schroeder

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)
CITY OF WILDOMAR)

I, Sheryll Schroeder, City Clerk of the City of Wildomar, do hereby certify that the foregoing Ordinance No. 28 was duly introduced at the regular meeting of April 22, 2009 and duly adopted by the City Council of the City of Wildomar at a regular meeting, held on the 13th day of May, 2009, by the following vote of the Council:

AYES: Mayor Farnam, Mayor Pro Tem Moore, Council Members Ade, Cashman,
 Swanson

NOES: None

ABSTAIN: None

ABSENT: None



Sheryll Schroeder, City Clerk

ENDNOTES

¹In city manager or chief administrative officer cities, that officer should be named director of emergency services; where there is no city manager or chief administrative officer, or in strong mayor cities, the mayor should be named director.

In the latter case, subsection B of this section should be deleted and the following subsections should be relettered since, under SEC. 5.A. supra, the mayor would be appointed director of emergency services.

²In cities where the mayor is the director of emergency services (see footnote 1) this subsection would read as follows: “The assistant director of emergency services, who shall be vice chair.”

³See Sections 5 and 6, providing for the structure, duties, and functions of the emergency organization.

⁴See Emergency Proclamation section – Part One, State Emergency Plan.

⁵Note the provisions of Section 8630 of the California Emergency Services Act which require that the city council review, at least every fourteen days until a local emergency is terminated, the need for continuing the local emergency, and further require that the city council terminate the local emergency at the earliest possible date the conditions warrant.

⁶Section 8625 (b) of the California Emergency Services Act provides that such request is to be made, in the case of a city, by the mayor or chief executive.

⁷General law cities see Section 38791 of the Government Code, regarding authority to provide for a chief executive with special powers during emergencies.

⁸The State of California has provided workers’ compensation benefits for all registered volunteers of an accredited disaster council organization. Requirements for the accrediting of local disaster councils and for the manner in which volunteers must be registered in order to be protected by these workers’ compensation benefits are contained in rules and regulations of the California Emergency Management Agency adopted pursuant to Section 8585.5 of the California Emergency Services Act.

⁹See Section 53021 of the Government Code.

¹⁰Under the provisions of Section 8668 (a) of the California Emergency Services Act, existing civil defense and disaster ordinances will remain in full force and effect until revised, amended, or revoked; therefore the existing ordinances should be expressly repealed by number. In subsequent revisions of a city emergency services ordinance, the following proviso should be included in the repealing section in order to preserve existing rights and privileges:

“Provided, that it is the intent of the city council in enacting this ordinance that it shall be considered a revision and continuation of the ordinance repealed by this ordinance, and the status of volunteers shall not be affected by such repeal; nor shall plans and agreements, rules and regulations, or resolutions adopted pursuant to such repealed ordinance be affected by such repeal until amended, modified, or superseded as provided in this ordinance.”