

Disaster Management

Taking Action

Olson & Olson, LLP

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Andrea Chan

OLSON & OLSON, L.L.P.
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019
713-533-3800
AChan@olsonllp.com

A Primer on Disaster Management

Texas is no stranger to disasters. Since 1953, Texas has had 88 Major Disaster Declarations, 13 Emergency Declarations, and 234 Fire Management Assistance Declarations (known as Fire Suppression Authorization prior to 2003) for a total of 335 Federal Disaster Declarations.¹ This is more than any other state in the country; California is a distant second with 219 Declarations. Emergency management aims to protect citizens, properties, and governments from all hazards. Effective emergency incorporates a functional approach to all types of emergencies, cooperative planning, and appropriate use of resources.

The Federal Emergency Management Agency, commonly known as FEMA, was created in 1978 and implemented by two Executive Orders in 1979. FEMA's purpose is to coordinate a response to any disaster that overwhelms local and state resources. FEMA is now an agency of the United States Department of Homeland Security. It has its roots in the Depression-era Reconstruction Finance Corporation that lent money to banks and institutions to stimulate economic activity, the Bureau of Public Roads that financed reconstruction of highways and roads following disasters, and the Flood Control Act which authorized the U.S. Army Corps of Engineers to address flood control issues. By the 1970s, federal disaster relief and recovery was under the Department of Housing and Urban Development (HUD). The Federal Disaster Assistance Administration was created within HUD to oversee disasters until it was incorporated into FEMA. During this time, there were other agencies that provided relief in the Executive Office of the President, the Office of Civil Defense (under the Department of Defense), the Department of Health, Education and Welfare, the Department of Agriculture, the Office of Emergency Planning, the Defense Civil Preparedness Agency, the Department of Housing and Urban Development, and the General Services Administration.



Texas has had its own version of emergency management which began with the Texas Disaster Act of 1975 under the auspices of the executive branch. The Act was codified in 1987 and is now found in Chapter 418 of the Texas Government Code. The purpose of Chapter 418 is to prepare for prompt response, to clarify the governor's role, to authorize cooperation and coordination, to provide a management system, and to minimize problems resulting from inadequate planning. Chapter 418 provides for the Texas Statewide Mutual Aid System and requires emergency management training for governmental



¹ <https://www.fema.gov/ar/disasters>

officials with emergency management responsibilities. The Texas Division of Emergency Management is a division of the Texas Department of Public Safety has the responsibility for maintaining the state's comprehensive state emergency plan.

Traditionally, emergency management has focused on preparedness, especially in preparing for enemy attack during the time of war. It has expanded to encompass much more than preparing the home front during war. Emergency Management requires recognizing the types of potential disasters, emergencies and hazards, identifying resources in advance, planning how to respond with resources, and evaluating the responses.

What we now consider emergency management can be summarized into three premises:

1. Address all types of hazards.
2. Follow the life cycle of occurrence of a disaster with corresponding management phases.
3. Rely on partnerships among all levels of government (local, state, federal), the private sector, and non-profit, voluntary citizens groups (non-governmental organizations or NGOs).

Types of Hazards or Emergencies

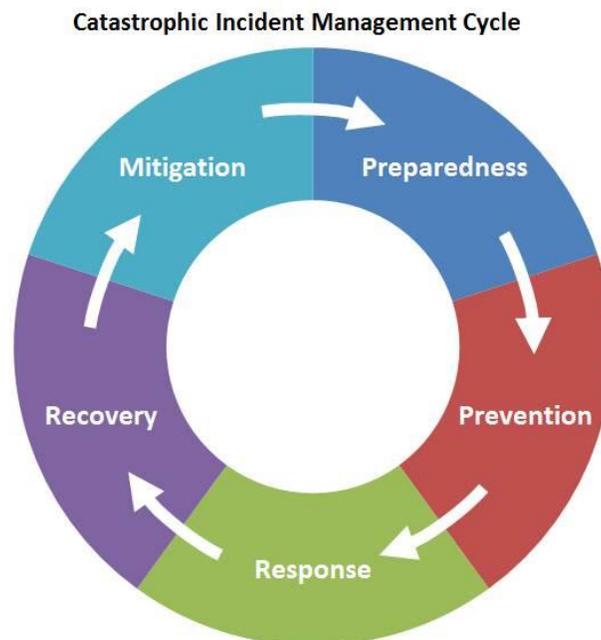
Federal "emergency management" originally focused on preparing to respond to enemy attacks during war. However, technological, natural, and other disasters and attacks share many common features. Some disasters may encompass a combination of hazards. Therefore, many management strategies can apply to all emergencies. Emergencies can include situations relating to:

- biohazards
- chemical leaks/spills (overturned tanker, leaking storage facilities)
- civil disobedience (riot, looting)
- contagious diseases (animal, food borne, air borne/contact)
- earthquakes
- fires (large structure, multi-family, wildfire)
- industrial accidents (explosions, fires, machinery malfunction)
- infrastructure failure (building, bridge or road collapse)
- mass shootings
- transportation incidents (airplane, multi-vehicle, common carrier, train derailment)
- war and terroristic attacks
- weather events (drought, flooding, hurricanes, ice/winter storms, tornados).

However, emergency management principles may also be applied to help manage planned events that involve large groups of citizens such as festivals and sporting events.

Life Cycle of a Disaster

Most emergency management cycles include four phases of management: Preparedness, Response, Recover, and Mitigation. Prevention might be considered an additional phase. Prevention refers to that active implementation of the plans or preparations identified in the Preparedness phase.



Preparedness

Generally, preparedness includes making plans or preparations to save lives, minimize disruption, and help with response and rescue operations. Preparedness activities take place before an event.

Examples: Create an evacuation plan. Identify lines of succession.

Prevention

In this expanded model, prevention activities include making the actual preparations to save lives, minimize, disruption, and help with response and rescue operations. Most prevention activities take place before an event, but some may take place during an event.

Examples: Stockpile food and water. Get vaccinations. Make arrangements for response and recovery efforts. Execute contracts.

Response

Response includes all the actions taken after an event to protect citizens and to prevent and minimize property damage after an event. Response activities take place during an event.

Examples: Seek shelter during a weather event. Practice social distancing during a pandemic. Evacuate citizens. Position assets in safe locations.

Recovery

Recovery activities are the actions taken to return to a normal (or even safer) situation following an emergency. Recovery takes place after an event. These activities begin as soon as the immediate danger is over.

Examples: Remove debris. Repairing and replacing damaged structures. Provide temporary housing.

Mitigation

Mitigation refers to any activities that prevent an emergency, reduce the chance of an emergency from happening, or reducing the damaging effects of an unavoidable emergency. These activities can take place before or after an emergency.

Examples: Buying flood insurance before an event. Drying wet items to prevent mold. Follow established standards in construction. Promulgate Drought Contingency Ordinance.

Partnerships and Responsibilities

When an emergency response is required, who should get involved? Governmental responses might come to mind first, but effective emergency response often requires a partnership with the private sector. This would include business and industry as well as non-governmental organizations (NGOs) and the public itself. By using this approach, those impacted by the disaster can contribute to the emergency management solution.

Successful Disaster Management depends on individuals, governments (local, state, and federal), the private sector, and NGOs to all fulfill their respective responsibilities.

The ***Federal Government***, through FEMA, gives guidance to all plans to warn and protect the nation during emergencies and coordinates services for disaster response and recovery activities. It also helps states by offering training programs and research information on mitigation methods, reviewing and coordinating state emergency plans, providing financial

assistance and flood insurance. Local emergency planning management may receive subsidies to develop and maintain their programs. In the event that a community or state does not have adequate resources, FEMA may provide supplemental resources for protection or assistance. Upon issuance of a major disaster declaration by the President in response to an application from a governor, federal resources are made available. However, FEMA should not serve as a substitute for adequate state or local preparedness, response, recovery, or mitigation activities as the President may deny relief.

The *state government* generally bears the responsibility for protecting the communities and citizens within the state and coordinates statewide emergency management activities, including activities that involve more than one community. The governor reviews request from local governments for declarations of state disaster; it is this official declaration that triggers the ability for the state (through the governor) to apply for federal assistance. The governor also has the responsibility to determine which municipalities need their own emergency management programs, based on the municipality's vulnerability, capability to respond, and population size and concentration.²

Local governments have the responsibility to make plans and provide resources to protect their citizens and communities. Local governments should be involved in all phases of the life cycle of a disaster. Chapter 418 of the Government Code gives some guidance as to some of the duties of local governments. For example, section 418.1015 designates the presiding officer of an incorporated city or county or the chief administrative officer of a joint board as the emergency management director for the political subdivision, serving as the governor's designated agent. The local emergency management director may, in turn, designate an emergency management coordinator to serve as the emergency management director's assistant. Emergency management coordinators may not exercise the power to seize state or federal resources without prior authority from the state or federal agency responsible for those resources. Every county is required to either maintain its own emergency management program or participate in an interjurisdictional emergency management program.³ Some municipalities may participate in an interjurisdictional program through a liaison officer.⁴

All local (and interjurisdictional) emergency management plans must provide for mitigation, preparedness, response, and recovery.⁵ Some key features of the plan must include (1) wage, price, and rent controls; (2) other economic stabilization methods; (3) curfews and blockades, (4) limitations on utility use; (5) rules governing entrance to and exit from affected areas; and (6) other security measures.

² Tex. Gov't Code Ann. § 418.103.

³ Tex. Gov't Code Ann. § 418.102.

⁴ Tex. Gov't Code Ann. § 418.105.

⁵ Tex. Gov't Code Ann. § 418.106.

Local government responsibilities include:

- Preparedness
 - Recognizing hazards and assessing their potential risks to the community
 - Determining the community's capability to mitigate against, prepare for, respond to, and recovery from an emergency
 - Identifying methods to improve the community's emergency management capability through the efficient use of resources, improved coordination, and cooperation with other communities, the state government, and the federal government
 - Updating and maintaining existing plans

HINT: Conduct After-Action meetings to identify and make improvements to the existing plans. No two emergency situations are identical, but there are always lessons learned.

HINT: Remember to keep plans general so that they will apply to all hazards. Use annexes, appendices, or specific operating procedures that may be targeted to specific hazards. For example, procedures for social distancing might be appropriate in a public health emergency, but not in a transportation emergency.

- Preparation
 - Employing methods to improve the community's emergency management capability through the efficient use of resources, improved coordination, and cooperation with other communities, the state government, and the federal government
 - Enter into mutual aid agreements

HINT: Sometimes it may be very difficult to enter into a formal mutual aid agreement. However, the mere exercise of discussing needs will alert other entities to what may ultimately happen.

- Execute contracts for recovery response

- ***HINT: When entering into contracts, ask about the emergency plans the contractor has. Consider what impact the contractor's failure to provide services will have on your plan and make contingency plans.***
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- Develop operating procedures

HINT: When developing operating procedures, verify that the job descriptions for those tasked to carry out response and recovery operations match expectations. Be specific.

- Establishing warning systems

HINT: Consider alternative means of communication, including forms of social media, such as Nixle⁶, Facebook, and Twitter, in addition to “reverse 911” or “211.” Make sure your entity has an official, authorized “voice.”

- Stocking emergency supplies and equipment
- Educating the public
- Training emergency personnel
- Response
 - Activating response plans and rescue operations, especially by First Responders

HINT: Response (specifically rescue) activities may need limits. First and foremost should be the safety of those who are activating the response plan and implementing the rescue operations. These responders are trained and vital. No matter how much they may want to continue their efforts, their safety is vital. Some efforts may have to be “triaged.”

- Recovery
 - Assessing damage caused by the emergency
 - Assisting citizens to return to a normal life as soon as possible
- Mitigation
 - Establishing building codes, zoning ordinances, land-use management programs to minimize future impact
 - Implementing additional training programs
 - Investigate complaints

Individuals have the ultimate responsibility for their own personal emergency plans. It is important not to neglect the personal aspect of emergency response. If individuals do not have their own plans and they are responsible for fulfilling another role in an emergency response

⁶ Nixle enables government agencies to communicate in a secure way and exchange multimedia content over a trusted mobile platform that supports secure enterprise grade communications for both public and private messaging. <http://www.nixle.com>

(governmental, private sector, NGO), they may be distracted during the emergency and be less effective in their designated emergency management roles.

HINT: If possible, allow employees who have critical roles in a plan sufficient time before the event to implement/execute their personal plans. For example, if the emergency requires evacuation, allow the employee to prepare other family members to evacuate early. Alternatively, consider the needs of the family members as part of the local government's planning.

Non-Governmental Organizations frequently provide humanitarian assistance during the Recovery phase. Many NGOs have local chapters that will provide relief services locally, but can call upon other chapters from across the country to assist. They can assist by distributing food, medicine, supplies, and temporary shelter.

Suggested Considerations

In creating your emergency management plans, you may consider some of these factors:

People Needs

- Work Schedule Flexibility
- Psychological Needs After A Disaster
- Providing For Employees' Families
- Essential Personnel: Different For Different Emergencies?

Financial Needs

- Insurance Claims
- Continuity Of Business And Supplies
- Cash Value V. Replacement Cost
- Emergency Lines Of Credit
- Purchase Orders And "P-Cards"
- Priority Purchasing Rights With Vendors

Data Needs

- Physical Files
- Computer Hardware
- Remotely Located Backup Servers

Communication Needs

- Social Media/Updated Websites
- Internal Communications
- Communication With Partners

Power Needs

- Fuel For Motor Vehicles And Equipment
- Workplace Power
- Security

Facility Needs

- Alternative Worksites
- Telecommuting
- Providing For Employees' Families

Training Needs

- Who Needs Training
- Practice Exercises
- Providing for Employees' Families

Resources

The attorneys and staff at Olson & Olson can assist you in drafting some of the ordinances and declarations your entity may need in the time of an emergency and can provide you with assistance in developing and reviewing your policies.

There are scores of available resources that provide opportunities for training and planning. Here are a few web-based resources:

Federal

FEMA Region VI: Region VI oversees the federal emergency management for Arkansas, Louisiana, New Mexico, Oklahoma, Texas and 68 federally recognized Tribal Nations.

<http://www.fema.gov/region-vi-arkansas-louisiana-new-mexico-oklahoma-texas>.

FEMA Pre-Disaster Mitigation Grant Program: The Pre-Disaster Mitigation (PDM) program provides funds to states, territories, Indian tribal governments, communities, and universities for hazard mitigation planning and the implementation of mitigation projects prior to a disaster event. The deadline for applications to this program is generally in the fall. The Hazard Mitigation Assistance Unified Guidance booklet also includes a list of resources with web links and contact information to assist with mitigation planning and risk assessment, benefit-cost

analysis, feasibility and effectiveness, and grants.

<http://www.fema.gov/pre-disaster-mitigation-grant-program>.

FEMA National Incident Management System (NIMS) Independent Study Program (ISP): The National Incident Management System (NIMS) identifies concepts and principles that answer how to manage emergencies from preparedness to recovery regardless of their cause, size, location or complexity. NIMS provides a consistent, nationwide approach and vocabulary for multiple agencies or jurisdictions to work together to build, sustain and deliver the core capabilities needed to achieve a secure and resilient nation. Consistent implementation of NIMS provides a solid foundation across jurisdictions and disciplines to ensure effective and integrated preparedness, planning, and response.

<http://training.fema.gov/IS/NIMS.aspx>.

Centers for Disease Control and Prevention Public Health Emergency Response Guide for Public Health Directors: Local and state health departments play an extremely important role in all-hazards emergency preparedness and response. Public health professionals should have immediate access to guidance and information that will assist them in rapidly establishing priorities and undertaking necessary actions during the response to an emergency or disaster. The National Center for Environmental Health (NCEH), Division of Emergency and Environmental Health Services (EEHS) has developed this all-hazards public health emergency response guide to address this need by providing an all-hazards reference tool for health professionals who are responsible for initiating the public health response during the first 24 hours (i.e., the acute phase) of an emergency or disaster. It provides useful information on the activation and integration of a jurisdiction's public health system into the existing emergency response structure during the acute phase of an incident. It also contains guidance that is applicable to specific types of incidents, such as floods, earthquakes, and acts of terrorism.

<http://emergency.cdc.gov/planning/pdf/cdcreponseguide.pdf>.

Centers for Disease Control and Prevention (CDC) Pre-Event Model: This is a spreadsheet-based software model designed to assist in planning baseline care response during an emergency by estimating pre-event population needing special medical care following a disaster.

http://emergency.cdc.gov/planning/medcon/excel/medcon_preevent.xls.

Centers for Disease Control and Prevention (CDC) VacStockpile Tools: This is a spreadsheet-based software model designed to assist policy makers and pediatric vaccine stockpile administrators in evaluating the potential health and financial impacts of stockpile options and in deciding appropriate doses of the 14 currently recommended pediatric vaccines to be stockpiled.

<http://www.cdc.gov/phpr/stockpile/vacstockpile.htm>.

State

Office of the Governor/Disaster Preparedness: The Governor's Office publishes its disaster declaration along with other press releases. It also includes a Twitter feed from various local governments.

<http://governor.state.tx.us/disaster/>.

Texas Department of Public Safety/ Texas Division of Emergency Management (TDEM): The TDEM coordinates the state emergency management program, which is intended to ensure the state and its local governments respond to and recover from emergencies and disasters, and implement plans and programs to help prevent or lessen the impact of emergencies and disasters. It administers a number of programs, including an Exercise Unit, a Plans Unit, a Technological Hazards Unit, and a Training Unit.

<http://www.txdps.state.tx.us/dem/>.

Training and Education Collaborative System Preparedness and Emergency Response Learning Center (TECS-PERLC): TECS-PERLC offers training to the public health workforce to be better equipped to plan for, respond to, and recover from an emergency. Some of the on-line training topics include: [Bioterrorism Agents](#), [Distinctions between Federal, State, and Local Authority in Responding to Health Emergencies](#), [Emergency Management at the Local, State, and Federal Levels](#), [Functional and Access Needs](#), [Law Enforcement and Public Health Joint Investigations](#), [Personal Vulnerability and Liability during a Public Health Response](#), [Public Health Emergency Preparedness](#), [Using Facebook](#), [Using Twitter](#), and [Vulnerable Populations](#).

<http://tecsperlc.org/>.

Texas A&M Engineering Extension Service(TEEX)/Emergency Services Training Institute (ESTI): The ESTI Homeland Security Programs consist of a broad spectrum of programs focused on preparing state and local jurisdictions to be more resilient in the face of catastrophic disasters through an all-hazards approach. Through the Homeland Security National Training Program (HSNTP), the ESTI Homeland Security Programs deliver DHS funded training across the nation. The programs also develop and deliver customized, fee-based courses and exercises to meet the needs of municipalities, a broad range of private sector providers, including transportation and petro-chemical industries. It offers programs focused on training senior elected and

agency officials on their roles during disasters that provide hazardous materials and wide area search strategies and techniques to emergency responders as well as programs focused on training multi-disciplinary audiences on incident management, Emergency Operations Center operations and management, and advanced strategies and techniques in emergency medical response and management and public health disaster response and management.

<http://www.teex.org/teex.cfm?pageid=ESTIprog&area=ESTI&templateid=1694>.

Relief Organizations:

Find links to various NGOs that provide assistance to the community during and/or after an emergency. <http://www.disastercenter.com/agency.htm>.

Sample Request to Governor for Pre-Event State of Emergency Declaration

[Date]

The Honorable [Governor's Name]
Governor of Texas
c/o State Coordinator
Division of Emergency Management
P.O. Box 4087
Austin, Texas 78773-0001

Dear Governor [Governor's Name]

[Local government's name], Texas, is facing imminent threat of widespread and/or severe damage, injury, and/or loss of life or property from [describe disaster]. I believe that the damage to homes, businesses, public works and utility systems due to the severity and magnitude of [describe state disaster] poses a public health and safety hazard beyond what the [local government's name]'s capability to recover without supplementary State and/or Federal assistance.

Pursuant to chapters 418 and 433 of the Texas Government Code, I am requesting that you declare a state of emergency for [local government's name], Texas. This request is necessary to preserve and protect life and property. Accordingly, I am requesting that you issue reasonable directives to deal with the emergency. A state of emergency must be declared immediately so that appropriate measures to deal with the [describe type of disaster] can be implemented. Furthermore, I am asking that successive proclamations be issued and remain in effect until the damage, destruction, injury and/or loss of life or property is contained.

Your immediate assistance in response to this emergency is appreciated.

Sincerely,

[Title of Local Government Head] of [Local Government's Name], Texas

Enclosure: Disaster Summary Outline
Local Disaster Proclamation

Sample Request to Governor for Post-Event State of Emergency Declaration

[Date]

The Honorable [Governor's Name]
Governor of Texas
c/o State Coordinator
Division of Emergency Management
P.O. Box 4087
Austin, Texas 78773-0001

Dear Governor [Governor's Name]

On [date] [local government's name], Texas, experienced [describe disaster]. With this event, [local government's name] is currently facing tremendous physical and economic losses. An estimated [number] homes and/or businesses have been [describe damage and/or destruction], and an estimated [number] families are in need of temporary housing and other individual assistance.

Likewise, public utilities have been impacted to the extent that an estimated [number] homes and/or businesses have been left without [describe services, such as: potable water, electricity, telephone service]. (Add additional facts if appropriate, such as: The public works and road situation in the [local government's name] have been affected to the extent that an estimated [number] families are water bound due to [describe situation].) It is estimated that the damages will exceed \$[dollar amount].

It is my belief the damage to homes, business, public works and utility systems due to [describe disaster] constitutes a public health and safety hazard. I have determined that this incident is of such severity and magnitude that an effective response is beyond [local government's name] capability to recover without supplementary State and Federal assistance. Additionally, I certify that [local government's name] does not have the local funding available to make the needed repairs and to provide our citizens with effective relief.

Pursuant to chapters 418 and 433 of the Texas Government Code, I am requesting that you declare a state of emergency for [local government's name], Texas. This request is necessary to preserve and protect life and property. Accordingly, I am requesting that you issue reasonable directives to deal with the emergency. A state of emergency must be declared immediately so that appropriate measures to deal with the [describe type of disaster] can be implemented. Furthermore, I am asking that successive proclamations be issued and remain in effect until the damage, destruction, injury and/or loss of life or property is contained.

Your immediate assistance in response to this emergency is appreciated.

Sincerely,

[Title of Local Government Head] of [Local Government's Name], Texas

Enclosure: Disaster Summary Outline
Local Disaster Proclamation

Draft Declaration of Disaster

PROCLAMATION DECLARING A LOCAL STATE OF DISASTER BY
[Title of Local Government Head] of [Local Government's Name], Texas.

Whereas, [Local Government's Name], Texas, in the ____ day of _____, 20____, has suffered [or there is imminent threat of] severe damage, destruction, injury, and/or loss of life or property resulting from [describe disaster]; and

Whereas, [Title of Local Government Head] of [Local Government's Name], Texas, has determined that emergency measures must be taken to either prepare for or respond to a disaster in order to prevent or minimize the loss of life and the destruction of property, and is empowered to take the actions described in this proclamation pursuant to the Texas Disaster Act of 1975, as amended, Chapter 418 of the Texas Government Code (the "Texas Disaster Act"), **NOW THEREFORE**,

BE IT PROCLAIMED BY [Title of Local Government Head] of [Local Government's Name], Texas:

Section 1. Declaration of Local State of Disaster. A local state of disaster is hereby declared by [Title of Local Government Head] of [Local Government's Name], Texas, and all surrounding areas pursuant to section 418.108(b) of the Texas Disaster Act.

Section 2. Duration of Local State of Disaster. Pursuant to section 418.108(b) of the Texas Disaster Act, the local state of disaster issued in this proclamation shall continue until revoked, but in no event will it exceed a period longer than seven days of the date hereof, unless continued or renewed by the consent of the [governing body of the local government] of [Local Government's Name], Texas.

Section 3. Publicity and Filing. Pursuant to section 418.108(c) of the Texas Disaster Act, this declaration of a local state of disaster shall be given prompt and general publicity and shall be filed promptly with [government official charged with giving notice].

Section 4. Activation of the City Emergency Plan. Pursuant to section 418.108(d) of the Texas Disaster Act, this declaration of a local state of disaster activates the [Local Government's Name], Texas's Emergency Management Plan.

Section 5. This proclamation shall take effect immediately upon its issuance by [Title of Local Government Head] of [Local Government's Name], Texas.

Ordered this the ____ day of _____, 20____.

[Title of Local Government Head] of
[Local Government's Name], Texas

Draft Ordinance of Disaster Declaration – version 1

[Title of Local Government Head] of [Local Government's Name], Texas, Ordinance No. ____

AN ORDINANCE AUTHORIZING [TITLE OF LOCAL GOVERNMENT HEAD] of [LOCAL GOVERNMENT'S NAME], TEXAS, TO EXTEND OR CONTINUE A PROCLAMATION OF A LOCAL STATE OF DISASTER FOR [LOCAL GOVERNMENT'S NAME], Texas, BEYOND THE SEVEN DAY PERIOD AFTER THE PROCLAMATION WAS ISSUED, MAKING CERTAIN FINDINGS RELATED THERETO, AND DECLARING AN EMERGENCY.

Whereas, on [date of declaration], [Title of Local Government Head], pursuant to the Texas Disaster Act of 1975, amended as Chapter 418 of the Texas Government Code (the "Texas Disaster Act"), issued a proclamation declaring a local state of disaster for [Local Government's Name], Texas, resulting from [describe emergency];

Whereas, the conditions necessitating the proclamation of a local state of disaster are ongoing and continue to exist; and

Whereas, the Texas Disaster Act provides that a local state of disaster may not be continued for a period of in excess of seven days without the consent of the governing body of the political subdivision, **NOW THEREFORE**,

BE IT ORDAINED BY THE [GOVERNING BODY] OF [LOCAL GOVERNMENT'S NAME], TEXAS:

Section 1. Extension of Local State of Disaster. The [Governing Body], as the governing body of [Local Government's Name], Texas, hereby authorizes [Title of Local Government Head] of [Local Government's Name], Texas, to extend or continue a proclamation of a local state of disaster beyond the seven day period following the issuance of the proclamation.

Section 2. Executive Orders. All executive orders, proclamations or regulations issued by [title of local government head] after the proclamation declaring a local state of disaster will continue to have the force and effect of law until rescinded by the mayor or until the local state of disaster is terminated pursuant to Section 3 of this ordinance.

Section 3. Termination of Local State of Disaster. The local state of disaster issued by the [Title of Local Government Head] for [Local Government's Name] shall continue until terminated by order of [Governing Body], as the governing body of [Local Government's Name], Texas, or upon executive order by the [Title of Local Government Head] when such threat or danger which initiated the proclamation has passed or has been dealt with in such a manner that it no longer exists.

[If applicable]: **Section 4. Administration.** The [Title of Local Government Head], as Emergency Management Director for [Local Government's Name] shall retain all the powers given to him by the Texas Disaster Act, Executive Order RP32, and [Local Government's Name]'s Emergency Management Plan necessary to deal with the presence of imminent occurrence of a disaster as it is defined in the Texas Disaster Act.

Draft Ordinance of Disaster Declaration – version 1, continued

Section 5. Applicability. If any provision, section, subsection, sentence, clause, or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the [Governing Body] in adopting this ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

Section 6. Notice of Meeting. The [Governing Body] officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place, and subject of this meeting of the [Governing Body] was posted at a place convenient to the public at the [Place for Public Meetings] of the [Local Government's Name] for the time required by law preceding this meeting, as required by the Open Meetings Law, chapter 551 of the Texas Government Code; and that this meeting was open to the public as required by law at all times during which this ordinance and the subject matter thereof was discussed, considered, and formally acted upon. The [Governing Body] further ratifies, approves, and confirms such written notice and the contents and posting thereof.

Section 7. Effective Date. A public emergency exists requiring that this ordinance be passed finally on the date of its introduction as requested in writing by [Title of Local Government Head]; therefore, this ordinance shall take effect immediately upon its passage [authority for ordinance].

PASSED AND ADOPTED, this ____ day of _____, 20____.

APPROVED, this ____ day of _____, 20____.

[Title of Local Government Head] of
[Local Government's Name], Texas

Pursuant to [authority for ordinance], the effective date of the foregoing is _____, 20____.

Draft Ordinance of Disaster Declaration – version 2

[Title of Local Government Head] of [Local Government's Name], Texas, Ordinance No. ____

Whereas, by proclamation [or declaration] issued [date of proclamation or declaration], [Title of Local Government Head], declared a local state of disaster [or emergency] for [Local Government's Name], Texas, resulting from [describe emergency] pursuant to the Texas Disaster Act of 1975, amended as Chapter 418 of the Texas Government Code (the "Texas Disaster Act");

Whereas, the conditions necessitating the proclamation of a local state of disaster are ongoing and continue to exist; and

Whereas, the state of disaster [or emergency] requires that certain emergency measures be taken pursuant to the Executive Order of the Governor Relating to Emergency Management; **NOW THEREFORE**,

BE IT ORDAINED BY THE [GOVERNING BODY] OF [LOCAL GOVERNMENT'S NAME], TEXAS, that the following regulations shall take effective immediately upon issue, and shall remain in effect until the state of disaster [or emergency] is terminated:

[Eliminate sections below that will not be used or that do not apply.]

Section 1. Curfew.

- (a) A person shall not remain or travel upon any public or private property in the following area(s) between the hours of _____ and _____: [describe applicable areas].
- (b) Subsection (a) shall not apply to:
 - (1) a person authorized by the Emergency Management Director to assist in the production of the health, safety, or welfare of the public; or
 - (2) a person who remains or travels upon private property which is owned by him or upon which the person has been invited.

Section 2. Movement of People and Occupancy of Premises.

- (a) A person shall not remain or travel upon any public or private property in the following area(s): [describe applicable areas].
- (b) Subsection (a) shall not apply to a persons authorized by the Emergency Management Director to assist in the production of the health, safety, or welfare of the public.

Section 3. Movement of People and Occupancy of Premises.

All utility services shall be discontinued in the following area(s): [describe applicable areas].

Draft Ordinance of Disaster Declaration – version 2, continued

Section 4. Flammable Products.

- (a) A person shall not sell or give away gasoline or other flammable or combustible products in the following area(s): [describe applicable areas].
- (b) All gasoline stations shall be closed in the following area(s): [describe applicable areas].

Section 5. Explosives.

- (a) A person shall not sell, barter, loan, or give away arms, ammunition, dynamite, or other explosives in the following area(s): [describe applicable areas].
- (b) All establishments where arms, ammunition, dynamite, or other explosives are sold shall be closed in the following area(s): [describe applicable areas].

Section 6. Alcoholic Beverages.

- (a) A person shall not sell or distribute beer, wine, liquor, or alcoholic beverages of any kind in the following area(s): [describe applicable areas].
- (b) Subsection (a) shall not apply to the sale of medicine which contains alcohol.

Section 7. Price Controls.

A person shall not sell any of the following goods or services for more than the price the person charged for the goods or services on [date of the disaster declaration].

- (a) groceries, beverages, toilet articles, ice;
- (b) construction and building materials and supplies, and earthmoving equipment and machinery;
- (c) electrical and gas generating and transmission equipment, parts, and accessories;
- (d) charcoal briquettes, matches, candles, lamp illumination and heat unit carbides, dry batteries, light bulbs, flashlights, and hand lanterns;
- (e) hand tools (manual and power), hardware and household supplies, and equipment rental;
- (f) automotive parts, supplies, and accessories;
- (g) plumbing and electrical tools and supplies;
- (h) apartment, duplex, multi-family dwelling, rooming house, hotel and motel rental;

Draft Ordinance of Disaster Declaration – version 2, continued

- (i) gasoline, diesel oil, motor oil, kerosene, grease, and automotive lubricants;
- (j) restaurant, cafeteria, and boarding-house meals;
- (k) services of roofing and building contractors, plumbers, electricians, mechanics, tree surgeons, and automobile wrecker companies;
- (l) medicine, pharmaceutical, and medical equipment and supplies;
- (m) blankets, quilts, bedspreads, bed linens, mattresses, bedsprings, bedsteads, towels, and toilet paper; and
- (n) furniture and clothing.

Section 8. Suspension and Modification of Ordinances.

(a) The following ordinances and regulations are hereby suspended or modified as indicated:

[List relevant ordinances and regulations.]

(b) The suspensions or modifications of the ordinances and regulations listed in Subsection (a) shall remain in effect until [state date, such as 60 days from the date these regulations are issued] or until the state of disaster is terminated, whichever is sooner.

Section 9. Penalties.

(a) These regulations shall have the effect of ordinances when duly filed with the [Local Government's Custodian of Records].

(b) A person who violates any provision of these regulations, upon conviction, is punishable by a fine of not more than five hundred dollars (\$500.00)

Section 10. Emergency.

This [ordinance or order] shall take effect immediately from and after its passage and publication, and it is accordingly ordained.

PASSED AND ADOPTED, this ____ day of _____, 20____.

APPROVED, this ____ day of _____, 20____.

[Title of Local Government Head] of
[Local Government's Name], Texas

Draft Executive Order

[TITLE OF LOCAL GOVERNMENT HEAD] - EXECUTIVE ORDER

SUBJECT: Exercise of [Title of Local Government Head]'s Emergency Authority during a Local State of Disaster.

1. PURPOSE

The purpose of this Executive Order is to implement the [Title of Local Government Head]'s emergency powers during a local state of disaster pursuant to the Texas Disaster Act of 1975, as amended, chapter 418 of the Texas Government Code, and by Executive Order RP32 by the Governor of the State of Texas.

2. OBJECTIVES

The objective of this Executive Order is to provide the [Title of Local Government Head] with the means and authority to enact emergency measures necessary to respond efficiently and quickly to a disaster that has already occurred or where the occurrence or threat of a disaster is imminent. This Executive Order is cumulative of all relevant state and federal laws, [Local Government] ordinances, and the [Local Government] Emergency Management Plan. No provision of this order shall be construed to excuse compliance with any law.

3. DEFINITIONS

(a) Disaster: the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, other public calamity requiring emergency action, or emergency.

(b) Local state of disaster: proclamation made by the [Title of Local Government Head] pursuant to the Texas Disaster Act when the [Title of Local Government Head] finds that a disaster has occurred or that the occurrence or threat of disaster is imminent. The proclamation activates the [Local Government]'s Emergency Management Plan as well as the [Title of Local Government Head]'s emergency authority.

(c) Emergency authority/power: those powers given to the Governor of Texas by the Texas Disaster Act that were delegated to the [Title of Local Government Head] of [Name of Local Government] through Executive Order RP32 to enact emergency measures necessary to respond to a local state of disaster.

(d) Emergency Management Plan: a manual drafted by the [Local Government] which delineates the procedures by which the city mitigates, prepares, responds, and recovers from a disaster.

(e) Office of Emergency Management: the division within the [Name of Local Government] which is responsible for dealing with a disaster that either affects or has the potential to affect [Name of Local Government].

(f) Unconditional authorization: authorization from an affected corporation, organization, or individual that allows for the removal of debris or wreckage from the affected entity's private property and indemnifies the municipality against any claim arising from removal.

Draft Executive Order, continued

4. SCOPE

This order and the [Title of Local Government Head]'s emergency powers herein described shall apply to all department of the [Name of Local Government].

5. RESPONSIBILITIES

(a) The director of each [Local Government] department shall ensure that his/her department carries out its duties pursuant to this order as delegated by the [Title of Local Government Head] and the Office of Emergency Management in response to a local state of disaster.

(b) Each employee or individual that is assigned a function or responsibility shall solemnly swear or affirm to support and defend the Constitution of the United States, laws of the State of Texas, and Ordinances of the [Name of Local Government].

(c) This order is an exercise by the [Local Government] of its governmental functions for the protection of the public peace, health, and safety, and neither the [Name of Local Government], the agents and representatives of said [Local Government], nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any agents thereof, in good faith carrying out, complying with or attempting to comply with, any procedure promulgated pursuant to the provisions of this ordinance shall be liable for any damage sustained to persons or property as a result of said activity.

6. PROCEDURES

Each [Local Government] Department is hereby authorized to implement its emergency services responsibilities as specified in the [Local Government]'s Emergency Management Plan, which includes, but is not limited to, ensuring the following:

[Describe the responsibilities of departments, such as law enforcement department, public works, etc.]

If any portion of this order shall, for any reason, be declared invalid, such invalidity shall not affect the remaining provisions thereof. All orders or ordinance, or parts therein, or resolutions in conflict herewith are expressly repealed. At all times when this order shall be in effect, it shall supersede and override al existing ordinances, orders, rules, and regulations, insofar as the latter may be inconsistent therewith. This order shall not be construed so as to conflict with any State or Federal statute or with any military or naval order, rule, or regulation.

ORDERED, this ____ day of _____, 20____.

[Title of Local Government Head] of
[Local Government's Name], Texas