

EMERGENCY MANAGEMENT RESPONSIBILITIES OF ELECTED OFFICIALS

Emergencies and disasters occur in local communities. The local government is primarily responsible for preparing for disasters and helping residents recover. A key factor is to be prepared before a situation occurs. Chapter 38.52 RCW covers most of the requirements for executive heads of political subdivisions, which are identified as mayors, city councils, and boards of commissioners. A political subdivision is a county, city or town, for this chapter.

Executive support is crucial to emergency management. Outlined here are a few of the key responsibilities to ensure you are minimizing the liability of your community. There are state and federal laws; however, the local laws and regulations pertain, also.

For every disaster, there usually is a policy or regulation that results.

Chapter 38.52 RCW

- directs each political subdivision to establish or be a member of a joint local organization for emergency management
 - submit its plan and program to the state director to ensure consistency and coordination with the state emergency management plan and program. Plans must specify the use of incident command system for multi-agency/ multi-jurisdiction operations. Emergency Management Council serves as arbitrator on disagreements regarding the plan or program between the state and local jurisdiction or cost sharing among joint organizations and funds placed into a special emergency management fund.
 - local organization for emergency management (or joint organization) shall have a director appointed by the executive head(s) and direct responsibility for the organization, administration, and operation, subject to the direction and control of the executive officer or officers.
 - The local or joint local organization will perform emergency management functions within the territorial limits of the political subdivision or outside those limits as required by the provisions of chapter 38.52 RCW. When a disaster occurs, each political subdivision has the power to enter into contracts and incur obligations to combat the disaster. Except for mandatory constitutional requirements, the normal restraints for budget law limitations, competitive bidding and publication of notices, public work provisions, contracting, incurring obligations, temporary employment, rental of equipment, purchasing of supplies and materials, levying of taxes and appropriation of public fund expenditures may be waived.

The state, upon the request of the local government officials will prepare a state of emergency proclamation for the Governor. State and federal assistance is supplemental to those of the local government.

Following the proclamation of the Governor, if the situation continues to worsen, the state may, in consultation with regional Federal Emergency Management Agency officials, determine that preliminary damage assessment is necessary. This step is in preparation for determining the severity and magnitude of the damages to indicate that capacity for the local and state governments has been exceeded and a request by the Governor to the President is appropriate.

ROLES OF ELECTED AND APPOINTED OFFICIALS

What official and unofficial responsibilities have been designated to you and others?

Management of a disaster includes keeping citizens and responders warned and informed, have basic public services quickly restored and have the individual's needs met. Executive support and participation are essential to ensure that key officials and staff are trained on plans and their roles--besides the first responders. At the same time that your community may be involved in response, you need to look at short- and long-term recovery to return the community to minimum operating standards and to previous conditions with mitigation measures to improve future protection.

Before an emergency occurs, consider the following:

- ❑ What are the legal authority(ies) [local, state and federal] to establish an emergency management program?
- ❑ Has the comprehensive emergency management plan and program been reviewed to be consistent with the state plan and program? Does it include the use of incident command system for multi-agency/multi-jurisdiction operations? Has the plan(s) been developed with all stakeholders; reviewed and tested so everyone knows their role or backup role?
- ❑ Has a current assessment of hazards and risks been performed in and surrounding the community?
- ❑ What are the boundaries covered by your emergency management organization?
- ❑ Who is legally in charge of or designated for emergency management policy actions or decisions in your community? These include activating the Emergency Response Plan and the Emergency Operations Center; making a decision to evacuate or shelter in place; assessment of and decision when a situation has surpassed the local capability to respond and request assistance through mutual aid or to the state. Is the position appointed?
- ❑ Has funding been established to support the emergency management program and the EOC?
- ❑ Who is in the line of succession and delegated by ordinance or resolution, especially in an emergency for continuity of government?
- ❑ Who can develop and sign a proclamation or declaration of emergency, an ordinance or resolution? Is there a quorum required for emergency decisions or signatures?
- ❑ Who can authorize emergency expenditures or contracts?
- ❑ What systems are in place for alert and warning? Who do these systems reach and who is responsible?
- ❑ What systems are in place to ensure accurate information and status internally and for the community? Who serves as public information lead and how will multiple organizations or jurisdictions share information and releases?
- ❑ What coordination has taken place and with whom to ensure that everyone knows each other's roles?

- ❑ Has an emergency response and recovery component been established in every department and agency—ensuring planning and training together?
- ❑ Have emergency management and hazard mitigation issues been incorporated into all programs to reduce risk of major loss of life and economic destruction through better preparedness and mitigation activities, such as predisaster activities: appropriate land use, construction codes (to include snow load, wind and fire resistance, and fire defensible space requirements) and updated floodplain or liquefaction mapping for public safety, housing, economic development, highway and public infrastructure decisions (including repairs or abandonment) for all state and local projects.
- ❑ What training is available or needed, how often should there be participation and should it be mandatory? What training and education is available for the community members to be prepared?
- ❑ What mutual aid agreements—formal and informal—are there for helping other communities while ensuring help is available in the local area. These may include those used for daily emergencies, such as fires and traffic accidents—these agreements may be built upon for larger scale disasters. Do these identify resources and follow the legal requirements?
- ❑ What other partnerships have been formed (with private industry, nonprofit or volunteer organizations, including search and rescue)?
- ❑ How will other elected officials (state and federal) be included in the emergency—before, during and after?
- ❑ Who is left to continue normal government functions?

How can your community create opportunities to benefit from past decisions?

- ❑ Map hazards through GIS or other methods to help identify transportation evacuation routes, stability or liquefaction concerns.
- ❑ Assess local preparedness, training, policies and procedures—highlight strengths and weaknesses.
- ❑ Establish incentives for encouraging business owners and homeowners to retrofit buildings with hazard resistant features.
- ❑ Consider a disaster trust fund to be used for preparedness, mitigation, response and recovery projects to provide the nonfederal share of disaster costs during presidential declared disasters and use for financing predisaster mitigation activities.
- ❑ Ensure that nonstructural mitigation is performed, such as securing computers and filing cabinets—these are cost and time saving measures that assist government and business towards fast recovery.
- ❑ Be insured. Ensure that required programs, like the National Flood Insurance Program and the Community Rating System, are in place to be eligible for future federal programs. Have buildings, medical and other insurance in place.
- ❑ Where have you located the alternate EOC?
- ❑ Have designed shelters and public awareness of them.

- ❑ Be prepared to assist with Local, State and Federal Assessment Teams when a disaster or emergency occurs.
- ❑ Prepare a local hazard mitigation plan and identify priority projects.
- ❑ Participate in the Hazard Mitigation Survey Team (all hazards) or the Interagency Hazard Mitigation Team (floods) and the Hazard Mitigation Strategies (local and state)

By taking these and other steps to identify and solve issues and hazards, the liability can be mitigated or prevented.

“Elected public officials must give the same attention and priority to their flood problems as they give to their police and fire problems. In the history of Rapid City, perhaps 35 people have died in fires and another 35 have been killed during the commission of crimes. But in just two hours, 238 died in a [June 1972] flood.” – Don Barnett, former Mayor of Rapid City, South Dakota

May 3, 2001

LIABILITY CHECKLIST

WHAT TO ASK YOUR ATTORNEY

1. What statutes or ordinances govern my options?
2. What type of immunity, if any, do I have?
3. What policies or insurance will cover my defense?
4. What is my liability when dealing with conflicting jurisdictions or chains of command?
5. Are there any limitations to the liability that may incur?
6. To what types of liability am I exposed?
 - Negligence
 - Intentional torts
 - Civil rights actions
 - Strict liability
7. What is the Standard of Care for my community? How can I help to better define this?

WHAT TO TELL YOUR ATTORNEY

1. Explain the scope of your employment.
2. Explain the responses you are expected to make.
3. Explain the level of training you have.
4. Explain the types of equipment you use.
5. List the areas where you feel that liability may arise.

Excerpt, Liability Issues in Emergency Management, Emergency Management Institute

LIABILITY REDUCTION STRATEGIES

1. Inventory hazards and map natural hazards areas.
Publish such information in the public facilities plan, land use plan, and community regulations
2. Prevent private actions that will increase hazards or hazards losses.
The control of private actions can be accomplished through upgraded zoning subdivision control, building codes or other special codes, and careful examination of permit applications.
3. Require disclaimers of public liability when private uses are permitted in a hazard area.
4. Submit all policy-related decisions to the local governing body for debate and approval so they become discretionary, planning, or legislative rather than “ministerial” acts.
5. Develop a hazard preparedness plan to deal with problems when (or if) these occur.
 - a. Example: Tsunami evacuation plan
 - b. This may help support the reasonableness of community action.
6. Comply with state and federal statutory requirements and community regulations in planning, regulation, acquisition, and other activities.
7. Ensure that all hazard mitigation measures, including permit approvals and denials, are based upon adequate data.
8. Provide equitable administration of and enforcement of hazard regulations to avoid due process and taking challenges.
9. Encourage private landowners in hazard areas to carry insurance.
 - a. Example: Flood insurance and earthquake insurance
 - b. A landowner compensated by insurance after a loss is less likely to sue the municipality.
10. Upgrade hazard preparedness, response, mitigation, and recovery plans and measures as improvements occur in data, preparedness, mitigation, response, and recovery technologies, and preparedness, mitigation, response, and recovery strategies.

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ELECTED AND APPOINTED OFFICIALS CHECKLIST

Background Information

- Notified by
- Time
- Type of emergency

Location

- What areas are affected
- What is affected (roads, other)
- Communications available (do all departments use compatible systems)

Incident

- Type
- Magnitude
- Best/worst case (issues, time for opening a road)

Damage

- Injuries/deaths
- Area (size, boundaries)
- Property damage
- Other impacts

Resources

- Incident command status
- Internal/external resources committed
- Internal/external resources required
- EOC status and location
- Other authorities notified?

Immediate action

- Begin Personal Log (date, time, who spoke with and topic, highlight those that need resolution)
- Establish contact with local emergency management office
- Direct staff to assess and report on problems, resources, shortfalls, policy needs and options
- Chair assessment meeting
- Issue emergency declarations, as needed
- Set reporting procedures
- Remind staff to keep complete logs of actions and financial records
- Begin liaison with other officials

Public information

- Check plans to inform public and manage media
- Designate a single, lead PIO
- Evaluate media capabilities
- Establish media center
- Channel all releases first through CEO in EOC
- Establish news media update and access policies

Personal

- Tell family destination and how to contact
- Take medications, toiletries, and clothes
- Take list of peers to contact for advice
- Remember that your role is policymaking, not operational
- Take personal tape recorder
- Other things to remember: (specific for individual, community)

Legal

- Contact legal advisors
- Review legal responsibilities and authorities:
 - Emergency declarations
 - Chain of succession
 - Intergovernmental aid
 - Social controls (curfew)
 - Price controls
 - Other restrictions
- Monitor equity of service based on needs and risks
- Maintain balance between public welfare and citizen's rights
- Have status of contracts reviewed

Political

- Recognize accountability
- Check provisions for public officials
- Space at EOC
- Periodic updates
- Staff updates on politically sensitive issues, such as life and property losses, service interruptions
- Establish and evaluate policy decisions throughout the incident
- Confer with other selected officials when problems arise
- Use elected officials to request assistance from public and private organizations

Excerpt from The IEMS National Advisory Committee "Chief Executive Officer's Checklist," The CEO's Disaster Survival Kit, Federal Emergency Management Agency and the U.S. Fire Administration, 1988.