



RATIFICATION OF PROCLAMATION OF LOCAL EMERGENCY

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Executive Summary: On January 9, 2023, the City Manager, as the Director of Emergency Services for the City, proclaimed a local state of emergency in the City of Fremont in response to torrential rains, flooding, and high winds, which have caused conditions of extreme peril to the safety of persons and property.

BACKGROUND: Fremont Municipal Code section 2.20.110 empowers the City Manager, serving as the Director of Emergency Services, to proclaim the existence of a local emergency when the Council is not in session. Thereafter, the Council must act to ratify the proclamation of a local emergency within seven days after its announcement.

An emergency proclamation allows public officials to exercise emergency powers to preserve life, property and public health in response to a disaster. Some of these powers include ordering evacuations, controlling access into disaster zones, suspending certain regulations, exercising local emergency purchasing powers, and requesting recovery assistance from state and federal bodies.

Making a local emergency proclamation will provide greater latitude and authority for the City Manager to make important and timely public safety decisions.

DISCUSSION/ANALYSIS: The City Council is authorized under the Brown Act to take immediate action on a non-agenda item and to ratify a proclamation of a local emergency pursuant to its emergency powers. In accordance with Government Code Section 54954.2(b)(1) the legislative body may take action on items of business not appearing on the posted agenda, upon a determination by a majority vote of the legislative body that an emergency situation exists. Section 54956.5(a)(1) of the Government Code defines an emergency situation to include "...activity that severely impairs public health, safety, or both." Prior to discussing the non-agenda item, the legislative body must publicly identify the item. Staff recommends that the City Council (1) determine that an emergency situation exists and (2) ratify the City Manager's Proclamation of a local emergency in the City of Fremont, which is attached to this report.

FISCAL IMPACT: Fiscal impacts are difficult to determine at this time. The City will consider all options available under law to seek disaster assistance and expense reimbursements from state and federal bodies.

ENVIRONMENTAL REVIEW: Emergency projects and actions necessary to prevent or mitigate an emergency are statutorily exempt from CEQA review pursuant to California Code of Regulations, Title 14, Section 15269.

ATTACHMENTS:

- Proclamation of a Local Emergency by the Director of Emergency Services
- Resolution Ratifying Proclamation of a Local Emergency

RECOMMENDATIONS:

1. Find that an "emergency situation" exists necessary to take action on this non-agendized item; and
2. Adopt Resolution Ratifying the Proclamation of a Local Emergency declared on January 9, 2023, by the City Manager in her capacity as the Director of Emergency Services.

**PROCLAMATION OF A LOCAL EMERGENCY BY
THE DIRECTOR OF EMERGENCY SERVICES**

BE IT Proclaimed by the Director of Emergency Services of the City of Fremont as follows:

WHEREAS, the California Emergency Services Act, Government Code sections 8558(c) and 8630 authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a city exist; and

WHEREAS, pursuant to Government Code section 8630 such an emergency may be proclaimed by the governing body or by an official designated by ordinance adopted by the governing body; and

WHEREAS, Fremont Municipal Code Section 2.20.110 empowers the City Manager, as Director of Emergency Services, to proclaim the existence of a local emergency when the Council is not in session; and

WHEREAS, the Director of Emergency Services of the City of Fremont does hereby find that conditions of extreme peril to the safety of persons and property have arisen within the territorial limits of the City of Fremont due to extreme rain, high winds, and consequent flooding, mudslides, fallen debris; and

WHEREAS, due to torrential rains Alameda Creek in the City of Fremont exceeded flood stage on December 31, 2022, resulting in emergency conditions and necessitating public evacuations; and

WHEREAS, since December 31, 2022, mudslides have rendered certain roadways in the City of Fremont unsafe and impassible during this time; more than 50 downed trees have required immediate actions by the City of Fremont to clear debris; the City continues to experience localized flooding requiring immediate actions to save lives and protect property by alleviating such conditions; the City of Fremont has provided more than 14,000 sandbags and 275 tons of sand to residents; and

WHEREAS, beginning January 4 and until January 6, 2023, the City of Fremont activated an emergency shelter as a response to the torrential rains, storm-related evacuations in the area of Alameda Creek, and in anticipation of potential additional evacuations which might be necessitated by the evolving incident; and

WHEREAS, upstream dams operated by the San Francisco Public Utilities Commission and California Department of Water Resources in conjunction with major reservoirs located in watersheds which naturally flow into Alameda Creek in Fremont, have approached capacity during this time; and

WHEREAS, additional torrential rains caused Alameda Creek in the City of Fremont to exceed flood stage on January 9, 2023, resulting in emergency conditions; and

WHEREAS, the cumulative effect of these conditions is beyond the control of the operational, logistical, and financial resources of the City of Fremont; and

WHEREAS, in accordance with California’s Standardized Emergency Management System and the National Incident Management System, the City of Fremont activated its Emergency Operations Center at LEVEL 3 – Monitoring (Virtual) on December 31, 2022, and increased its activation to LEVEL 2 – Partial Activation (in-person) on January 5 and again on January 9, 2023; and is using the Incident Command System in response to the incident; and

WHEREAS, in response to widespread storm damage and flooding, the Governor of the State of California proclaimed a State of Emergency on January 4, 2023, the County of Alameda proclaimed a Local Emergency on January 6, 2023, and the President of the United States declared an Emergency on January 9, 2023; and

WHEREAS, the City Council of the City of Fremont is not in session and cannot immediately be called into session.

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that a local emergency exists throughout the City of Fremont.

IT IS FURTHER PROCLAIMED AND ORDERED that during the existence of said local emergency, the powers, functions, and duties of the emergency organization of the City of Fremont shall be those prescribed by State law, by ordinances, and resolutions of the City of Fremont; and that this emergency proclamation shall expire 7 days after issuance unless confirmed and ratified by the governing body of the City of Fremont.

Date: January 9, 2023

By: 

Karena McGee Shackelford
City Manager / Director of Emergency Services

DRAFT

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREMONT RATIFYING PROCLAMATION OF A LOCAL EMERGENCY ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES

WHEREAS, the California Emergency Services Act, Government Code sections 8558(c) and 8630 authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a city exist; and

WHEREAS, pursuant to Government Code section 8630 such an emergency may be proclaimed by the governing body or by an official designated by ordinance adopted by the governing body; and

WHEREAS, Fremont Municipal Code Section 2.20.110 empowers the City Manager, as Director of Emergency Services, to proclaim the existence of a local emergency when the Council is not in session; and

WHEREAS, on January 9, 2023, the City Manager, serving as the Director of Emergency Services of the City of Fremont, issued a proclamation regarding the existence of a local emergency and finding that conditions of extreme peril to the safety of persons and property have arisen within the territorial limits of the City of Fremont due to extreme rain, high winds, and consequent flooding, mudslides, fallen debris; and

WHEREAS, on January 10, 2023, the Fremont City Council considered the proclamation of local emergency issued by the City Manager, serving as Director of Emergency Services, and supporting facts, and found based on its independent judgment that a local emergency exists.

NOW THEREFORE BE IT RESOLVED BY THE FREMONT CITY COUNCIL AS FOLLOWS:

SECTION 1. The City Council hereby ratifies the Proclamation of a Local Emergency issued by the City Manager on January 9, 2023.

SECTION 2. The City Council has reviewed the need for continuing the declaration of local emergency and finds based on substantial evidence that the public interest and necessity require the continuance of the proclamation of local emergency. Accordingly, the local emergency shall be deemed to continue to exist until terminated by the Fremont City Council. The City Council shall review the need for continuing the local emergency at least once every 60 days until it terminates the local emergency.

ADOPTED _____, 2023, by the City Council of the City of Fremont by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney