

ORDINANCE NO. 5393

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING CHAPTER 2.12 OF THE MONTEREY COUNTY CODE TO ESTABLISH
A DIRECTOR OF EMERGENCY MANAGEMENT AND AMENDING CHAPTER 2.68
OF THE MONTEREY COUNTY CODE TO ESTABLISH A DEPARTMENT OF
EMERGENCY MANAGEMENT**

County Counsel Summary

This ordinance amends Chapter 2.12 of the Monterey County Code to change the Director of Emergency Services from a position held by the County Administrative Officer to a County department head appointed by the County Administrative Officer ("CAO"). This ordinance also clarifies the authority of the CAO over other appointed County department heads. Lastly, this ordinance amends Chapter 2.68 of the Monterey County Code to establish a Department of Emergency Management, clarifies the authority of the CAO related to Emergency Management, and makes necessary changes for the protection of persons and property in Monterey County in the event of an emergency.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. FINDINGS.

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. In recent years, Monterey County has responded to several catastrophic events including the COVID-19 pandemic emergency, 2021 Drought, 2022 Colorado Fire, and the 2022 Abbott Fire. These emergencies have proven to be disastrous and life-threatening, and the need to create a department is critical for Monterey County to improve overall operational effectiveness and ensure public safety and timely responses to any emergency.

C. Additionally, a Department of Emergency Management will elevate Monterey County's stature in dealing with external agencies such as the California Office of Emergency Services and the Federal Emergency Management Agency, and will also facilitate peer to peer coordination among Monterey County department heads generally.

D. The Board of Supervisors finds that the creation of a Department of Emergency Management and the classification of Director of Emergency Management ordinance is in the public interest and necessary for effective delivery of County services.

E. The adoption of this ordinance is not a project under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) because it is an organizational activity of government that will not result in a direct or indirect physical impact on the environment.

SECTION 2. Subsection B of Section 2.12.040 of the Monterey County Code is hereby amended to read as follows:

B. The County Administrative Officer shall be the appointing authority for the following County department heads:

1. Director of Public Works, Facilities and Parks;
2. Director of Housing and Community Development;
3. Registrar of Voters;
4. Director of Information Technology;
5. Director of Emergency Communications (9-1-1);
6. Clerk of the Board of Supervisors;
7. Director of Human Resources; and
8. Director of Emergency Management.

SECTION 3. Subsection D of Section 2.12.040 of the Monterey County Code is hereby amended to read as follows:

D. Except as otherwise specifically provided by law, all authority and responsibility as appointing authority for the department heads specified in Subsections B and C of this Section are delegated by the Board of Supervisors to the County Administrative Officer, including the following:

1. The responsibility to implement through line management and day to day supervision, the policy and direction of the Board of Supervisors and the mission of each department, office, or agency under the direction of such department head(s);
2. The coordination of the work between all affected County departments, offices, and agencies, and the setting of priorities;
3. The authority to act in lieu of the above-designated department heads in the performance of their duties;
4. The preparation of annual performance evaluations for the above-designated department heads; and
5. The responsibility for taking and/or proposing corrective action, when and to the extent deemed necessary by the County Administrative Officer.

SECTION 4. Chapter 2.68 of the Monterey County Code is hereby amended to read as follows:

Chapter 2.68 - EMERGENCY PROCEDURES AND ORGANIZATION

2.68.010 - Purposes.

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

2.68.020 - Definitions.

As used in this Chapter the following definitions shall apply:

"Local 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 County caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, 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 of this County, requiring the combined forces of other political subdivisions to combat.

"Emergency management" shall mean the development of a comprehensive process involving the mitigation of, preparation for, response to, and recovery from potential natural, technological and human conflict hazards. The process shall include associated emergency planning interagency coordination, public information and education, training, resource management, and incident management efforts.

"Director" shall mean the Director of Emergency Management, who is tasked with the overall management, coordination, and control of emergency preparedness and response functions for the County of Monterey. The Director shall serve in the capacity of Operational Area Coordinator, as defined by the State Emergency Plan, to include County government, all cities, special districts and political subdivisions within the physical parameters encompassing the County of Monterey. The Director of Emergency Management shall act under administrative direction of the County Administrative Officer. The County Administrative Officer is authorized to act in lieu of the Director of Emergency Management in the performance of the Director of Emergency Management's duties set forth in this Chapter or state and federal law.

"Emergency Operations Plans" shall mean those official and approved documents, including the County Emergency Operations Plan and its annexes, which describe the principles and methods to be applied in carrying out emergency operations or rendering mutual aid during emergencies. These plans include such elements as structure and function of the emergency management organization, continuity of government, the emergency services of governmental

agencies, mobilization of resources, mutual aid, public information, and mitigation and recovery procedures.

"County agency" shall mean any department, division, office, section, branch, or independent establishment under the control of the Board of Supervisors, or the executive branch of County government.

"Operational area" shall mean the County of Monterey and all political subdivisions within the county area.

2.68.025 – Local Emergency Proclamation.

A. The County Administrative Officer is empowered to request the Board of Supervisors to proclaim the existence or threatened existence of a "local emergency" if the Board of Supervisors is in session, or to issue such proclamation if the Board of Supervisors is not in session. Whenever a local emergency is proclaimed by the County Administrative Officer, the Board of Supervisors shall take action to ratify the proclamation within seven days thereafter, or the proclamation shall have no further force or effect.

B. The County Administrative Officer is empowered to request the Governor, or recommend that the Chairperson of the Board of Supervisors request the Governor, to proclaim a "State of Emergency" when, in the opinion of the County Administrative Officer, the locally available resources are inadequate to cope with the emergency. Whenever the County Administrative Officer makes such a request, it shall be confirmed by the Board of Supervisors at the earliest practicable time.

2.68.030 - Disaster Council membership.

The Monterey County Disaster Council is hereby created and shall consist of the following representative membership:

- A. The County Administrative Officer;
- B. The Director of Emergency Management;
- C. The County Sheriff-Coroner;
- D. The County Health Officer;
- E. The County Director of Public Works, Facilities and Parks;
- F. The County Director of Social Services;
- G. The General Manager of the Monterey County Water Resources Agency;

H. The Unit Chief for San Benito-Monterey, California Department of Forestry and Fire Protection (CAL FIRE);

I. The officer in charge of the California Highway Patrol in Monterey County.

2.68.040 - Disaster Council powers and duties.

It shall be the duty of the Monterey County Disaster Council, and it is hereby empowered, to consider and recommend for adoption by the Board of Supervisors, 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 Director or, in his or her absence from the County or inability to call such a meeting, upon call of the Director's designee. The Disaster Council shall meet not less frequently than annually and shall prescribe its own rules of procedure. The Director, or his or her designee, shall serve as the chair of the Disaster Council.

2.68.050 - Director of Emergency Management.

A. There is hereby created the position of Director of Emergency Management.

B. The Director, under the authority of the County Administrative Officer, shall have the responsibility of managing the day to day administrative and operational activities associated with the management of the County Emergency Management Program as defined within this Chapter or as stipulated by the County Administrative Officer.

2.68.060 - Powers and duties of the Director of Emergency Management.

A. The Director is hereby empowered to:

1. Recommend the County Administrative Officer, or the Chair of the Board of Supervisors in the absence of the County Administrative Officer, proclaim the existence or threatened existence of a "local emergency";

2. Control and direct the effort of the emergency organization of this County for the accomplishment of the purposes of this Chapter;

3. Direct cooperation between and coordination of services and staff of the emergency organization of this County; and resolve questions of authority and responsibility that may arise between them;

4. Approve emergency management mutual aid requests; and coordinate approved requests with the State of California and other appropriate entities and agencies;

5. Represent this County in all dealings with public or private agencies on matters pertaining to emergencies as defined herein. Such day to day dealings of a non-emergency nature may be delegated as appropriate; and

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 Director of the Governor's Office of Emergency Services (Cal OES), 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 possible practicable time by the Board of Supervisors;

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 County for the fair value thereof and, if required immediately, to commandeer the same for public use;

c. To require emergency services of any County officer or employee and, in the event of the proclamation of a "State of Emergency" in the County or the existence of a "State of War Emergency," to command the aid of as many citizens of this County as deemed necessary in the execution of emergency duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by State law for registered Disaster Service Workers;

d. To appoint additional emergency service managers as needed, in addition to those established by the County Emergency Operations Plan, and to delegate to those members of the emergency management organization such duties and responsibilities as the Director may deem necessary;

e. To requisition necessary personnel or material of any County department or agency; and

f. To execute all of his or her ordinary powers as Director of Emergency Management, all of the special powers conferred upon that position by this Chapter or by resolution or by the County Emergency Operations Plan pursuant hereto adopted by the Board of Supervisors, all powers conferred upon him or her by any statute, by any agreement approved by the Board of Supervisors, and by any other lawful authority.

B. The County Administrative Officer shall designate the order of succession to the Department of Emergency Management, to take effect in the event the Director of Emergency Management is unavailable to attend meetings or otherwise perform the duties of that office during an emergency.

2.68.070 - Emergency Organization.

All officers and employees of this County, 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

Section 2.68.060 of this Chapter, be charged with duties incident to the protection of life and property in this County during such emergency, shall constitute the Emergency Organization of the County of Monterey.

2.68.080 - Emergency Operations Plan.

The Director of Emergency Management shall be responsible for the development of the County of Monterey Emergency Operations Plan and its annexes, which plan shall provide for the effective mobilization of all of the resources of this County, 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, service chiefs, and staff of the emergency organization. Such plan shall be submitted to the Disaster Council for review and comment and shall take effect upon adoption by resolution of the Board of Supervisors.

2.68.090 – Department of Emergency Management.

A. A Department of Emergency Management is hereby established to coordinate all emergency preparedness, response and recovery functions and responsibilities as necessary to carry out the intent of this Chapter.

B. The Department of Emergency Management shall be headed by the Director of Emergency Management who shall have the responsibility of the day to day administrative and operational functioning of the office.

C. Responsibilities and duties of the Director of Emergency Management shall include but not be limited to:

1. To develop a comprehensive County Emergency Operations Plan and supporting annexes;
2. To develop a viable emergency public information and warning program;
3. To conduct an ongoing analysis of risk hazards within the County and to develop recommendations for mitigation of identified hazards;
4. To establish and coordinate employee preparedness and emergency training activities for all County personnel, staff and officers;
5. To maintain current listings of emergency resources, supplies, equipment, and materials necessary to support emergency response and recovery activities within the County;
6. To conduct ongoing public emergency preparedness and education campaigns and programs to include all areas of the County;
7. To establish the designated County Emergency Operations Center (EOC) in an acceptable state of readiness;

8. To establish and maintain liaison with all County departments and agencies; all cities located within the County; the Governor's Office of Emergency Services; appropriate Federal agencies; and to coordinate effective communications between all agencies regarding emergency matters;

9. To document all County actions and responses during an emergency and to prepare supporting documents detailing such actions;

10. To coordinate and conduct all day to day emergency management functions and activities as deemed appropriate by the County Administrative Officer; and

11. To provide appropriate advice and support to the County Administrative Officer during any local emergency, state of emergency, or state of war emergency impacting Monterey County.

D. The Director of Emergency Management shall have the authority to procure and/or appoint the staff necessary to carry out the functions of the Department of Emergency Management as detailed within this Chapter and as mandated by the County Administrative Officer.

2.68.100 - Expenditures.

Any expenditures 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, property, and/or environment of or within the County of Monterey.

2.68.110 - Punishment of violations.

It shall be a misdemeanor, punishable by a fine of not to exceed one thousand dollars (\$1,000.00), or by imprisonment for a term not to exceed one year, or both, for any person, during a State of War Emergency, State of Emergency, or local 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 Chapter, or in the performance of any duty imposed upon them by virtue of this Chapter;

B. Commit any act forbidden by any lawful rule or regulation issued pursuant to this Chapter, if such act is of such a nature as to give or be likely to give assistance to the enemy, or to imperil the lives or property of inhabitants of this County, or to prevent, hinder, or delay the defense or protection thereof; or

C. Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the State, this County or any city within this County.

2.68.120 - Severability.

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

SECTION 5. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid

SECTION 6. This ordinance shall become effective on the thirty-first day following its adoption.

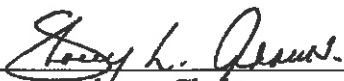
PASSED AND ADOPTED on this 7th day of December, 2022, by the following vote:

AYES: Supervisors Phillips, Lopez, Askew, and Adams

NOES: Supervisor Alejo

ABSENT: None

ABSTAIN: None



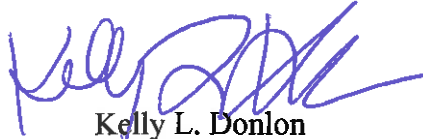
Mary L. Adams, Chair
Monterey County Board of Supervisors

A T T E S T

VALERIE RALPH
Clerk of the Board of Supervisors

By: 

Deputy

APPROVED AS TO FORM:


Kelly L. Donlon
Assistant County Counsel