

AMENDED ORDINANCE 2287

AN ORDINANCE ENACTING CHAPTER 1-22 OF THE MUNICIPAL CODE OF THE CITY OF MONTROSE PERTAINING TO CIVIL EMERGENCIES, EMERGENCIES AND LOCAL DISASTERS AND DECLARING AN EFFECTIVE DATE

WHEREAS, C.R.S., §§24-32-2101, *et seq.*, established the Colorado Disaster Emergency Act of 1992 (the "Act"); and

WHEREAS, the Act directs that local jurisdictions within the State of Colorado include themselves within a local or inter-jurisdictional agency which will assume responsibility for disaster preparedness and coordination of response in the event of an emergency or local disaster; and

WHEREAS, the Chief of Police, as the local Emergency Manager has recommended that the City adopt an ordinance vesting in the City Manager the power and authority to declare an emergency or disaster condition within the City if he finds that the City or any part thereof is under imminent threat or danger of suffering significant damage or harm from an emergency, civil emergency or disaster, as those terms are defined in the proposed ordinance; and

WHEREAS, public hearing has heretofore been held before the City Council of the City of Montrose, and the Council has determined, subsequent to said public hearing, that the enactment of a new Chapter 1-22 of the Official Code of the City of Montrose pertaining to the establishment of procedures to respond to civil emergencies, emergencies and local disasters would be in the best interests of the citizens of the City of Montrose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO:

SECTION 1: That Chapter 1-22 of the Official Code of the City of Montrose should be and the same is hereby enacted in its entirety, as follows:

CHAPTER 1-22

RESPONSE TO EMERGENCIES, CIVIL EMERGENCIES OR LOCAL DISASTERS

Sections:

1-22-1	TITLE
1-22-2	LEGISLATIVE DECLARATION
1-22-3	DEFINITIONS
1-22-4	AUTHORIZATION TO ISSUE DECLARATION OF CIVIL EMERGENCY, EMERGENCY, OR LOCAL DISASTER
1-22-5	FILING OF DECLARATION OF CIVIL EMERGENCY, EMERGENCY OR LOCAL DISASTER
1-22-6	TERM OF DECLARATION

- 1-22-7 **SUCCESSION OF AUTHORITY**
- 1-22-8 **POWERS**
- 1-22-9 **ENFORCEMENT OF ORDERS**
- 1-22-10 **AUTHORITY TO ENTER A PROPERTY**
- 1-22-11 **LOCATION OF GOVERNING BODY MEETINGS AND
DEPARTMENTS**
- 1-12-12 **MUTUAL AID AGREEMENTS**
- 1-22-13 **DUTIES OF LOCAL EMERGENCY MANAGEMENT
COORDINATOR**
- 1-22-14 **ACCESS TO TABOR FUNDS**
- 1-22-15 **REPORT BY CITY MANAGER /DISCRETIONARY
RATIFICATION BY CITY COUNCIL**
- 1-22-16 **SEVERABILITY**
- 1-22-17 **ADOPTION OF BASE EMERGENCY OPERATIONS PLAN**

1-22-1: TITLE.

This chapter shall be known and may be cited as the Montrose Emergency and Local Disaster Response Act.

1-22-2: LEGISLATIVE DECLARATION.

It is the intent of this Chapter to provide for continuity of government and for the necessary organization, powers, and authority to enable the timely and effective use of all available city resources to prepare for, respond to and recover from civil emergencies, emergencies, or local disasters, whether natural or manmade, that are likely to affect the health, security, safety, or property of the inhabitants of the city. It is intended to grant as broad a power as permitted within applicable law, the letter and spirit of the Montrose City Charter, and the council - manager form of government. The City Council retains the power and authority to direct the City Manager during the pendency of any declaration of emergency under this chapter.

1-22-3: DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Civil emergency - means conditions of unrest such as riot, civil disturbance, unlawful assembly, hostile military or paramilitary action, war, terrorism, or sabotage.

Declaration - means the written document executed by the City Manager which declares a disaster, emergency, or civil emergency, as defined within this chapter.

Emergency - means any occurrence or threat of natural or man made disaster of a major proportion in which the safety and welfare of the inhabitants of the city or their property are jeopardized or placed at extreme peril that timely action may avert or minimize.

Local disaster - means the occurrence of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause including but not limited to flood, fire, cyclone, tornado, earthquake, severe high or low temperatures, blizzard, landslide, mudslide, hurricane, building or structural collapse, airplane crash, high water table, water pollution, air pollution, epidemic, pandemic, riot, drought, utility emergency, sudden and severe energy or water shortages, volcano, snow, ice, windstorm, haboobs, waves, terrorism, hazardous substance spills, chemical or petroleum spills, biological material release or spill, radiological release or spill, structural failure, public health emergency or accidents.

1-22-4: AUTHORIZATION TO ISSUE DECLARATION OF CIVIL EMERGENCY, EMERGENCY, OR LOCAL DISASTER.

The City Manager, or designee, is authorized to declare a civil emergency, emergency, or local disaster if the City Manager finds that the city or any part thereof is suffering from or is in imminent danger of suffering a natural or manmade civil emergency, emergency, or local disaster.

1-22-5: FILING OF DECLARATION OF CIVIL EMERGENCY, EMERGENCY OR LOCAL DISASTER.

Any declaration of a civil emergency, emergency, or local disaster by the City Manager shall be promptly filed with the City Clerk and the City Manager shall promptly notify the City Council of such declaration. The public shall be notified of such a declaration through general dissemination to the news media, posting on the city website or other means of publicity intended to promptly advise the general public.

1-22-6: TERM OF DECLARATION.

The declaration of a civil emergency, emergency, or local disaster shall be in effect as determined by the City Manager for a period of up to seven (7) days. This period may be extended upon submission of a request by the City Manager and the approval of the City Council. In the event a quorum of the City Council cannot be assembled to approve a continuance of the declaration, such declaration shall remain in effect until such time as a quorum can be assembled. In the event a quorum of the City Council can meet to provide the City Manager with advice and consultation during the pendency of a declaration, such meeting shall be held in compliance with the Colorado Open Meetings Law and City Council rules and procedures as soon as possible, but in no event later than seven days following the initial declaration.

1-22-7: SUCCESSION OF AUTHORITY.

If the City Manager is unavailable, the line of succession of authority shall include in order, Assistant City Manager, Chief of Police/ Emergency Manager, Emergency Management Coordinator, Municipal Services Director, Administrative Services Director, Finance Director, and thereafter any other department head in alphabetical order of the name of the department. In the event none of these people are available to serve as the City Manager, the deputy or assistant director of the various departments in the line of succession as indicated shall serve in such capacity.

1-22-8: POWERS.

Upon the issuance of a declaration of civil emergency, emergency, or local disaster, the City Manager may exercise the following powers, including, but not limited to:

- (A) An order establishing a curfew during such hours of the days or nights and affecting such categories of persons as may be designated.
- (B) An order to direct and compel the evacuation of all or a part of the population from any stricken or threatened areas within the city, if the City Manager deems this action is necessary for the preservation of life, property or other civil emergency, emergency, or local disaster mitigation, response or recovery activities, and to prescribe routes, modes of transportation and destination in connection with any such evacuation.
- (C) An order controlling, restricting, allocating or regulating the use, sale, production or distribution of food, water, clothing, and other commodities, materials, goods, necessities, services or resources.

- (D) An order requiring the closing of businesses deemed nonessential by the City Manager.
- (E) An order suspending or limiting the sale, distribution, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustible products, and requiring the closing of those businesses or parts of businesses insofar as the sale, distribution, dispensing or transportation of these items are concerned.
- (F) An order prohibiting the sale or distribution within the city of any products which, the City Manager determines, could be employed in a manner that would constitute a danger to public health or safety.
- (G) An order closing any streets, alleys, sidewalks, public parks, public ways or other public places.
- (H) An order closing the access to any buildings, streets, alleys, sidewalks or other public or private places.
- (I) An order establishing control routes of transportation ingress or egress.
- (J) An order imposing traffic restrictions to control ingress and egress from a civil emergency, emergency, or local disaster site, including prohibiting all traffic except for vehicles operated by individuals deemed essential by the City Manager to assist in the emergency operations and prohibiting any person to stop, stand, park or abandon any vehicle in a right-of-way that in the discretion of a police officer obstructs emergency operations or snow removal operations. Any such vehicle shall be subject to removal pursuant to the general police power of the city to protect the public health, safety and welfare.
- (K) Subject to any applicable requirements for compensation, commandeer or use any private property if the City Manager finds this action necessary to cope with the civil emergency, emergency or local disaster.
- (L) Appropriate and expend funds, execute contracts, authorize the obtaining and acquisition of property, equipment, services, supplies and materials without the strict compliance with procurement regulations or procedures.
- (M) Transfer the direction, personnel or functions of city departments and agencies for the purposes of performing or facilitating civil emergency, emergency, or local disaster services.
- (N) Utilize all available resources of the city as may be reasonably necessary to cope with the civil emergency, emergency, or local disaster whether in

preparation for, response to, or recovery from a civil emergency, emergency, or local disaster.

- (O) Suspend or modify the provisions of any ordinance, if strict compliance thereof would in any way prevent, hinder or delay necessary action in coping with any civil emergency, emergency, or local disaster.
- (P) Accept services, gifts, grants and loans, equipment, supplies, and materials whether from private, nonprofit or governmental sources.
- (Q) Suspend or limit the use of the city's water resources.
- (R) Require emergency services of any city officer or employee. If regular city forces are determined to be inadequate, then to acquire the services of such other personnel as are available, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to the privileges and immunities provided by applicable state law.
- (S) Hire or contract for construction, snow removal, engineering, architectural, building, electrical, plumbing, and/or other professional or construction services essential to continue the activities of the city without the advertising of bids or compliance with procurement requirements which otherwise would be applicable.
- (T) Make application for local, state or federal assistance.
- (U) Terminate or suspend any process, operation, machine, device or event that is or may negatively impact the health, safety and welfare of persons or property within the city.
- (V) Delegate authority to such city officials as the City Manager determines reasonably necessary or expedient.
- (W) Require the continuation, termination, disconnection or suspension of natural gas, electric power, water, sewer or other public utilities.
- (X) Close or cancel the use of any municipally owned or operated building or other public facilities.
- (Y) Exercise such powers and functions in light of the exigencies of civil emergency, emergency, or local disaster including the waiving of compliance with any time-consuming procedures and formalities, including notices, as may be prescribed by law pertaining thereto.
- (Z) Issue any and all other orders or undertake such other functions and activities

as the City Manager reasonably believes is required to protect the health, safety, welfare of persons or property within the city, to preserve the public peace, or to abate, clean up, or mitigate the effects of any civil emergency, emergency or local disaster. The declaration of civil emergency, emergency or local disaster shall list the restrictions applicable to that circumstance by reference to the individual subsections of this section. The restrictions may be changed from time to time during the time frame of the declaration based upon the discretion of the City Manager.

1-22-9: ENFORCEMENT OF ORDERS.

- (A) The members of the police department, code enforcement, and such other law enforcement and peace officers as may be authorized by the City Manager, are further authorized and directed to enforce the orders, rules and regulations made or issued pursuant to this chapter. All members of the public shall be deemed to have been given notice of the restrictions contained within a declaration upon its dissemination to the news media or publication on the city website or other means of publicity.
- (B) During the period of a declared civil emergency, emergency, or local disaster, a person shall not:
 - (1) Enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment;
 - (2) Violate any of the orders duly issued by the City Manager or designee pursuant to such declaration;
 - (3) Willfully obstruct, hinder, or delay any duly authorized city officer, employee or volunteer in the enforcement or exercise of the provisions of the chapter, or of the undertaking of any activity pursuant to this chapter.
- (C) The municipal court shall have the jurisdiction to preside over alleged violations of this section. A person convicted of a violation of this section shall be subject to the penalties set forth in §1-2-3 of the Montrose Municipal Code.

1-22-10: AUTHORITY TO ENTER A PROPERTY.

During the period of a declared civil emergency, emergency, or local disaster, a city employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that there is a true emergency and an immediate need for assistance for the protection of life or property, and that entering onto the private land will allow the person to take such steps to alleviate or minimize the emergency or disaster or to prevent or minimize danger to lives or property from the declared civil emergency, emergency, or local disaster.

1-22-11: LOCATION OF GOVERNING BODY MEETINGS AND DEPARTMENTS.

- (A) Whenever a civil emergency, emergency, or local disaster makes it imprudent or impossible to conduct the affairs of the city at its regular locations, the governing body may meet at any place, inside or outside the city limits, or may meet via the telephone or other communication device. Any temporary civil emergency, emergency, or local disaster meeting location for the governing body shall continue until a new location is established or until the civil emergency, emergency or local disaster is terminated and the governing body is able to return to its normal location.
- (B) Whenever a civil emergency, emergency, or local disaster makes it imprudent or impossible to conduct the affairs of any department of the city at its regular location, such department may conduct its business at any place, inside or outside the city limits and may remain at the temporary location until the civil emergency, emergency or local disaster is declared ended or until the department is able to return to its normal location.
- (C) Whenever a civil emergency, emergency, or local disaster makes it imprudent or impossible for City Council, or any city committee, board or commission to meet at a previously scheduled date and time, such meeting shall be deemed to be postponed until a quorum of the City Council, committee, board or commission is able to meet.
- (D) Any official act or meeting required to be performed at any regular location of the governing body or of its departments is valid when performed at any temporary location authorized under this section.
- (E) The provisions of this section shall apply to all executive, legislative and judicial branches, powers and functions conferred upon the city and its officers, employees, and authorized agents by the Colorado Constitution, Colorado Statutes, the Montrose Municipal Code, including the Montrose City Charter.

1-22-12: MUTUAL AID AGREEMENTS.

- (A) The City Manager may, on behalf of the city, enter into such reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other compacts or plans with other governmental entities for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.
- (B) The governing body or any of its committees, commissions or authorities may exercise such powers and functions in light of the exigencies of the emergency or disaster and may waive compliance with time-consuming procedures and formalities prescribed by law pertaining thereto.
- (C) The foregoing shall apply to all executive, legislative and judicial powers and functions conferred upon the city and its officers, employees and authorized agents.

1-22-13: DUTIES OF LOCAL EMERGENCY MANAGEMENT COORDINATOR.

The local Emergency Management Coordinator shall:

- (A) Comply with all requirements issued by the Federal Emergency Management Agency (FEMA) and the Colorado Division Emergency Management Agency (CDEM) in order to procure the maximum amount of federal and state assistance and grant monies for the city.
- (B) Assure that the local emergency operations plan (EOP) is kept current.
- (C) Act as liaison with all local emergency response agencies and ensure their cooperation in drafting their portions of the plan. All agencies over which the city has authority shall provide such cooperation in planning.
- (D) Develop a schedule of training to ensure that all persons with specific responsibilities under the EOP understand their duties and are capable of performing such duties. All persons with specific responsibilities under the EOP shall comply with the training schedule to understand their duties and be capable of performing their duties.
- (E) Prepare and coordinate exercises of the EOP as mandated by CDEM and FEMA. The emergency operations plan shall be tested as deemed necessary.
- (F) Conduct debriefings in the aftermath of plan exercises and revise the plan to reflect lessons learned.
- (G) Assist the City Manager in negotiating and entering into mutual aid agreements.

- (H) Coordinate resources for the City Manager and perform all other duties assigned by the City Manager in the response to a civil emergency, emergency, or local disaster.
- (I) Cooperate and coordinate with state and federal authorities in the aftermath of a civil emergency, emergency or local disaster to ensure the maximum available support for recovery and assistance for persons and businesses.
- (J) Develop a mitigation plan for the city in cooperation with all city departments and agencies. All agencies over which the city has authority shall provide cooperation in mitigation planning.
- (K) Work through the City Manager to ensure that requirements for infrastructure replacement are consistent with current best practices to ensure the maximum assistance from the federal government in the event that public facilities must be reconstructed or replaced in the aftermath of a civil emergency, emergency, or local disaster.

1-22-14: ACCESS TO TABOR FUNDS.

In the event of a declared civil emergency, emergency, or local disaster, the city manager shall have access to the city emergency reserves mandated by the Taxpayer's Bill of Rights (TABOR) as set forth in article X, section 20, subsection (5) of the Colorado Constitution. Funds utilized pursuant to this section shall be replenished no later than the conclusion of the following fiscal year.

**1-22-15: REPORT BY CITY MANAGER /DISCRETIONARY
RATIFICATION BY CITY COUNCIL.**

At such time as a civil emergency, emergency, or local disaster shall be declared ended, the city manager shall prepare a written report that details the official actions taken by the city manager during the declaration, including a timeline, significant actions, and a detailed summary of all expenses incurred during such declaration. Such written report shall be submitted to the city council within 30 days. The City Council may, but is not required to, approve a resolution ratifying the actions taken by the City Manager during the declaration. In the event that a resolution is not approved, the City Manager's report shall be retained by the city clerk and made a part of the official record of the City Council meeting at which the report was discussed by the City Council in conjunction with the City Manager.

1-22-16: SEVERABILITY.

The provisions of this Chapter are declared to be severable, and if any section, sentence, clause or phrase of this chapter shall for any reason be

held to be invalid, unenforceable or unconstitutional by a court of competent jurisdiction, or if the application of this Chapter to any person or circumstance is held to be invalid, unenforceable or unconstitutional by such court, such holding shall not affect the validity of the remaining sections, sentences, clauses or phrases of this Chapter.

1-22-17: ADOPTION OF BASE EMERGENCY OPERATIONS PLAN.

The Base Emergency Operations Plan for the City of Montrose shall be adopted by resolution or ordinance of the City Council. Amendments thereafter may be adopted by resolution of the City Council or by the City Manager by promulgation.

SECTION 2: Section 8-1-1 (D) of the Montrose Regulations Manual is hereby repealed and reenacted in its entirety, as follows:

8-1-1: MANUALS ADOPTED BY REFERENCE

(D) Emergency Operations Plan

SECTION 3: EFFECTIVE DATE

This ordinance shall become effective ten (10) days after its passage and final publication as provided by law.

SECTION 4: REPEALER

Existing portions of ordinances covering the same matters embraced in this Ordinance are hereby repealed, and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 5: PROVISIONS NOT AMENDED TO REMAIN IN EFFECT

Except as specifically amended hereby, the Official Code of the City of Montrose, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

SECTION 6: AUTHORITY TO ADOPT

The City Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution, and the powers contained in the City Charter of the City of Montrose.

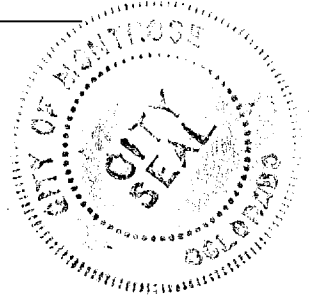
INTRODUCED, READ and PASSED on first reading this 15th day of November 2011.

ATTEST:

Lisa DelPiccolo

Lisa DelPiccolo, City Clerk

Kathy Ellis
Kathy Ellis, Mayor



You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and the question of its adoption on second reading on Tuesday, the 6th day of December, 2011, at the hour of 7:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

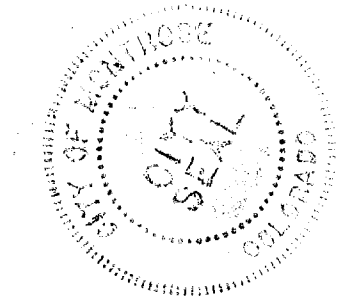
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ORDINANCE 2287

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WHEREAS, C.R.S., §§24-32-2101, *et seq.*, established the Colorado Disaster Emergency Act of 1992 (the "Act"); and

WHEREAS, the Act directs that local jurisdictions within the State of Colorado include themselves within a local or inter-jurisdictional agency which will assume responsibility for disaster preparedness and coordination of response in the event of an emergency or local disaster; and

WHEREAS, the Chief of Police, as the local Emergency Manager has recommended that the City adopt an ordinance vesting in the City Manager the power and authority to declare an emergency or disaster condition within the City if he finds that the City or any part thereof is under imminent threat or danger of suffering significant damage or harm from an emergency, civil emergency or disaster, as those terms are defined in the proposed ordinance; and

WHEREAS, public hearing has heretofore been held before the City Council of the City of Montrose, and the Council has determined, subsequent to said public hearing, that the enactment of a new Chapter 1-22 of the Official Code of the City of Montrose pertaining to the establishment of procedures to respond to civil emergencies, emergencies and local disasters would be in the best interests of the citizens of the City of Montrose.

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1-22-1: TITLE.

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1-22-2: LEGISLATIVE DECLARATION.

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