

ORDINANCE NO. 502

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
NEWARK AMENDING TITLE 2 (ADMINISTRATION AND  
PERSONNEL), CHAPTER 2.16 (DISASTER COUNCIL) OF  
THE NEWARK MUNICIPAL CODE TO CONFORM WITH  
THE CALIFORNIA OFFICE OF EMERGENCY SERVICES  
REQUIREMENTS

The City Council of the City of Newark does ordain as follows:

Section 1: Chapter 2.16 (Disaster Council) of the Newark Municipal Code is hereby amended as shown on Exhibit A.

Section 2: Severability and Validity. If any section, subsection, sentence, clause, or phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful, or otherwise invalid by a court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Newark hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

Section 3: Effective Date. This ordinance shall take effect thirty (30) days from the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance shall be published in The What's Happening Tri City Voice, a newspaper of general circulation published and printed in the City of Fremont, County of Alameda and circulated in the City of Newark.

The foregoing ordinance was introduced and read before the City Council of the City of Newark by Council Member Collazo at the regular meeting of the City Council of the City of Newark held on November 9, 2017.

This ordinance was read at the regular meeting of the City Council held December 14, 2017. Council Member Collazo moved that it be adopted and passed, which motion was duly seconded, and said ordinance was passed and adopted.


AYES: Council Members Hannon, Freitas, Collazo, and Mayor Nagy

NOES: None


ABSENT: Vice Mayor Bucci

SECONDED: Council Member Hannon

APPROVED:

  
s/ALAN L. NAGY  
Mayor

ATTEST:

  
s/SHEILA HARRINGTON  
City Clerk

APPROVED AS TO FORM:

  
s/DAVID J. BENOUN  
City Attorney

## CHAPTER 2.16 – DISASTER COUNCIL

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2.16.100 – ~~Violation—Penalty.~~ Expenditures.

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**2.16.010 Purpose.**

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

**2.16.020 Emergency defined.**

As used in this chapter, "emergency" means the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this city caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, or 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 city, requiring the combined forces of other political subdivisions to combat.

**2.16.030 Membership.**

The city disaster council is created and shall consist of the following:

- A. The mayor, who shall be chair~~man~~<sub>;</sub>
- B. The director of emergency services, who shall be vice chair~~man~~<sub>;</sub>
- C. The assistant director of emergency services<sub>;</sub>
- D. Such chiefs of emergency services as are provided for in a current emergency plan of this city, adopted pursuant to this chapter<sub>;</sub>



- E. Such representatives of civic, business, labor, veterans, professional, or other organizations having an official emergency responsibility, as may be appointed by the director with the advice and consent of the city council.

**2.16.040 Powers and duties.**

It shall be the duty of the city disaster council, and it is empowered, to develop and recommend for adoption by the city council, 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 at least once per year, upon call of the chairman or, ~~in his absence from the city or inability to call such meeting, upon call of the vice chairman, upon call of the vice chair (in the absence of the chair).~~

**2.16.050 Director and assistant director of emergency services—Offices created.**

- A. There is created the office of director of emergency services. The city manager shall be the director of emergency services.
- B. There is created the office of assistant director of emergency services, who shall be appointed by the director.

**2.16.060 Director and assistant director of emergency services—Powers and duties.**

- A. The director of emergency services is empowered to:
1. Request the city council to proclaim the existence or threatened existence of a "local emergency" if the city council is in session, or to issue such proclamation if the city council is not in session. Whenever a local emergency is proclaimed by the director, the city council shall take action to ratify the proclamation within (7) seven days thereafter or the proclamation shall have no further force or effect;
  2. Request the Governor to proclaim a "state of emergency" when, in the opinion of the director, ~~the locally available resources are inadequate to cope with the emergency; the circumstances are beyond the city's capacity to adequately respond to or recover from the emergency.~~
  3. Control and direct the effort of the emergency organization of this city for the accomplishment of the purposes of this chapter;
  4. Direct cooperation between and coordination of services and staff of the emergency organization of this city, and resolve questions of authority and responsibility that may arise between them;
  5. Represent the city in all dealings with public or private agencies on matters pertaining to emergencies as defined ~~in Section 2.16.020; herein.~~
  6. In the event of the proclamation of a "local emergency" as provided in this chapter, the proclamation of a "state of emergency" by the Governor ~~or the Director of the State Office of Emergency Services~~, 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 practicable time by the city council;
    - 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 city for the fair value thereof and, if required immediately, to commandeer the same for public use;
    - c. To require emergency services of any city officer or employee and, in the event of the proclamation of a "state of emergency" in the county in which this city is located or the existence of a "state of war emergency," to command the aid of as many citizens of this community as ~~he deems~~ deemed necessary in the execution of ~~his~~ 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 requisition necessary personnel or material of any city department or agency; and
  - e. To execute all ~~of his~~ ordinary power as city manager, all of the special powers conferred ~~upon him~~ by this chapter or by resolution or emergency plan pursuant hereto adopted by the city council, all powers conferred ~~upon him~~ by any statute, by any agreement approved by the city council, and by any other lawful authority.
- B. The director of emergency services shall designate the order of succession to that office, to take effect in the event the director is unavailable to attend meetings and otherwise perform ~~his~~ duties during an emergency. Such order of succession shall be approved by the city council.
- C. The assistant director shall, under the supervision of the director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency programs of this city; and shall have such other powers and duties as may be assigned by the director.

#### **2.16.070      Emergency organization.**

All officers and employees of this city, 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 2.16.060(A)(6)(c) of this chapter, be charged with duties incident to the protection of life and property in this city during such emergency, shall constitute the emergency organization of the city.

#### **2.16.080      ~~Emergency plan.~~ Compliance with the California Emergency Services Act.**

The city disaster council shall at all times comply with the "California Emergency Services Act", California Government Code Section 8550 et seq.

#### **2.16.090      Emergency plan.**

The city disaster council shall be responsible for the development of the city emergency plan, which plan shall provide for the effective mobilization of all of the resources of this city, 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, and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the city council.

#### **2.16.090100      Expenditures.**

Any ~~expenditures~~expenditure 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 and property of the city.

#### **2.16.100110      Violation—Penalty.**

It shall be a misdemeanor, punishable by a fine of not to exceed ~~five hundred one thousand~~ (\$1,000) dollars, or by imprisonment for not to exceed six (6) months, or both, for any person, during an emergency, to:

- A. Wilfully 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 him by virtue of this chapter;
- B. Do 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 city, or to prevent, hinder, or delay the defense or protection thereof;

- C. Wear, carry, or display, without authority, any means of identification specified by the ~~e~~Emergency ~~a~~Agency of the ~~S~~state.