

APPENDIX 3

INSTRUCTIONS FOR DECLARING A STATE OF EMERGENCY AND ISSUING EMERGENCY ORDERS

A. Instructions for declaring a local State of Emergency

1. Only the City Manager, or Acting City Manager, can declare a local State of Emergency for all of, or anywhere in the, City of Newburgh.
2. A local State of Emergency is declared pursuant to section 24 of the State Executive Law.
3. It can be declared in response to, or anticipation of, a threat to public safety.
4. A declaration of a local State of Emergency may be verbal or written.
5. If it is verbal, it is best to follow it with a written format.
6. The declaration should include the time and date, the reason for the declaration, the area involved, and the expected duration.
7. The written declaration should be kept on file in the City Clerk's Office.
8. A local State of Emergency must be declared BEFORE Emergency Orders are issued.
9. A local State of Emergency should be formally rescinded when the declaration is no longer needed.
10. Only the City Manager or Acting City Manager, may rescind a local State of Emergency.
11. Though a rescission may be verbal or written, if the declaration was written, the rescission should also be written.
12. The rescission should include the time and date of the original declaration, the reason for the local State of Emergency, and the time and date the State of Emergency is rescinded.
13. The written rescission should be kept on file in the City Clerk's Office.

B. Sample Declaration of a local State of Emergency

A State of Emergency is hereby declared in _____ effective at
(area within City or entire City)

_____ on _____.
(time) (date)

This State of Emergency has been declared due to _____
(description of situation)

This situation threatens the public safety.

This State of Emergency will remain in effect until rescinded by a subsequent order.

As the City Manager of the City of Newburgh, I, _____,
(name of City Manager)

exercise the authority given me under section 24 of the New York State Executive Law, to
preserve the public safety and hereby render all required and available assistance
vital to the security, well-being, and health of the citizens of this City.

I hereby direct all departments and agencies of the City of Newburgh to take whatever steps
necessary to protect life and property, public infrastructure, and provide such emergency
assistance deemed necessary.

(Signature)

(Name)

(title)

(date)

C. Questions and Answers on declaring a State of Emergency

1. *Why should I declare a local state of emergency?*

It increases your powers as the Chief Executive Officer. These new powers can include:

- issuing emergency orders;
- implementing public protective measure;
- suspending local laws; and
- requesting supplemental assistance.

2. *Can a declaration give legal protection?*

Yes. A declaration of a local State of Emergency provides legal protection and immunities for the Chief Executive and local emergency officials when they make decisions and take actions to respond to disasters or emergencies.

3. *Will the declaration help raise public awareness?*

Yes. A declaration of local State of Emergency helps make the public aware of the hazards associated with a disaster. It also can emphasize the protective measures you may need to ask citizens to take.

4. *Can a State of Emergency be declared at any time?*

No. A local State of Emergency can be issued when a situation exists that has or will place the public at risk and that will require extraordinary measures for proper protection.

5. *When should I declare a local State of Emergency?*

You should consider declaring a local State of Emergency when a dangerous situation is present or imminent and emergency officials are considering protective actions such as:

- Evacuation of people for a large or heavily populated area street, road, housing development, multi-resident buildings.
- Sheltering people in designated areas or buildings.
- Large-scale closing of roads due to conditions considered to be dangerous to lives and property.

You should also consider declaring a local State of Emergency if the following conditions are present and pose a dangerous threat to the municipality:

- Riots or civil unrest.
- Hostage situations.
- Impending emergency or disaster caused by natural forces (floods, blizzards, ice storms, tornadoes).

6. *Can I issue the declaration verbally?*

Yes, the Chief Executive may issue a declaration verbally if time is a crucial matter. However, you should follow the verbal declaration with a written declaration.

7. *Must the declaration be filed?*

No. However, it's a good idea to do so. It should be kept on file at the Office of the City Clerk.

8. *Do I have to extend the declaration of State of Emergency after 5 days?*

No. The State of Emergency does not have to be extended, but Local Emergency Orders do.

9. *Does the law establish a time limit for a State of Emergency?*

No. It is best to include a time of duration in the original declaration of State of Emergency, or to issue a succeeding declaration with a time limit or a statement that the State of Emergency is continuing. When the proclamation is no longer needed, it should be formally rescinded.

10. *Can I issue Local Emergency Orders without a State of Emergency?*

No. A State of Emergency must be declared before you may issue Local Emergency Orders.

11. *Will a declaration help in getting assistance from the state?*

Yes. If you declare a local State of Emergency and you determine the disaster is beyond the capacity of City resources, the City Manager may request the Governor to provide assistance from state resources.

12. *Must I rescind a declaration of State of Emergency?*

No. However, a written rescinding statement should be made when the emergency no longer exists. The Chief Executive can rescind the declaration of emergency at any time.

13. *If I don't rescind a State of Emergency, does it end automatically?*

Maybe – If a time limit was indicated in the declaration of State of Emergency it will end automatically at that the time and date indicated. If no time limit was specified, the State of Emergency does NOT end automatically.

14. *When should I rescind a State of Emergency?*

You should rescind it when the conditions that warranted the declaration no longer exist.

15. *Must the rescision be issued in writing?*

No. However, it is recommended, in the same manner as a declaration of State of Emergency is recommended, to be issued in written form.

16. *Must the rescision be filed?*

No. However, it is recommended that it be filed in the Office of the City Clerk.

D. Instructions for issuing local Emergency Orders

1. Local Emergency Orders can be issued only if there is a State of Emergency in effect pursuant to section 24 of the State Executive Law (see section A. above).
2. Local Emergency Orders can be issued at the City level only by the City Manager or Acting City Manger.
3. Local Emergency Orders must be written.
4. Local Emergency Orders should include the time and date they take affect, the reason for the declaration, the area involved, and the duration.
5. A Local Emergency Order expires automatically after five (5) days. It can be rescinded before that by its own terms, or by a rescision by the City Manager. It is also automatically rescinded when the State of Emergency is rescinded.
6. The City Manager may extend Local Emergency Orders for periods not to exceed five (5) days each during the State of Emergency.

F. Questions and Answers on issuing Local Emergency Orders

1. *Can anyone issue a Local Emergency Order?*

No. Only the Chief Executive of a county, city, town or village may issue a Local Emergency Order.

2. *What can a local Emergency Order include?*

An emergency order can require whatever is necessary to protect life and property or to bring the emergency situation under control as long as what it is within the constitutional powers of county government.

3. *Can a Local Emergency Order be issued at any time in an emergency?*

No. A Local Emergency Order can be issued only after the Chief Executive declares a local State of Emergency.

4. *Is it in effect indefinitely?*

No. A Local Emergency Order is effective from the time and in the manner prescribed in the order. It terminates 5 days after issuance, or by rescission by the Chief Executive, or a declaration by the Chief Executive that the State of Emergency no longer exists, whichever occurs sooner.

5. *Can an order be modified once it's issued?*

Yes. A Local Emergency Order may be amended, modified, or rescinded at any time by the Chief Executive during the State of Emergency.

6. *Can a Local Emergency Order be extended beyond five days?*

Yes. The Chief Executive may extend an order for additional periods up to 5 days each during the local State of Emergency. Each extension must be refilled.

7. *Must the media be informed?*

Yes. The Local Emergency Order must be published as soon as practicable in a newspaper of general circulation in the area affected by the order. It should be published under the paid legal advertisement section. It must also be provided to radio and television media for broadcast.

8. *Can a citizen who disobeys an emergency order be arrested?*

Yes. Any person knowingly violates any Local Emergency Order of a Chief Executive issued pursuant to Section 24 of the Executive Law can be found guilty of a class B misdemeanor.

