

# EMERGENCY DECLARATION GUIDELINES

## References:

- A. Emergency Program Act (RSBC 1996) Chapter 111
- B. Local Government Act (RSBC 1996) Chapter 323

## Introduction

The need to declare a state of local emergency occurs very infrequently in BC. The only declaration of a provincial state of emergency, ever made, was in response to the 1998 Salmon Arm - Silver Creek interface fire.

Elected officials, both local and provincial, must be prepared to declare a state of emergency in response to an emergency or disaster at a moments notice. Emergency plans must outline the process for declaring a state of emergency as well as managing the application of the extraordinary powers. The processing of a declaration should be part of every validation exercise.

This document is intended to answer some of the most frequently asked questions and provide a step by step outline of how and when to declare a state of local emergency.

## State of Local Emergency

### Who can declare a state of local emergency?

A local authority, as designated by the *Emergency Program Act*, which has primary responsibility for response to an emergency or disaster. The province acts in support of the local authority when the need for response exceeds the capabilities of the local government.

In an area where there is no local authority the province is responsible for the response.

Not all communities are a **local authority** as defined in the *Emergency Program Act*. A "local authority" is defined as:

The municipal council is the local authority within a municipal jurisdiction. The board of the regional district is considered a local authority for an electoral area, if the regional district has been granted the powers of a

municipality under the *Emergency Program Act* by an ORDER IN Council (OIC) under section 799 of the *Local Government Act*.

A regional district may declare for designated electoral areas within its jurisdiction, but NOT for individual local authorities within that regional district.

A local authority's declaration is applicable ONLY to a geographic area within that local authority's jurisdiction.

### **Why would a local authority declare a state of local emergency?**

Section 12 of the *Emergency Program Act* allows the **local authority** (mayor and council, or chair and board of the regional district) to declare a state of local emergency if extraordinary powers are required to respond effectively to an emergency or disaster.

Mandatory evacuation of people and livestock, or access to private property where public safety is the issue, are the most frequently cited reasons to declare a state of local emergency.

Here are some examples of recent local emergency declarations:

**Example:** The mayor of Delta declared a state of local emergency in response to a landfill fire that was threatening critical infrastructure—natural gas, power and railway lines—where the municipality needed authority to work on and/or cross private property as required in order to effectively fight the fire. In addition, the Municipality of Delta asked the Solicitor General to extend the declaration for an additional seven days beyond the initial limit of seven days, on five separate occasions.

**Example:** The mayor of the District of Langford declared a state of local emergency following a major propane spill on Highway #1 in the Malahat area. The district needed to access the extraordinary powers that provided authority to order the evacuation of 300 citizens, close Highway #1 and restrict residents' access.

### **Can a declaration of a state of local emergency override provincial or federal acts or regulations?**

**NO.** A declaration of a state of local emergency only provides the authority to override local bylaws, but not provincial or federal legislation.

In an emergency where provincial regulation must be overridden in order to save lives, the provincial government would have to declare a provincial state of emergency and delegate the authority to the local government.

A declaration of provincial or local state of emergency does not have the authority to override federal acts or regulations.

**Example:** A declaration of a provincial or local state of emergency cannot override federal Department of Fisheries and Oceans regulations regarding interference with fish habitat.

### **When is a declaration of a state of local emergency NOT required?**

A declaration is not needed:

- to implement part or all of a local emergency response plan;
- to gain liability protection under the *Emergency Program Act*; and
- to qualify for disaster financial assistance under the *Emergency Program Act*.

### **How would a local authority declare a state of local emergency?**

Declarations can be made in two ways:

- the mayor or regional chair may verbally declare the local emergency and immediately sign a written document of declaration; or
- the municipal council or the regional district board may pass a bylaw or resolution declaring a state of local emergency.

The declaration document (including the bylaw or resolution) must identify the nature of the emergency and specify the geographic boundaries, preferably on an attached map, within which the declaration will apply.

The declaration must be accompanied by an assignment, by name, of who or what organization, can apply the extraordinary powers on behalf of the local authority. A Delegation of Powers Matrix is provided at Annex F.

### **What must the local authority do following a declaration?**

**Step #1** The mayor or regional chair must, immediately after making a declaration of a state of local emergency, forward a copy of the declaration to the director of the Provincial Emergency Program (PEP), who presents the declaration to the Solicitor General.

**Step #2** The mayor or regional chair will insure that the boundaries are clearly delineated by means of a map.

- Step #3** The mayor or regional chair must ensure that the authority to exercise the extraordinary powers granted under the *Emergency Program Act* has been delegated in writing to the appropriate persons and/or agencies.
- Step #4** The mayor or regional chair, must immediately **publish notice** of the declaration in a form that residents of the affected area may learn of the declaration (usually a local newspaper notice).
- Step #5** **When necessary** the mayor or regional chair will seek the authority of the Solicitor General to extend the term of the declaration beyond seven days, by making application to the director of PEP. Successive extensions of seven days each may be requested.
- Step #6** The mayor or regional chair must cancel the declaration as soon as the extraordinary powers are no longer needed; **publish** the cancellation; and notify the director of PEP.

**Are local authorities required to fax a copy of the declaration, along with related documents, to the director of PEP?**

A local authority must forward (by facsimile), to the director of PEP, a signed copy of the declaration, a map designating the geographic boundaries, a copy of any publication notice and a copy of any Delegation Order which designates persons or agencies who can apply the extraordinary powers on behalf of the local authority.

Director  
Provincial Emergency Program  
Phone: 250-952-4918  
Fax: 250 952-4888  
24/7: Phone: 1-800-663-3456  
24/7: Fax: 250-952-4872

The director of PEP will present the declaration to the Solicitor General, who may alter or set aside the declaration, as authorized in the *Emergency Program Act*.

**How can the public notice or cancellation be accomplished?**

The details of the notice or cancellation of the emergency declaration are published by means of a communication likely to make the contents known to the majority of the population of the affected area (usually local media).

**What are the limitations of a state of local emergency?**

A local declaration is limited geographically to the jurisdiction of the declaring local authority.

Where the application of extraordinary powers is required outside of the specific jurisdiction of the local authority there are two options:

- the neighbouring jurisdiction may declare a state of local emergency; or
- the declaration of a provincial state of emergency which encompasses the whole of the geographic area can be requested. The request would normally be processed through an activated Provincial Regional Emergency Operations Centre (PREOC), or when no PREOC is activated directly to the director of PEP.

**When is a local declaration cancelled?**

A declaration of a State of Local Emergency is cancelled when:

- it expires after each seven day period unless extended by the approval of the Solicitor General;
- the Solicitor General cancels it;
- it is superseded by a provincial state of emergency; or
- it is cancelled at any time by bylaw, resolution or order.

**How can a local declaration be extended?**

A request for an extension will be forwarded to the director of PEP at least three days prior to the expiration of the original declaration. The director of PEP will present the request to the Solicitor General for approval.

**How does a local authority use the emergency/extraordinary powers?**

A local authority may authorize selected persons or agencies to use the extraordinary powers assumed by local authority under a declared state of local emergency. Such authorized use of extraordinary power, together with such terms, conditions or limitations as the local authority may impose, must be defined following a declaration of a state of local emergency. Such authorization and limitations must be documented, but are not part of the declaration itself.

**Example:** A local authority would declare a local state of emergency to undertake the evacuation of resident from an area threaten with imminent flooding.

The local authority is responsible for the exercise of the extraordinary powers by any person or agency acting on behalf of the declaring authority.

**Why should local authorities consult with PEP staff prior to a declaration?**

Consultation with a PEP regional manager or PEP management prior to initiating a declaration is advisable to confirm that the nature and extent of the required extraordinary powers in the declaration will meet the requirements intended.

**Will PEP staff consult with local authorities prior to the declaration of a provincial state of emergency?**

When possible PEP will consult with local authorities prior to declaring a provincial state of emergency to confirm the nature and extent of extraordinary powers that the province will assume.

**Provincial State of Emergency****When would a provincial state of emergency be declared?**

The two most common reasons for declaring a provincial state of emergency are:

Large sparsely populated areas of the province are not under the jurisdiction of a local government, and therefore the province has responsibility to provide emergency response services.

In response to a wide area disaster, where the need for extraordinary powers extends beyond or crosses local boundaries.

**Example:** In order to authorize local governments to transport debris across jurisdictional boundaries, without permits, during a disaster response.

**Who has authority to declare a provincial state of emergency?**

The minister (Solicitor General) or the Lieutenant Governor in Council may declare a provincial state of emergency. In the absence of the minister the deputy minister may declare a provincial state of emergency.

**How will the province delegate authority to local authorities and other agencies?**

The province will delegate its authority, in writing, through the Provincial Regional Emergency Operations Centre (PREOC) to each local authority and agency.

**Legislative Authority:**

“IT IS FURTHER ORDERED: that the local authorities, ministries, crown corporations and agencies, their employees, servants and

agents, as designated in Addendum A, are empowered pursuant to Section (10)1 of the *Emergency Program Act* to do all acts and implement all procedures that are considered necessary to prevent, respond to or alleviate the effects of the emergency.”

**Example:** Any organization including the RCMP or Canadian Forces acting in support of the province and/or a local government can be delegated authority to act as an agent of the province or local authority, when their staff must access private property or restrict citizen access to a designated area such as a Disaster Response Route.

**Will all of the powers be delegated to every individual or agency?**

**No.** Only those powers required to perform specific duties will be delegated.

For example, the Solicitor General may choose not delegate the authority to:

- *“Procure, fix prices for or ration food, clothing, fuel, equipment, medical supplies or other essential supplies and the use of any property, services, resources or equipment within any part of the area (designated within the declaration) for the duration of the state of emergency.”*

**Attachments:**

**Annex A** - Emergency Powers List

**Annex B** - Declaration of a State of Local Emergency - Order

**Annex C** - Order in Council - Provincial Declaration

**Annex D** - Ministerial Order - Provincial Declaration

**Annex E** - Extension of Approval Local Declaration

**Annex F** - Delegation of Powers Matrix

## Annex A

**Emergency Powers*****Emergency Program Act***  
**Sections 9-15**

- a. Acquire or use any land or personal property considered necessary to prevent, respond to or alleviate the effects of an emergency or disaster.
- b. Authorize or require any person to render assistance of a type that the person is qualified to provide or that otherwise is or may be required to prevent, respond to or alleviate the effects of an emergency or disaster.
- c. Control or prohibit travel to or from any area of the local authority's jurisdiction.
- d. Provide for the restoration of essential facilities and the distribution of essential supplies and provide, maintain and coordinate emergency medical, welfare and other essential services in any part of the local authority's jurisdiction.
- e. Cause the evacuation of persons and the removal of livestock, animals and personal property from any area of the local authority's jurisdiction that is or may be affected by an emergency or a disaster and make arrangements for the adequate care and protection of those persons, livestock, animals and personal property.
- f. Authorize the entry into any building or on any land, without warrant, by any person in the course of implementing an emergency plan or program or if otherwise considered by the minister to be necessary to prevent, respond to or alleviate the effects of an emergency or disaster.
- g. Cause the demolition or removal of any trees, structures or crops if the demolition or removal is considered by the minister to be necessary or appropriate in order to prevent, respond to or alleviate the effects of an emergency or disaster.
- h. Construct works considered by the local authority to be necessary or appropriate to prevent, respond to or alleviate the effects of an emergency or disaster.
- i. Procure, fix prices for or ration food, clothing, fuel, equipment, medical supplies or other essential supplies and the use of any property, services, resources or equipment within any part of the local authority's jurisdiction for the duration of the state of emergency.



## Annex B

**Declaration of a State of Local Emergency****ORDER**

WHEREAS [*description of hazard and emergency*] in [*description of area*];

AND WHEREAS [*explanation of ongoing or imminent threat to life or property*];

AND WHEREAS this [*description*] emergency requires prompt coordination of action or special regulation of persons or property to protect the health, safety or welfare of people or to limit damage to property;

NOW THEREFORE:

IT IS HEREBY ORDERED pursuant to Section 12 (1) of the *Emergency Program Act* (RS, 1996, Chap 111) that a state of local emergency exists due to [*short hazard description*] and [*short consequence statement*] in [*area description*];

IT IS FURTHER ORDERED THAT the [*local authority*], its employees, servants and agents are empowered pursuant to Section 13 (1) of the *Emergency Program Act* to do all acts and implement all procedures that are considered necessary to prevent or to alleviate the effects of the emergency.

ORDERED by the [*local authority or head of local authority*] this     day of  
[*month*], 200\_.

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(*head of local authority*)

Annex C

Order in Council for a Provincial Emergency Declaration

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No.

Approved and Ordered

Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that a state of emergency exists within the following Regional Districts due to an extensive wildfire threat and the potential impact on people and property:

- Name Community
Name Community
Name Community
Name Community

Solicitor General

Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: - Emergency Program Act, R.S.B.C. 1996. c. 111, s. 9 (1)

Other (specify): -

## Annex D

**MINISTERIAL ORDER****Declaration of State Of Emergency**

WHEREAS [*description of hazard and emergency*] in [*description of area*];

AND WHEREAS [*explanation of imminent or probable threat to life or property*];

AND WHEREAS this [*description*] emergency requires prompt coordination of action or special regulation of persons or property to protect the health, safety or welfare of people or to limit damage to property;

NOW THEREFORE:

IT IS HEREBY ORDERED pursuant to Section 9(1) of the Emergency Program Act (RS, 1996, Chap. 111) that a State of Emergency exists due to [*short hazard description*] and [*short consequence statement*] in [*area description*];

IT IS FURTHER ORDERED that [*provincial government ministry, crown corporation or agency, or local government body or other agency*] its employees, servants and agents, are empowered pursuant to Section 10(1) of the Emergency Program Act to do all acts and implement all procedures that are considered necessary to prevent, respond to or alleviate the effects of the emergency.

ORDERED by the Solicitor General of British Columbia  
this        day of        , 200\_\_.

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(Incumbent Minister)  
Solicitor General

Annex E

**Extension of Approval  
State of Local Emergency**

WHEREAS life and property remain at risk [*description of hazard and emergency*]  
in [*description of area*];

AND WHEREAS the Mayor of [*name community*] has requested authority to further  
extend the duration of the declaration of a State of Local Emergency due to expire  
on {*day and date*};

NOW THEREFORE:

IT IS HEREBY APPROVED pursuant to Section 12(6) of the Emergency Program  
Act (RS, 1996, Chap.111) that {*name community*} may extend the duration of a  
State of Emergency for seven days from {*date and date*} to {*day and date*}

APPROVED by the Solicitor General of British Columbia  
this      day of                      , 200\_\_

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(Incumbent Minister)  
Solicitor General

Annex F

**Delegation of Powers Matrix**

***Emergency Program Act***  
**Section 10**

<b>Delegated Powers</b>	<b>Municipal Clerk</b>	<b>Fire Chief</b>	<b>Chief Constable</b>	<b>City Engineer</b>
Acquire or use any land or personal property considered necessary to prevent, respond to, or alleviate the effects of an emergency or disaster.				
Authorize or require any person to render assistance of a type that the person is qualified to provide or that otherwise is or may be required to prevent, respond to, or alleviate the effects of an emergency or disaster.				
Control or prohibit travel to or from any area (designated within the declaration).				
Provide for the restoration of essential facilities and the distribution of essential supplies and provide, maintain and coordinate emergency medical, welfare and other essential services in the area (designated within the declaration).				
Cause the evacuation of persons and the removal of livestock, animals and personal property from any area (designated within the declaration) that is or may be affected by an emergency of a disaster and make arrangements for the adequate care and protection of those persons, livestock, animals and personal property.				
Authorize the entry into any building or on any land, without warrant, by any person in the course of implementing an emergency plan or program or it otherwise considered by the (mayor/minister) to be necessary to prevent, respond to, or alleviate the effects of an emergency or disaster.				
Cause the demolition or removal of any trees, structures or crops if the demolition or removal is considered by the (mayor/minister) to be necessary or appropriate in order to prevent, respond to or alleviate the effects of an emergency or disaster.				
Construct works considered by the (mayor/minister) to be necessary or appropriate to prevent, respond to, or alleviate the effects of an emergency or disaster.				
Procure, fix prices for or ration food, clothing, fuel, equipment, medical supplies or other essential supplies and the use of any property, services, resources or equipment within any part of the area (designated within the declaration) for the duration of the state of emergency.				

**NOTE: The agencies shown in the matrix are for example only. Other individuals/agencies may be included at the discretion of the minister or the head of a local authority.**