

**ORDINANCE NO. 2292**

**AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF MERCED, CALIFORNIA,  
AMENDING CHAPTER 8.20, "DISASTER  
CONTROL," OF THE MERCED MUNICIPAL  
CODE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN  
AS FOLLOWS:**

**SECTION 1. ADDITION TO CODE.** Chapter 8.20, "Disaster Control,"  
of the Merced Municipal Code is hereby amended by to read as follows:

**"Chapter 8.20  
DISASTER CONTROL**

- Section 8.20.010 Definitions.**
- Section 8.20.020 Purposes of Chapter.**
- Section 8.20.030 Disaster Control—Membership.**
- Section 8.20.040 Disaster Control—Powers and Duties.**
- Section 8.20.050 Disaster Council—Meetings.**
- Section 8.20.060 Director and Deputy Director of  
Emergency Services—Appointment.**
- Section 8.20.070 Director and Deputy Director—Powers  
and Duties.**
- Section 8.20.080 Director—Powers After Disaster  
Proclaimed.**
- Section 8.20.090 Emergency Organization.**
- Section 8.20.100 Emergency Operations Plan—  
Established by Resolution.**
- Section 8.20.110 Unlawful Acts—Penalty.**

**8.20.010 Definitions.**

As used in this Chapter, the term '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 likely to be beyond the control of the services, personnel, equipment, and facilities for this City, requiring the combined forces of political subdivisions of this State beyond the City to combat. Any term or phrase used herein which is not defined herein but defined within the California Emergency Services Act, Government Code Section 8550, *et seq.*, shall have the meaning ascribed within such Act.

**8.20.020 Purposes of Chapter.**

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 the City in the event of an emergency; the direction of the emergency organization; and the coordination of the emergency functions of the City with all other public agencies and affected private persons, corporations, and organizations. Any expenditures made in connection with such emergency activities, including mutual-aid activities, are conclusively to be for the direct protection and benefit of the inhabitants and property of the City.

**8.20.030 Disaster Council— Membership.**

The Disaster Council is created and shall consist of the following:

- A. The City Manager, who shall be Chair;
- B. The Director of Emergency Services, who shall also be the City Manager. All subsequent references to the Director of Emergency Services may be referred to as the ‘Director;’
- C. The Deputy Director of Emergency Services— Operations, who shall be the Vice-Chair;

- D. Such officers and section chiefs of emergency services as are provided for in the current emergency plan of the City, adopted pursuant to this Chapter; and,
- E. Such representatives of civic, business, labor, veteran, professional or other organizations, having an official emergency responsibility as may be appointed by the Director.

**8.20.040 Disaster Council--Powers and Duties.**

It shall be the duty of the City of Merced 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.

**8.20.050 Disaster Council--Meetings.**

The Disaster Council shall meet upon the call of the Chair or in his/her absence from the City or inability to call such meeting, upon the call of the Vice-Chair.

**8.20.060 Director and Deputy Director of Emergency Services--Appointment.**

- 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 Deputy Director of Emergency Services—Operations, who shall be appointed by the Director.

**8.20.070 Director and Deputy Director--Powers and Duties.**

The Director is empowered to:

- A. 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 seven days thereafter or the proclamation shall have no further force or effect.
- B. Request the Governor to proclaim a 'state of emergency' when, in the opinion of the Director, the resources of the area or region are inadequate to cope with the emergency;
- C. Control and direct the effort of the emergency organization of the City for the accomplishment of the purposes of this Chapter;
- D. Direct cooperation between and coordination of divisions, services, and staffs of the emergency organization of the City, and to resolve questions of authority and responsibility that may arise between them;
- E. Represent the City in all dealings with public or private agencies pertaining to emergencies as defined.

**8.20.080 Director--Powers After Disaster Proclaimed.**

In the event of the proclamation of a 'local emergency' as provided by Section 8.20.070, or 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 to:

- A. Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, that such rules and regulations must be confirmed at the earliest practicable time by the City Council;

- B. Obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of the life and property of the people, and bind the City for the fair value thereof, and if required immediately, to commandeer the same for public use;
- C. Require emergency services of any City officer or employee and, in the event of the proclamation of a 'state of emergency' by the Governor in the county in which the 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 or she deems necessary in the execution of his or her duties. In the execution of these duties, such persons shall be entitled to all the privileges, benefits, and immunities as are provided by state law for registered disaster services workers;
- D. Requisition necessary personnel or material of any City department or agency; and,
- E. Execute all of his or her ordinary power as City Manager, all of the special powers conferred upon him or her by this Chapter or by resolution or emergency plan adopted pursuant thereto by the City Council, all powers conferred upon him or her by any statute, by any ordinance, by any agreement approved by the City Council and/or by any other lawful authority, and in conformity with Section 38791 of the Government Code and to exercise all police power vested in the City by the Constitution and general laws.
- F. The Director 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 or her duties during an emergency. Such order of succession shall be approved by the City Council.
- G. The Deputy Director shall, under the supervision of the Director and with the assistance of emergency service section 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.

**8.20.090 Emergency Organization.**

All officers and employees of the 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 commandeered under the provisions of Section 8.20.090(C) of this Chapter, shall be charged with duties incident to the protection of life and property in the City during such emergency, and they shall constitute the emergency organization of the City.

**8.20.100 Emergency Operations Plan--Established by Resolution.**

The City of Merced Disaster Council shall be responsible for the development of the City of Merced Emergency Operations Plan, which plan shall provide for the effective mobilization of all of the resources of the 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.

**8.20.110 Unlawful Acts--Penalty.**

It is unlawful and a misdemeanor, subject to punishment in accordance with Section 1.12.020 of this Code, for any person to violate any provision of this Chapter or for any person during an emergency to:

- A. Obstruct or Delay Members of Organization. To willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rules or regulations issued pursuant to this Chapter, or in the

performance of any duty imposed upon him or her by virtue of this Chapter;

B. Violation of Rules or Regulations. To do any act forbidden by any lawful rules or regulations 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 the City, or to prevent, hinder or delay the defense or protection thereof; or,

C. Unauthorized Use of Identification. To wear, carry, or display, without authority, any means of identification specified by the emergency agency of the State. ”

## **SECTION 2. REPEAL OF CONFLICTING ORDINANCES.**

Ordinance No. 427 is hereby repealed, provided, that it is the intent of the City Council in enacting this Ordinance that it shall be considered a revision and continuation of the Ordinance repealed by this Ordinance, and the status of volunteers shall not be affected by such repeal; nor shall plans and agreements, rules and regulations, or resolutions adopted pursuant to such repealed Ordinance be affected by such repeal until amended, modified, or superseded as provided in this Ordinance.

**SECTION 3. EFFECTIVE DATE.** This Ordinance shall be in full force and effect thirty (30) days after its adoption.

**SECTION 4. SEVERABILITY.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 5. PUBLICATION.** The City Clerk is directed to cause a copy of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the 5th day of November, 2007, and was passed and adopted at a regular meeting of said City Council held on the 19th day of November, 2007 by the following called vote:

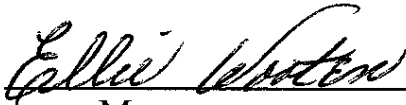
**AYES:**                    **Council Members:** OSORIO, SPRIGGS, CORTEZ, GGABRIAULT-ACOSTA, POLLARD, SANDERS, WOOTEN

**NOES:**                    **Council Members:** NONE

**ABSTAIN:**                **Council Members:** NONE

**ABSENT:**                 **Council Members:** NONE

**APPROVED:**

  
\_\_\_\_\_  
Mayor

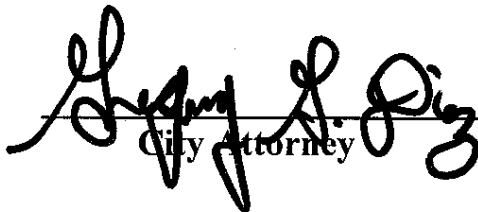
**ATTEST:**  
**JAMES G. MARSHALL, CITY CLERK**

**BY:**   
\_\_\_\_\_  
Deputy City Clerk



(SEAL)

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
City Attorney                    **10/4/2007**  
Date