



CITY MANAGER'S OFFICE

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Disaster Council

Meeting: October 29, 2020

Subject

Proposed amendments to Chapter 2.40 (Disaster Council) of the Cupertino Municipal Code

Recommended Action

Receive presentation on proposed amendments to Chapter 2.40 (Disaster Council) of the Cupertino Municipal Code, provide any input, and make a recommendation to City Council.

Background

The emergency management program includes 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. All City departments and partner agencies constitute the emergency management program, which is facilitated by the Office of Emergency Services, which is being proposed to be changed to "Office of Emergency Management," consistent with industry best practice.

The purpose of the Disaster Council is to provide input and guidance to the emergency management program and facilitates input by stakeholders in the preparation, implementation, and evaluation of the program. The Disaster Council also provides oversight for the California State Disaster Service Worker Volunteer Program (DSWVP) through the Citizen Corps organization.

Discussion

Updates to Chapter 2.40 of the Municipal Code have been developed to provide clear and effective guidance for emergency management activities. The Emergency Management Accreditation Program (EMAP), the California Office of Emergency Services, and best practices from other jurisdictions have been used to identify recommended changes. Minor updates were also made for pronoun usage, formatting, and clarity for current terminology without material change.

The substantive recommended changes are summarized as follows:

#	Change	Reason	Jurisdictional Examples
1	Title of Chapter changed from Disaster Council to Emergency Management Program	The scope of the ordinance covers the Emergency Management Program of which the Disaster Council is a component.	<ul style="list-style-type: none"> - County of Santa Clara - City of San Jose
2	Renamed the "Office of Emergency Services" to the "Office of Emergency Management"	The name "Office of Emergency Management" better describes the management and coordination responsibility of the organization rather than direct emergency service provision such as law enforcement and fire services.	<ul style="list-style-type: none"> - County of Santa Clara - City of San Jose
3	Changed designated chair from Mayor to City Manager; changed designated vice chair from City Manager to Mayor	As the Mayor's term is only one year and to keep consistency in the Disaster Council, it is recommended to have the City Manager as Chair and the Mayor as Vice Chair.	<ul style="list-style-type: none"> - Los Altos Section 2.28.050 - Los Altos Hills Section 4-1.06 - Hermosa Beach, CA Section 2.56.030
4	<p>Clarified voting members as follows:</p> <ul style="list-style-type: none"> - Chair - Vice Chair - Department Heads <p>Such representatives of civic, business, labor, veterans, professional, or other organizations having an official emergency responsibility, as may be appointed by the chair with the advice and consent of the governing body to advise the voting members.</p>	This modification more clearly defines those members that have voting power in the Disaster Council and that other members may be appointed to advise the voting members. The current Code lists "Section Chiefs (City Department Heads or their designee)" as members but section chiefs are not always department heads, so this amendment seeks to clarify this ambiguity.	Many other cities refer to section chiefs of emergency services as mentioned in the emergency plan. However, this is not straightforward as the individual to actually fill the role of section chief will rotate through shifts. These roles are often initially assumed by department heads.
5	Added a statement that Disaster Council shall comply with the California Emergency Services Act.	This statement is required for the Emergency Management Program to follow the California Emergency Services Act.	<ul style="list-style-type: none"> - California Emergency Services Act (Chapter 7 of Division 1 of Title 2 of the Government Code) - California Code of Regulations, Title 19, Division 2, Chapter 2, Subchapter 3, §2571

6	<p>Clarified Powers and Duties of Disaster Council and the Director of Emergency Services:</p> <ul style="list-style-type: none"> - Clarified that meeting frequency is at the discretion of the chair but not less than once a year -Broadened the description of the Disaster Service Worker Volunteer program -Removed redundant wording and clarified the advisory role in development of plans and agreements 	<p>Updated for clarity and to meet requirements of the Emergency Management Accreditation Program Standard¹.</p>	<ul style="list-style-type: none"> - City of Saratoga Section 6-05.050
7	<p>Clarified the penalties to violations of Chapter 2.40 to include administrative citations as well as misdemeanor penalties.</p> <ul style="list-style-type: none"> - The City may address violations of this Chapter by issuing administrative citations, fines, and penalties as set forth in Chapter 1.10 of this Code. Alternatively, the City may prosecute any violation of this Chapter as a misdemeanor, punishable as provided in Chapter 1.12 of this Code. Law enforcement officers of the Santa Clara County Sheriff's Office are authorized to enforce this Chapter. 	<p>Updated to facilitate appropriate penalty and efficient enforcement of emergency orders under Chapter 2.40. The administrative enforcement mechanism authorized by this Chapter compliment and does not displace existing civil and criminal enforcement.</p>	<ul style="list-style-type: none"> - County of Santa Clara Ordinance No. NS-9.291

¹ Emergency Management Accreditation Program, "The ANSI/EMAP 5-2019 Emergency Management Standard by EMAP." 2019. <https://emap.org/index.php/what-is-emap/the-emergency-management-standard>

On October 8, 2020, the Public Safety Commission reviewed the first six proposed amendments. The Commission unanimously recommended the amendments for adoption by the City Council, with Commissioner Nellore absent. The Commission discussed the amendments and had no dissenting opinions.

Upon further review after the Commission meeting, the seventh proposed amendment was added to facilitate appropriate penalty and efficient enforcement of emergency orders under Chapter 2.40. The administrative enforcement mechanism proposed by this amendment provides administrative and criminal enforcement options proportional to the violation of a local emergency order.

The proposed amendments are expected to go before the City Council in November 2020.

Sustainability Impact

None anticipated.

Fiscal Impact

None anticipated.

Prepared by: Tom Chin, Emergency Services Coordinator

Approved for Submission by: Katy Nomura, Assistant to the City Manager

Attachments:

A - Draft Chapter 2.40 Municipal Code Amendments