

Considerations for a Declaration of Emergency

(Note: All references in this document refer to the *Emergency Management and Civil Protection Act*, R.S.O. 1990, Chapter E.9, as amended 2006)



** This information sheet is for use by municipal heads of council considering the declaration of an emergency within their municipality. This information is not intended to provide any sort of legal advice – it is merely a reference tool. It is a best practice for municipal heads of council to consult, if possible, their Municipal Emergency Control Groups in preparation for making decisions on declarations of emergency.*

An emergency is defined under the *Emergency Management and Civil Protection Act* as “a situation, or an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise” [Section 1, definition of an emergency].

Under the *Emergency Management and Civil Protection Act*, only the head of council of a municipality (or their designate) and the Lieutenant Governor in Council or the Premier have the authority to declare an emergency. The Premier, the head of council, or the municipal council have the authority to terminate an emergency declaration [Sections 4 (1), (2), (4)].

An emergency declaration may extend to all, or any part of the geographical area under the jurisdiction of the municipality [Section 4 (1)].

When considering whether to declare an emergency, the following factors should be considered as potential reasons for a declaration:

General and Government:

- Is the situation an extraordinary event requiring extraordinary measures?** [Section 4 (1) permits a head of council to “take such action and make such orders as he or she considers necessary and are not contrary to law” during an emergency.]
- Does the situation pose a danger of major proportions to life or property?** [Section 1, definition of an emergency]
- Does the situation pose a threat to the provision of essential services (e.g., energy, potable water, sewage treatment/containment, supply of goods or medical care)?** [Some situations may require extraordinary measures be taken or expenditures be made to maintain or restore essential services. A declaration of emergency may allow a head of council to expend funds outside of his or her spending resolutions and/or the regular approval process of the municipality.]
- Does the situation threaten social order and the ability to govern?** [Whether due to a loss of infrastructure or social unrest (e.g., a riot), a crisis situation has the potential to

Considerations of a Declaration of Emergency

threaten a council's ability to govern. In such cases, extraordinary measures may need to be taken. Section 4 (1) provides for extraordinary measures, not contrary to law. Section 55 (1) of the *Police Services Act* provides for the creation of special policing arrangements during an emergency.]

- ❑ **Is the event attracting significant media and/or public interest?** [Experience demonstrates that the media and public often view the declaration of an emergency as a decisive action toward addressing a crisis. It must be made clear that an “emergency” is a legal declaration and does not indicate that the municipality has lost control. An emergency declaration provides an opportunity to highlight action being taken under your municipal emergency response plan.]
- ❑ **Has there been a declaration of emergency by another level of government?** [A declaration of emergency on the part of another level of government (e.g., lower-tier, upper-tier, provincial, federal) may indicate that you should declare an emergency within your municipality. For example, in the event of a widespread disaster affecting numerous lower-tier municipalities within a county, the county will likely need to enact its emergency response plan and should strongly consider the declaration of an emergency. In some cases, however, a declaration of emergency by a higher level of government may provide sufficient authorities to the lower-tier communities involved (e.g., municipalities operating under the authority of a provincial or federal declaration).]

Volunteers:

- ❑ **Are volunteers assisting?** [The *Workplace Safety and Insurance Act* provides that persons who assist in connection with a declared emergency are considered “workers” under the Act and are eligible for benefits if they become injured or ill as a result of the assistance they are providing. This is in addition to workers already covered by the Act.]

Operational:

- ❑ **Does the situation require a response that exceeds, or threatens to exceed the capabilities of the municipality for either resources or deployment of personnel?** [Section 4 (1) permits the head of council to “take such action and make such orders as he or she considers necessary and are not contrary to law to implement the emergency plan.” Section 13 (3) empowers a municipal council to “make an agreement with the council of any other municipality or with any person for the provision of any personnel, service, equipment or material during an emergency.”]
- ❑ **Does the situation create sufficient strain on the municipal response capability that areas within the municipality may be impacted by a lack of services, thereby further endangering life and property outside areas directly affected by the current crisis?** [Some situations may require the creation of special response agreements between the municipality and other jurisdictions, private industry, non-government organizations, etc. Section 13 (3) states that the “council of a municipality may make an agreement with the council of any other municipality or with any person for the provision of personnel, service, equipment or material during an emergency.”]
- ❑ **Is it a consideration that the municipal response may be of such duration that additional personnel and resources may be required to maintain the continuity of operations?** [In the event of a large-scale crisis, such as an epidemic or prolonged natural disaster, municipal resources may not be able to sustain an increased

Considerations of a Declaration of Emergency

operational tempo for more than a few days. This is particularly true if emergency workers are injured or become ill as a result of the crisis. In such a case, the municipality may need to utilize outside emergency response personnel. Section 13 (3) provides for mutual assistance agreements between municipalities.]

- ❑ **Do you want to bring the attention of the provincial and/or federal governments to your situation?** [While a declaration of emergency is not required in order to make a request for resources or support, it may assist in drawing additional attention to the situation. Please note that all federal requests for assistance must be made through the PEOC.]
- ❑ **Does the situation involve a structural collapse?** [Structural collapses involving the entrapment of persons *may* require the deployment of one or more Urban Search and Rescue (USAR) teams. Ontario has one Heavy USAR and four Medium USAR teams. These teams are specially equipped and trained to rescue persons trapped as a result of a structural collapse. Any municipality in the province can request a USAR deployment. This does not require a declared emergency to be facilitated, Requests for USAR resources must be made through your local mutual aid fire coordinator.]
- ❑ **Is the situation a large-scale or complex chemical, biological, radiological, or nuclear (CBRNE) incident?** [Response to CBRNE incidents requires specialized resources and training. Ontario has three CBRNE teams to respond to incidents throughout the province. CBRNE teams can be dispatched without a declared emergency, however a declaration should be considered if there is considerable impact to the community. Requests for a CBRNE deployment should be made through your local mutual aid fire coordinator.]
- ❑ **Does the situation require, or have the potential to require the evacuation and/or shelter of people or animals [livestock] from your municipality?** [Evacuee and reception centres often use volunteers as staff. As noted above, the declaration of an emergency enacts certain parts of the *Workplace Insurance and Safety Act* related to volunteer workers.]
- ❑ **Will your municipality be receiving evacuees from another community?** [The issues discussed in the previous bullet may apply equally to municipalities accepting evacuees.]

Economic and Financial:

- ❑ **Does the situation pose a large-scale disruption to routine patterns of transportation, or re-routing of large numbers of people and vehicles?** [The rerouting of people and vehicles poses a potential liability risk. Keeping persons from their homes and delaying commercial traffic are both sensitive issues. Section 4 (1) allows for extraordinary measures to be taken, providing they are not contrary to law.]
- ❑ **Is it possible that a specific person, corporation, or other party has caused the situation?** [Section 12 states that “where money is expended or cost is incurred by a municipality or the Crown in the implementation of an emergency plan or in connection with an emergency, the municipality or the Crown, as the case may be, has a right of action against any person who caused the emergency for the recovery of such money or cost....”]