

Declaring a State of Local Emergency In British Columbia



Emergency
Management **BC**

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Introduction

Declaring a state of local emergency enables local authorities in the Province of British Columbia to exercise the emergency powers listed in the *Emergency Program Act*. The emergency powers are utilized by the local authority to order the evacuation of residents from their homes, prohibit travel and enter private property when an emergency threatens lives, property, or the environment within the local authority's jurisdiction.

Local authority emergency program staff and elected officials must be prepared to declare a state of local emergency in response to an emergency or disaster at a moment's notice. Therefore, local authority emergency plans must clearly and concisely outline the process for declaring a state of local emergency, as well as managing the application of the emergency powers.

This document provides answers to some of the most frequently asked questions and provides recommendations about how to issue a declaration by order. The example documents attached at the end of this manual are intended to assist local authorities in the collection of information that is required and appropriate for declaring a state of local emergency by order only. The process for the creation and issuance of local government bylaws is dictated by other legislation and is not covered in this document. Further, this document does not address details about utilization of the emergency powers by a local authority.

Terminology:

'Act' refers to the *Emergency Program Act*

'Emergency' means a present or imminent event or circumstance that

- (a) is caused by accident, fire, explosion, technical failure or the forces of nature, and
- (b) requires prompt coordination of action or special regulation of persons or property to protect the health, safety or welfare of a person or to limit damage to property

'Disaster' means a calamity that

- (a) is caused by accident, fire, explosion, technical failure or the forces of nature, and
- (b) has resulted in serious harm to the health, safety or welfare of people, or in widespread damage to property

'Local declaration' or **'Local Dec'** refers to a declaration of state of local emergency

What is a declaration of a state of local emergency?

This is a temporary emergency authority measure authorized by the *Emergency Program Act*. A declaration of a state of local emergency has to be initiated by either a local government bylaw or order and is valid for a period of seven days.

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

A local authority would declare a state of local emergency when an emergency or disaster (as defined in the *Emergency Program Act*) within its jurisdiction requires access to the extraordinary emergency powers of the *Emergency Program Act*.

Emergency powers available to the local authorities through the legislation are as follows:

- *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 of British Columbia;*
- *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 British Columbia;*
- *cause the evacuation of persons and the removal of livestock, animals and personal property from any area of British Columbia 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;*
- *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;*
- *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;*

- *construct works considered by the 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 British Columbia for the duration of the state of emergency.*

Note(s): The emergency powers are written from the provincial perspective. They are applicable to the local authority with the restrictions outlined in section 12(1) of the Act that limits the scope of the emergency powers to the local authority jurisdictional area.

The Minister, as part of the provincial oversight, may order the local authority to refrain or desist from using any one or more of the emergency powers listed above. These powers infringe on civil liberties of citizens and should only be drawn upon by local authorities when no other options are available to protect the community.

The most frequently cited reason to declare a state of local emergency is to facilitate the mandatory evacuation of people and livestock, or the need to access private property when public safety is threatened.

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

A declaration is not required:

- to implement part or all of a local emergency response plan, as long as access to emergency powers are not required;
- to gain liability protection under the *Emergency Program Act*;
- to issue evacuation alerts;
- to recover eligible response costs; and
- to qualify for eligible disaster financial assistance under the *Emergency Program Act*.

How does a local authority declare a state of local emergency?

A declaration of a state of local emergency must be made either by a bylaw or resolution, if made by a local authority, or by order if made by the head of a local authority.

Bylaw or Resolution

Assuming time permits, the municipal council or the regional board could meet to establish a bylaw or resolution that authorizes a declaration of a state of local emergency. The procedures for creating a local government

bylaw or resolution are explained in other local government legislation and, as such, are not provided in this document.

Order

An order is the most common mechanism used, since most situations do not allow sufficient time to complete the procedures required to establish a local government bylaw or resolution. An order can only be issued by the head of a local authority. In the case of a municipality, the head is the mayor (or designate). In the case of a regional district, the head is the board chair (or designate). The head of the local authority must use best efforts to obtain consent of the other members of the local authority and must, as soon as possible, convene a meeting of the local authority to assist in directing response activities.

What information must be included in a declaration of a state of local emergency?

According to the Act, the local declaration must identify the following information:

- the nature of the emergency; and
- the geographic boundaries (preferably shown on an attached map) within which the declaration will apply.

Note: It is recommended the local authority ensures the geographic area identified in the local declaration will allow for the potential expansion of the footprint of the emergency event. This will minimize the need for issuing multiple declarations to accommodate events that may continually change in scope such as flooding or an urban/interface wildfire.

In order to ensure the validity of the local declaration, the following should be included:

- the date of the local declaration; and
- the signature of the head of the local authority.

What other information should be included with the local declaration when provided to the Minister responsible?

Delegation Document

The head of the local authority can authorize others to exercise the emergency powers on his or her behalf. A written document must be provided to indicate the details of the delegation of powers. This document may be predetermined and included in the local emergency plan and should be readily available for use in the submission of the declaration. There is an example provided in this document for reference.

Map of Impacted Area

Providing a map of the identified geographic area described in the declaration order will assist everyone in understanding the scope and scale of the emergency or disaster.

Are local authorities required to consult with EMBC staff prior to declaring a state of local emergency?

No. Local authorities should rely on their own legal advisors to ensure that procedures and local declarations are consistent with the *Emergency Program Act*. EMBC staff are available to provide information on best practices with regard to previous applications of the *Emergency Program Act*.

Note: Local authorities must immediately forward a copy of the completed declaration documents to the Minister. This can be carried out through the appropriate EMBC regional office or activated Provincial Regional Emergency Operations Centre (PREOC).

What must be done by a local authority once they have declared a state of local emergency?

Immediately after making a declaration of a state of local emergency, the local authority or the head of the local authority must:

- forward a copy of the declaration to the Minister responsible.
 - The local authority must send a copy of the signed local declaration to the appropriate PREOC, if activated, or the local EMBC regional office which will ensure the Minister is informed, as required by legislation.
 - Verbal contact with the PREOC should be made to ensure receipt of documents.
- cause the details of the declaration to be published by a means of communication that the local authority or the head of the local authority, as the case may be, considers most likely to make the contents of the declaration known to the population of the affected area. (It is strongly recommended that accompanying maps are included in the publication)

How does a local authority use the emergency powers?

A local authority may authorize, in writing, the selected persons or agencies approved to use the emergency powers assumed by the local authority under a declared state of local emergency. Authorized use of

emergency powers, together with such terms, conditions or limitations imposed by a local authority, must be defined in writing upon issuing a declaration of a state of local emergency order.

Note(s): The local authority is responsible for the use of the emergency powers by any person or agency authorized to act on its behalf.

The Minister, as part of the provincial oversight, may order the local authority to refrain or desist from using any one or more of the emergency powers. These powers infringe on civil liberties of citizens and should only be used by local authorities when no other options are available to protect the community. The local authority is responsible for advising all delegated users of the emergency powers about the restrictions imposed by the Minister.

When does a local declaration terminate?

A declaration of a state of local emergency is terminated when:

- it expires;
- the Minister or the Lieutenant Governor in Council cancels the state of local emergency;
- the local authority declares the state of local emergency to be cancelled; or
- it is superseded by a state of emergency issued by the Minister or Lieutenant Governor in Council.

What must be done by a local authority once the declared state of local emergency has terminated?

Immediately after the termination of a declaration of state of local emergency, the local authority must cause the details of the termination to be published by a means that is most likely to make the termination known to the majority of the population.

When does a local declaration expire?

A local declaration expires seven (7) days from the date it is signed unless it is extended. The seven day period is determined by the *Interpretation Act Section 25(5)* which states that “the first day must be excluded and the last day included.” For example, if a local authority declares a state of local emergency on a Friday at any time between 0001hr and 2359hr, this local declaration will remain in effect until the following Friday at midnight.

How does a local authority extend a declaration of a state of local emergency?

When necessary, the local authority may seek the approval of the Minister to extend the term of the declaration beyond the seven day period. A completed Extension Request form should be submitted to the PREOC, if activated, or to the local EMBC regional office. The local authority should submit the request for extension as soon as it determines emergency powers to be required beyond the current expiry date.

The Minister will issue an approval of the extension as appropriate. Each extension is valid for a seven day period and further extensions may be requested.

The local authority must then cause the details of the extension to be published by a means of communication that the local authority or the head of the local authority as the case may be, considers most likely to make the contents of the declaration known to the population of the affected area.

Can a local authority use the extension process to change the area under declaration or the description of the nature of the event?

No. An extension request only changes the expiry date of a current local declaration - it does not allow for a change in the area under declaration or a change in the nature of the event. In these cases a new declaration of a state of local emergency must be issued.

How does a local authority cancel a declaration of a state of local emergency?

The local authority or the head of the local authority must, when of the opinion that an emergency no longer exists and the continued use of emergency powers is therefore not justified, cancel the declaration of a state of local emergency. This can be accomplished through:

- bylaw or resolution, if the cancellation is effected by the local authority; or
- order, if the cancellation is effected by the head of the local authority.

The method of cancelling the local declaration is not dependent upon how it was initially authorized. This means that a local declaration made by a local authority and enabled through bylaw or resolution can be cancelled by the head of that local authority via an order. As well, should the head of

a local authority declare a state of local emergency by order, the declaration can be cancelled by the local authority through a bylaw or resolution.

Notification of cancellation of the declaration must be submitted to the Minister through the appropriate PREOC, if activated, or to the local EMBC regional office, which will ensure that the Minister is informed. The local authority must then cause the details of the cancellation to be published by a means of communication that the local authority or the head of the local authority, as the case may be, considers most likely to make the contents of the declaration known to the population of the affected area.

What happens to a declaration of a state of local emergency when a declaration of state of emergency is issued by the Province?

In any geographic overlap between the two declarations, the order issued by the Province will supersede the local declaration as described in the legislation in 14 (3). The Minister may then delegate the required emergency powers to a local authority, as appropriate.

Can a declaration of a state of local emergency disregard provincial or federal acts or regulations?

No. A declaration of a state of local emergency allows a local authority access to very specific emergency powers that are intended to facilitate required actions to effectively respond to an emergency within the local authority's jurisdiction. For example, the powers granted to a local authority through a declaration of a state of local emergency do not allow the local authority to close a provincial highway or to evacuate First Nation lands.

What are the limitations of a state of local emergency?

A state of local emergency is:

- only justified during an emergency or disaster as defined by the Act.
- limited geographically to the jurisdictional boundaries of the declaring local authority or to any specifically described area by the local authority within these boundaries. When the application of emergency powers is required outside of the jurisdiction of the local authority, two options may be considered:
 - the neighbouring jurisdiction may declare a state of local emergency; or

- in the case of a major impact across jurisdictions a provincial state of emergency may be considered for the entire geographic area.

- Local declarations are short term emergency measures to allow a local authority to effectively respond to an emergency or disaster. The duration of the local declaration is limited to seven days.

References:

- A. *Emergency Program Act* [RSBC 1996] Chapter 111
- B. *Local Government Act* [RSBC 1996] Chapter 323
- C. *Community Charter* [SBC 2003] Chapter 26

Appendix A

The following pages contain completed examples of all the discussed forms for the declaration of a state of local emergency by an order.

Templates (in Microsoft Word and Print and Fax versions) are provided on the EMBC website for use by the local authority. These may be included in the local authority plans and processes during an emergency or disaster in their jurisdiction.

Detailed description of the components of a Declaration of State of Local Emergency ORDER

type of hazard

Identify the threatening hazard as it relates to the *Emergency Program Management Regulation* and the hazards listed in *Schedule 1*.

WHEREAS *[type of hazard]* in *[name of local authority]*;

name of local authority

Use the corporate name of the local authority. For example, The Corporation of The District of Saanich.

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

explanation of ongoing or imminent threat to life or property

Describe how the hazard is going to impact the local authority. For example, "in response to the extreme danger and flooding risk caused by ice jams on Naver Creek".

short hazard description

Provide a unique description of the imminent threat or hazard to the local authority jurisdiction. For example, "The Okanagan Park Fire" uniquely identifies that one fire as opposed to any other fire occurring in the local authority jurisdiction.

AND WHEREAS this *[type of hazard]* 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 in

[specific geographic boundaries of designated area]

specific geographic boundaries of designated area

Use geographic boundaries that are easily recognized by the general public and do not require extensive searching. To avoid having to issue multiple declarations, as an event evolves consider including an entire electoral region. The boundaries stated should encompass any areas that are likely to be impacted by the event. For example, a flood event may very well start off locally in a street or neighbourhood but has the potential to spread to a much larger area.

short consequence statement

Describe in general terms the potential consequences should the local authority lack the emergency powers indicated by the declaration order. For example, "potentially resulting in severe impact on the local economy and the well being of the community".

due to *[short hazard description]* and *[short consequence statement]*;

IT IS FURTHER ORDERED THAT the *[name of 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.

head of local authority

In a municipality, this role belongs to the mayor and in a regional district's electoral area, it belongs to the chair of the board of the regional district.

ORDERED by the *[head of local authority]* this date *[date]* to remain in force for seven days until *[date]* at midnight unless cancelled by *[name of local authority]* or the Minister responsible.

(*Head of local authority*)

date

The format for dates should be; the month, written out fully, followed by numerical date, and then the numerical year. For example, September 19, 2011

Declaration of State of Local Emergency

ORDER

WHEREAS flooding is occurring in The Regional District of Anywhere;

AND WHEREAS *resident cottages are likely to be impacted by the flood waters in the Electoral Area B and people and property are directly threatened;*

AND WHEREAS this flooding 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 in the electoral area designated as J in the regional district due to potential damage and threat to persons and property and without accessing the emergency powers will be hampered in alleviating or at least mitigating the expected impacts;

IT IS FURTHER ORDERED THAT The Regional District of Anywhere, 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 *Chair, George* this date September 28, 20XX to remain in force for seven days until October 05, 20XX at midnight unless cancelled by order of The Regional District of Anywhere or the Minister responsible.

George
(Head of local authority)

Delegation of Emergency Powers Matrix

Local authority may choose to enter other position descriptions.

Reference: *Emergency Program Act Section 10*

Emergency Powers	Delegated To			
	EOC Director	Deputy EOC Director	Operations Section Chief	Incident Commander
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 of British Columbia.	✓		✓	✓
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 British Columbia.	✓	✓		✓
Cause the evacuation of persons and the removal of livestock, animals and personal property from any area of British Columbia 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.	✓			
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.	✓	✓	✓	✓
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.	✓	✓	✓	
Construct works considered by the 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 British Columbia for the duration of the state of emergency.				

NOTE: Other individuals/agencies may be included in the matrix at the discretion of the head of a local authority.



Extension Request For State Of Local Emergency

WHEREAS life and property remain at risk due to Wobashau Creek flooding in The Regional District of Anywhere;

AND WHEREAS the Chair of The Regional District of Anywhere has requested to extend the duration of the declaration of a state of local emergency due to expire on October 05, 2011 at midnight;

IT IS HEREBY APPROVED pursuant to Section 12(6) of the *Emergency Program Act (RS, 1996, Chap. 111)* that The Regional District of Anywhere may extend the duration of a state of local emergency for a further seven days to October 12, 2011 at midnight.

Solicitor General

(Incumbent Minister)
Solicitor General

October 04, 2011

Date Signed



State of Local Emergency

CANCELLATION ORDER

Date: October 08, 2011

WHEREAS the flooding at Wobashau Creek in The Regional District of
Anywhere;

AND WHEREAS this flooding emergency no longer requires prompt coordination
of action or special regulation of persons or property to protect the health, safety
or welfare of a person or to limit damage to property,

IT IS HEREBY ORDERED pursuant to Section 14 (2) (ii) of the *Emergency
Program Act* (RS, 1996, Chap 111) that a state of local emergency no longer
exists in the electoral area J boundaries and is therefore cancelled effective this
date at 1800hrs.

George

Printed Name

Chair George

George

Signature