

Emergency Planning And Response

A Primer For Newly Elected Officials

Newly elected city officials assume many responsibilities upon taking office. While emergency response may not be top of mind, it is important for city leaders to understand the basics of emergency response so that they are prepared and have the knowledge to take necessary action in responding to an emergency.

This article highlights four items city officials need to understand as they develop and update strategies for emergency response. This article focuses on: 1) legal authority; 2) planning; 3) resources; and 4) communications.



Legal Authority – Missouri’s Delegation Of Legal Authority To Cities

A brief overview of federal and state law is essential for city leaders to better understand their authority during an emergency.

The 10th Amendment to the United States Constitution reserves powers in the states unless delegated to the United States or otherwise prohibited. States have the power to exercise police powers, including authority to take actions to respond to emergencies.

In turn, states have provided significant authority to local governments to determine how to provide essential services to their residents. For example, Article VI, Section 16 of the Missouri Constitution authorizes any municipality or political subdivision to contract and cooperate with other municipalities, or with other states or their municipalities for the “planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service, in the manner provided by law.”¹ Section 44.090, RSMo, allows any political subdivisions to enter into mutual-aid agreements “with other public and private agencies within and without the state for reciprocal emergency aid.”²

Authority To Issue Emergency Declarations

Under state statutes for various classifications of cities, the mayor and council or board of aldermen are responsible the care of the city and preservation of peace and good order.

(See Section 77.150, RSMo (3rd class cities, flood protection); Section 77.290, RSMo, (3rd class cities); and Section 79.110, RSMo, (4th class cities)).

A city also has authority to take necessary action during specific types of emergencies (See Section 77.530, 3rd class cities may adopt ordinances to prevent and abate contagious diseases; Section 79.380, RSMo, 4th class cities authorized to exercise like authority; Section 80.090(10) & (40), RSMo, board of aldermen of village have power to prevent introduction and spread of contagious diseases and pass other ordinances for regulation and police).

A city may authorize the mayor to declare a state of emergency.³ Once the mayor declares an emergency, the mayor is vested with various powers to respond. These may include the power to execute contracts for emergency construction, direct emergency response by city personnel, and purchase or lease goods and services the mayor deems necessary to the city’s emergency response.⁴

During an emergency declaration, the mayor also has the authority to adopt any rules or orders to implement the emergency declaration.⁵ Those emergency powers are effective for thirty days or until terminated by the mayor or board, whichever comes first.⁶

A city considering granting the mayor emergency declaration authority should consider the types of challenges the mayor may need to address. Because no city is able to predict the specific type of emergency that may arise, the city should draft any ordinances broadly enough to provide the mayor with sufficient flexibility to respond to the situation. The ordinances should also make it clear how the mayor is to trigger the authority (ex: through proclamation), the types of actions the mayor can take and direct, and any limitations on that authority. The city should also consider how the mayor’s powers can be taken back, usually at the next meeting of the council. Finally, the city needs to have a plan about where and how it will get the resources it needs during an emergency.

There are limits on the types of emergency actions a city may take. Missouri appellate courts have not often considered the statutory limitations on a local government’s emergency

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powers. However, the Missouri Court of Appeals, Southern District, determined that county officials did not have legal authority to seize certain equipment of the Department of Transportation in order to respond to ongoing flooding.⁷ City leaders need to understand what types of emergency powers are reserved to the state, with seizure of property being one example.

Role Of State Emergency Management Agency (SEMA)

Section 44.020, RSMo creates the State Emergency Management Agency or SEMA. SEMA's role is to assist in "coordination of national, state and local activities related to emergency functions by coordinating response, recovery, planning and mitigation."⁸ SEMA provides the necessary coordination and resources if needed to support local governments when emergencies such as natural disasters occur.

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Section 44.080, RSMo requires that each political subdivision establish its own local organization for disaster planning in accordance with the state operations plan. The executive officer of the political subdivision shall appoint a coordinator who is responsible for the "organization, administration and operation of the local emergency management operations."⁹ The emergency management coordinator may be the county emergency management director.

For those political subdivisions that have not established such a plan and do not have sufficient resources to develop their own plan, what options do they have?

The Power Of Cooperative Agreements And Mutual Aid

The answer may well lie in the authority a city has under Missouri law to enter into cooperative agreements. There are numerous provisions in state statute authorizing a city to enter into cooperative agreements with other political subdivisions or state or federal government. Some examples include:

- Cooperation for planning, development, construction, acquisition or operation of any public improvement or facility (Sec. 70.220.1, RSMo);
- Cooperation related to construction and operation of a county or municipal levee system (Sec. 246.271.3, RSMo);
- Contracting with a solid waste district to provide for disposal of solid waste (Sec. 260.310.2, RSMo).

These cooperative agreements allow a city to leverage the resources of neighboring cities, counties and other political subdivisions to provide needed services to its citizens.

Emergency Operations Plan

Every county in Missouri has an emergency operations plan. This plan is a comprehensive guide that details the roles and responsibilities of the various units of government to ensure effective coordination in the event of an emergency. For example, the Boone County Emergency Operations Plan states that the local elected officials take the lead in identifying the objectives in responding to an emergency:

"It is the primary responsibility of the elected officials of each affected jurisdiction to specify the priorities and objectives, with input and support from the Incident/Unified Command and the

Emergency Management Director, that guide disaster response and recovery efforts.”¹⁰

A city may set out by ordinance the procedure for appointing an emergency management director and the duties of the director.¹¹ These ordinances provide the legal framework for the city to respond as needed in the event of an emergency. Often, a city will use their county’s emergency management director.

In order for any emergency operations plan to be effective, local officials need to review it every year. In addition, SEMA will review the local emergency operations plans every few years. Keeping these plans current is critical to ensure that, if an emergency occurs, the plan includes the key contacts and responsibilities for those contacts.¹²

An emergency operations plan should also identify the city’s critical infrastructure, including the water, sewer and electricity. Also, the city needs to take the necessary steps to protect this infrastructure and have a contingency plan if any of the infrastructure fails during an emergency. City officials should explore Federal Emergency Management Agency (FEMA) grant opportunities to assist in this process, such as the Emergency Management Performance Grants (EMPG).

When An Emergency Occurs – Accessing Available Resources

When responding to an emergency, city officials need to consult their emergency operations plan and act in accordance with that plan.

Depending on the nature and extent of the emergency, the response may require assistance from and coordination with SEMA. In that scenario, SEMA has developed a Missouri Disaster Recovery Framework. As the Executive Summary states, “state-level coordination is generally needed when disaster impacts overwhelm local capabilities and are widespread, catastrophic in nature or create cascading effects across multiple sectors.”¹³

While the details of coordination between local and state officials are beyond the scope of this article, officials wanting to learn more about the state’s emergency response role in assisting local communities can visit SEMA’s website to learn more — <https://sema.dps.mo.gov/> and go to the “Operations” tab.

City officials should be aware of the Missouri WebEOC program — <https://sema.dps.mo.gov/programs/webeoc/>. This online program provides leaders from multiple jurisdictions the capability to share information in real time and improve responsiveness to their residents. A new user can request access to WebEOC by contacting their local emergency management director. SEMA also provides training on how

to access and use WebEOC upon request.

A city may need to procure certain necessary goods and services during an emergency. Such procurements may need exemptions from the city’s normal purchasing rules. Those exemptions must be detailed in the emergency plan. City officials must be aware that if procurement is not conducted in compliance with FEMA or SEMA guidelines, the city may be at risk of not receiving reimbursement for otherwise eligible disaster costs.¹⁴

Timely Communication Before And During Emergencies

When public officials activate their emergency operations plan, they must also timely communicate with residents to ensure they have timely and relevant information, including any instructions to protect residents’ safety.

But even before an emergency occurs, public officials can communicate with residents to improve preparedness within their communities. This means making residents aware in advance of how emergency alerts and warnings will be communicated and the individual preparations they can take to better prepare for emergencies. Examples include making sure individuals have a shelter plan, evacuation plan, and sufficient food, water and supplies to survive for several days without assistance.¹⁵

During an emergency, city officials should already have a list of contacts who need to be apprised of the situation as it develops so that officials are able to communicate a consistent and coherent message. A good source for planning is the Emergency Support Function (ESF) #2 Communications document SEMA has developed. This template may be used by local leaders to create a written inventory of resources and contact information, including the county 911 center,

local emergency management agency, local police and fire departments, and non-governmental organizations such as amateur radio services that may be deployed to communicate alerts and other emergency messages when necessary.

An additional tool is the Wireless Emergency Alerts system (WEA), established in 2012 to warn the public about dangerous weather, missing children and other critical situations by sending alerts to mobile devices.¹⁶

Conclusion

City officials need to understand the basics of emergency management and response and that this is a core responsibility. There are tools available to assist city leaders in their planning. SEMA is a valuable resource and conducts regular training opportunities for officials to learn more about their roles and responsibilities during an emergency (see <https://sematraining.com/>). FEMA also provides training through the National Incident Management System Training Program (NIMS — <https://www.fema.gov/emergency-managers/nims/implementation-training#training>).

One key theme in emergency management is planning and cooperation. No city will be able to anticipate all potential emergencies or have all necessary resources to adequately respond in every situation. Creating and regularly revisiting the local emergency operations plan will help city leaders be more prepared when an emergency strikes. Taking the time to build and maintain cooperation with neighboring jurisdictions, as well as officials at SEMA will pay dividends when leaders need to take quick and decisive action.

While emergencies by their very nature are unplanned, a city can mitigate potential consequences by understanding its legal authority, knowing its emergency operations plan, and regularly reviewing and exercising the plan through mock drills and ongoing training. 🍌

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End Notes

¹ Mo. Const., Art. VI, Sec. 16.

² Sec. 44.090, RSMo.

³ e.g., City of Warsaw Code Sec. 225.030.

⁴ *ibid.*

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⁵ *ibid.*

⁶ City of Warsaw Code Sec. 225.060.

⁷ State ex rel. Missouri Highway & Transp. Com. v. Pruneau, 652 S.W.2d 281, 287-88 (Ct. App. S.D. 1983) (Sec. 44.080, RSMo, does not grant the power to seize property to political subdivisions).

⁸ Sec. 44.020, RSMo.

⁹ Sec. 44.080, RSMo.

¹⁰ Boone County Emergency Operations Plan (2021), p. 19 - <https://www.showmeboone.com/oem/common/pdf/BooneCountyEOP.pdf>

¹¹ e.g., City of Brookwood Municipal Code, Article II; Secs. 12-19 to 12-21 (establishing emergency management agency; appointment process; powers of city manager and emergency management director); City of Centralia Municipal Code, Chapter 7; Secs. 7-1 to 7-11 (establishing city management organization, appointment process, and mutual aid).

¹² See Boone County Emergency Operations Plan (2019), p. 7-8.

¹³ Missouri Disaster Recovery Framework (MDRF), Version 3.1 (January 2022); p. 3.

¹⁴ FEMA Fact Sheet – Purchasing Under a FEMA Award: Exigency or Emergency Circumstances (2022) - https://www.fema.gov/sites/default/files/documents/fema_procurement_during_ee_circumstances_factsheet-2022.pdf

¹⁵ FEMA - Local Elected and Appointed Officials Guide: Roles and Resources in Emergency Management, September 2022, p. 30 - Local Elected and Appointed Officials Guide

¹⁶ Federal Communications Commission – Wireless Emergency Alerts (WEA) - <https://www.fcc.gov/consumers/guides/wireless-emergency-alerts-wea>

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