

ORDINANCE 2020-005

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO ADOPTING CHAPTER 2.36 TO THE SAN PABLO MUNICIPAL CODE REGARDING EMERGENCY RESPONSE OPERATIONS

THE CITY COUNCIL OF THE CITY OF SAN PABLO DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings. It is urgent that this Ordinance take effect immediately pursuant to California Government Code section 36937 for the following reasons:

1. On January 23, 2020, the Centers for Disease Control activated the Emergency Response System and determined that Novel Coronavirus COVID-19 (“COVID-19”) represents a serious and imminent threat given the modes of transmission, factors facilitating transmission, the extent of asymptomatic viral shedding, the groups most at risk of serious illness, the attack rate, and the case fatality rate.
2. On March 4, 2020, the Governor of California proclaimed a state of emergency to exist in California as a result of the threat of COVID-19.
3. On March 10, 2020, Contra Costa County proclaimed the existence of a local emergency caused by the introduction of COVID-19 and its contribution to the shortage of essential health care supplies.
4. On March 11, 2020, the World Health Organization (WHO) declared COVID-19 to be a pandemic; and on March 13, 2020, the President of the United States declared a national emergency due to COVID-19.
5. On March 16, 2020, the Contra Costa Health Services issued an order to residents to shelter in place of residence as there were 29 confirmed COVID cases in Contra Costa County and 258 confirmed COVID cases in the Bay Area.
6. On March 16, 2020 at 7:00 am, the Emergency Operations Center (EOC) for the City of San Pablo was activated due to COVID-19.
7. On March 16, 2020, City Council for the City of San Pablo declared a state of local emergency finding that conditions of extreme peril to the health and safety of persons and property have arisen within the City of San Pablo caused by COVID-19.
8. The provisions in the City’s Municipal Code regarding emergencies in Chapter 2.36, Disaster Council, were adopted in 1973 and require updating as an urgency ordinance effective immediately to reflect current practices and to allow the City to respond to the COVID-19 emergency in an effective and efficient manner for the immediate preservation of the public peace, health or safety.

SECTION 2. Chapter 2.36 of the San Pablo Municipal Code, “Emergency Response Operations” is added as follows:

2.36.010 Purposes.

The declared purposes of this chapter are:

- A. To establish the City’s emergency response organization;
- B. To provide for the preparation, adoption and implementation of plans for the protection of persons and property within the City and continuation of government in the event of an emergency; and
- C. To coordinate the emergency functions of the City with all other public agencies, corporations, organizations, and affected private persons.

2.36.020 Definitions.

As used in this chapter, the following definitions apply:

- A. “Emergency” means the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within the city caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, earthquake, war or threat of war; or other conditions that are likely to be beyond the control of the services, personnel, equipment, and facilities of the city, requiring the combined forces of other political subdivisions to combat.
- B. "Standardized Emergency Management System (SEMS)" shall mean the state-wide emergency response structure and protocols that have been established pursuant to California Government Code Sections 8550 *et seq.* and 19 Cal. Code of Regulations Sections 2400 *et seq.* in order to manage responses to multi-agency and multi-jurisdictional emergencies and to facilitate communications and coordination between all levels of the system and all responding agencies.

2.36.030 Disaster Council.

- A. A City Disaster Council is hereby created pursuant to California Gov’t Code section 8610 and shall consist of the following:
 - 1. The City Manager, who shall be chair;
 - 2. The Police Chief or such other city officer or employee as may be designated in writing by the City Manager, who shall be vice chairman;
 - 3. City officers or employees designated to serve on the Disaster Council in various capacities in the City’s emergency response plan adopted as provided in this chapter.

4. Such representatives of civic, business, nonprofit, labor, veterans, professional, or other organizations having emergency responsibilities, as may be appointed by the City Manager.
- B. The San Pablo Disaster Council shall develop and recommend for adoption by the City Council an emergency response plan. The Disaster Council shall develop rules, regulations and agreements necessary to implement the emergency response plan.
 - C. The Disaster Council shall meet upon call of the Chair or, if absent from the City or unable to call such meeting, upon call of the Vice Chair.

2.36.040 Director of Emergency Services.

- A. The City Manager shall serve as Director of Emergency Services and shall have the power and responsibility to:
 1. 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 the Director of Emergency Services proclaims a local emergency, the City Council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect;
 2. Request the Governor to proclaim a “state of emergency” when, in the opinion of the Director of Emergency Services, the locally available resources are inadequate to cope with the emergency;
 3. Control and direct the effort of the emergency organization of the City for the accomplishment of the purposes of this chapter;
 4. Direct cooperation between and coordination of services and staff of the emergency organization of the City and resolve questions of authority and responsibility that may arise between them;
 5. Represent the City in all dealings with public or private agencies on matters pertaining to emergencies as defined in Section 2.36.020;
 6. In the event of the proclamation of a local emergency as provided in this section, the proclamation of a state of emergency by the Governor or the Director of the State Office of Emergency Services, the Director of Emergency Services is empowered:
 - a. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council;

b. To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the City for the fair value thereof and if required immediately to commandeer the same for public use;

c. To require emergency services of any City officer or employee and to command the aid of as many citizens of this community as the Director of Emergency Services deems necessary in the execution of duties. Such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster service workers;

d. To requisition necessary personnel or material of any City department or agency; and

e. To execute all of the special powers conferred by this chapter or by resolution or emergency response plan adopted by the City Council, all powers conferred by any statute, and by any other lawful authority.

B. The Director of Emergency Services shall designate the order of succession to that office, to take effect in the event the Director is unavailable to attend meetings or otherwise perform duties during an emergency.

2.36.050 Emergency response organization.

A. All officers and employees of the City, together with 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 impressed into service under the provisions of the chapter, shall be charged with duties incident to the protection of life and property in the City during such emergency, shall constitute the emergency response organization of the City.

B. In the event of an emergency and the activation of the City's emergency operations center, the City's emergency response organization shall fulfill the roles and have the duties and responsibilities provided for in the City's emergency response plan.

C. Pursuant to California Government Code section 31000 *et seq.*, all City employees are deemed disaster service workers unless determined otherwise by the Director of Emergency Services.

2.36.060 Emergency Response Plan

A. The City emergency response plan shall provide for the effective mobilization of all resources of the City, both public and private, to meet any condition constituting an emergency; shall provide for the organization, powers and duties, services, and staff of the emergency response organization; and shall conform in all material respects to the requirements of the statewide Standardized Emergency Management System (SEMS).

- B. Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City.

2.36.070 Violation—Penalty.

- A. Pursuant to California Government Code section 36900, it shall be a misdemeanor, punishable as provided in Section 1.08.020, for any person, during an emergency, to:

- 1. Willfully obstruct, hinder, or delay any member of the City’s emergency response organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed by virtue of this chapter;
- 2. Do any act forbidden by any lawful rule or regulation 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;
- 3. Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the state.

- B. In the discretion of the City Attorney, a misdemeanor violation of this chapter may be chargeable as an infraction pursuant to Penal Code section 19.6.

SECTION 3. CEQA. This ordinance is deemed not a project under the provisions of the California Environmental Quality Act, (CEQA) pursuant to CEQA Guidelines Section 15378(b)(5): Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

SECTION 4. Severability. If any sections, subsections, sentences, clauses, phrases or portions of this ordinance are for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause of this ordinance whether or not any one or more sections, subsections, phrases or clauses may be declared invalid or unconstitutional on their face or as applied.

SECTION 5. Effective Date; Publication. This ordinance shall become effective upon adoption as an urgency ordinance for the reasons set forth in Section 1. The City Clerk’s Office shall publish and post the ordinance in accordance with California Government Code section 36933 to the extent feasible during the COVID-19 emergency.

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ADOPTED at a regular meeting of said City Council held on the 6th day of April, 2020, by the following votes:

AYES:	COUNCILMEMBERS:	Kinney, Pineda, Xavier, Pabon-Alvarado and Cruz
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST: APPROVED:

/s/ LaTanya Fisher
LaTanya Fisher, Acting Deputy City Clerk

/s/ Arturo M. Cruz
Arturo M. Cruz, Mayor