

Criteria in Consideration of a Declaration of Emergency

(Note: All references in this document refer to the *Emergency Management Act*, R.S.O. 1990, Chapter E.9, as amended 2003)

** This checklist is for use by municipal heads of council considering the declaration of an emergency within their municipality. This checklist is not intended to provide any sort of legal advice B it is merely a reference tool.*

An emergency is defined under the *Emergency Management Act* as a situation, or an impending situation caused by the forces of nature, an accident, an intentional act or otherwise that constitutes a danger of major proportions to life or property@ [Section 1, definition of an emergency].

Under the *Emergency Management Act*, only the head of council of a municipality (or his or her designate) and the Premier have the authority to declare an emergency. These individuals, as well as a 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)].

If the decision is made to declare an emergency, the municipality must notify Emergency Management Ontario (on behalf of the Minister of Public Safety and Security) as soon as possible [Section 4 (3)]. Although a verbal declaration of emergency is permitted, all declarations should ultimately be made in writing to ensure proper documentation is maintained. Written declarations should be made on municipal letterhead, using the template provided by Emergency Management Ontario, and should be faxed to (416) 314-0474. When declaring an emergency, please notify the Provincial Operations Centre at 1-866-314-0472.

When considering whether to declare an emergency, a positive response to one or more of the following criteria *may* indicate that a situation, whether actual or anticipated, warrants the declaration of an emergency:

General and Government:

I. 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.]

II. Does the situation pose a danger of major proportions to life or property? [Section 1, definition of an emergency]

III. 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.]

IV. 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 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 Service Act* provides for the creation of special policing arrangements during an emergency.]

V. 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.]

VI. 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).]

Legal:

I. Might legal action be taken against municipal employees or councilors related to their actions during the current crisis? [Section 11 (1) states that No action or other proceeding lies or shall be instituted against a member of council, an employee of a municipality, a minister of the Crown or a Crown employee for doing any act or neglecting to do any act in good faith in the implementation or intended implementation of an emergency management program or an emergency plan or in connection with an emergency.@ Section 11 (3), however, states Asubsection (1) does not relieve a municipality of liability for the acts or omissions of a member of council or an employee of the municipalityY.@]

II. Are volunteers assisting? [The *Workplace Safety and Insurance Act* provides that persons who assist in connection with a declared emergency are considered Aworkers@ 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:

I. 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 Atake 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 Amake 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.@]

II. 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 Acouncil 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.@]

III. 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 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.]

IV. Does, or might, the situation require provincial support or resources? [Provincial response (e.g., air quality monitoring, scientific advice, airlift capabilities, material resources, etc.) may involve numerous ministries and personnel. Activation of the municipal emergency response plan, including the opening of the Emergency Operations Centre and meeting of the Community Control Group, can greatly facilitate multi-agency and multi-government response.]

V. Does, or might, the situation require assistance from the federal government (e.g., military equipment)? [Section 13 (2) authorizes the Minister of Public Safety and Security, with the approval of the Lieutenant Governor in Council, to enter into mutual assistance agreements with the federal government. In Canada, federal emergency assistance is accessed through, and coordinated by, the province. The declaration of an emergency may assist a municipality in obtaining federal assistance.]

VI. Does the situation involve a structural collapse? [Structural collapses involving the entrapment of persons *may* require the deployment of one or more Heavy Urban Search and Rescue (HUSAR) teams. Ontario has a HUSAR team. This team is specially equipped and trained to rescue persons trapped as a result of a structural collapse. Any municipality in the province can request a HUSAR deployment to a declared emergency. Requests for HUSAR resources should be made through your local mutual aid fire coordinator. Approval for the dispatch of the HUSAR team comes from the Commissioner of Public Security.]

VII. Is the situation a large-scale or complex chemical, biological, radiological, or nuclear (CBRN) incident? [Response to CBRN incidents requires specialized resources and training. Ontario is developing three CBRN teams to respond to incidents throughout the province. CBRN teams are only dispatched to declared emergencies. Requests for a CBRN deployment should be made through your local mutual aid fire coordinator. Approval for the dispatch of CBRN teams comes from the Commissioner of Public Security.]

VIII. 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. Secondly, an evacuation or sheltering of citizens has the potential to generate issues pertaining to liability. Section 11 of the *Emergency Management Act* may provide municipal councilors and employees with certain protections against personal liability.]

IX. 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:

I. 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 11 of the Act may provide certain protection from liability. Section 4 (1) allows for extraordinary measures to be taken, providing they are not contrary to law.]

II. Is an event likely to have a long term negative impact on a community's economic viability/sustainability, including resulting unemployment, lack of available banking services and restorative measures necessary to re-establish commercial activity? [The declaration of an emergency may facilitate the ability of the municipality to respond to economic losses.]