

10-3-104. General authority of governor.

(1) The governor is responsible for carrying out parts 1 through 4 of this chapter.

(2) In addition to any other powers conferred upon the governor by law, the governor may:

(a) suspend the provisions of any regulatory statute prescribing the procedures of conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster.

(b) direct and compel the evacuation of all or part of the population from an emergency or disaster area within the state if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(c) control ingress and egress to and from an incident or emergency or disaster area, the movement of persons within the area, and the occupancy of premises within the area.

(3) Under this section, the governor may issue executive orders, proclamations, and regulations and amend and rescind them. All executive orders or proclamations declaring or terminating a state of emergency or disaster must indicate the nature of the emergency or disaster, the area threatened, and the conditions that have brought about the declaration or that make possible termination of the state of emergency or disaster.

10-3-401. Local and interjurisdictional disaster and emergency plan – distribution.

(1) Each political subdivision eligible to receive funds under this chapter shall prepare a local or interjurisdictional disaster and emergency plan and program covering the area for which that political subdivision is responsible. This plan shall be in accordance with and in support of the state disaster and emergency plan and program.

(2) The political subdivision shall prepare and distribute on behalf of the principal executive officers, in written form, a clear and complete statement of.

- (a) the emergency responsibilities of all local agencies, if any, and officials;
- (b) the disaster and emergency chain of command;
- (c) local evacuation authority and responsibility; and
- (d) local authority and responsibility for control of ingress and egress to and from an emergency or disaster area.

10-3-402. Local emergency – declaration and termination.

(1) A local emergency proclamation or disaster declaration may be issued only by the principal executive officer of a political subdivision.

(2) An emergency proclamation may be issued by order of resolution whenever the principal executive officer determines there is an emergency.

(3) An emergency proclamation may terminate with a disaster declaration or when the principal executive officer determines that the disaster conditions no longer exist.

10-3-403. Local disaster – declaration and termination.

(1) A disaster declaration may be issued by order or resolution whenever the principal executive officer determines a disaster is occurring or has occurred.

(2) A disaster declaration may be terminated when the principal executive officer determines that the disaster conditions no longer exist.

10-3-404. Contents of order – effect.

(1) An order or resolution declaring or terminating a state of emergency or disaster shall indicate the nature of the emergency or disaster, the area threatened, and the conditions which have brought about the proclamation or declaration or which make possible termination of the state of emergency or disaster. Such order or resolution shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be filed promptly with the division and the agency charged with recording the official records of the political subdivision.

(2) The effect of an emergency proclamation or a disaster declaration is to activate applicable parts of the local or interjurisdictional disaster and emergency plan and program and to authorize the furnishing of aid and assistance in accordance with such plans and programs.

10-3-406 Authority of principal executive officer. Upon the declaration of an emergency or disaster under 10-3-402 or 10-3-403 and the issuance of an order as required by 10-3-404, the principal executive officer may:

(1) **direct and compel the evacuation** of all or part of the population from an emergency or disaster area within that political subdivision when necessary for the preservation of life or other disaster mitigation, response, or recovery; and

(2) **control the ingress and egress** to and from an emergency or disaster area, the movement of persons within the area, and the occupancy of premises therein.

10-3-405 Levying emergency tax – disposition of surplus.

(1) The governing body of the city or town or the governing body of the county, or both, shall estimate expenditures and levy an emergency millage to cover the expenditures. The millage levied by the governing body of the city or town shall not exceed 2 mills on the municipality's taxable valuation. The millage levied by the governing body of the county shall not exceed 2 mills on the taxable valuation of the county outside the municipalities.

(2) No expenditure of revenue received from the millage shall be made without approval of the appropriate levying body.

(3) An additional levy or levies may be made by the appropriate levying body, providing that the sum of the levies for emergencies as set forth in this section shall not exceed 2 mills in any one year.

(4) All levies under this section may be passed only by a unanimous vote of the appropriate body.

(5) Funds levied for an emergency and remaining when no further expenditures are necessary shall remain in a separate emergency fund and shall be used only for expenditures arising from future emergencies.

10-3-103. Definitions. As used in parts 1 through 4 of this chapter, the following definitions apply:

- (1) "Civil defense" means the nuclear preparedness functions and responsibilities of disaster and emergency services.
- (2) "Department" means the department of military affairs.
- (3) "**Disaster**" means the occurrence of imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, landslides, mudslides, volcanic action, fires, explosions, air or water contamination requiring emergency action to avert danger or damage, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, disruption of state services, or accidents involving radiation byproducts or other hazardous materials.
- (4) "Disaster and emergency services" means the preparation for and the carrying out of disaster and emergency functions and responsibilities, other than those for which military forces or other state or federal agencies are primarily responsible, to mitigate, prepare for, respond to, and recover from injury and damage resulting from emergencies or disasters.
- (5) "Division" means the division of disaster and emergency services of the department.
- (6) "**Emergency**" means the imminent threat of a disaster causing immediate peril to life or property that timely action can avert or minimize.
- (7) "**Incident**" means an event or occurrence, caused by either an individual or by natural phenomena, requiring action by disaster and emergency services personnel to prevent or minimize loss of life or damage to property or natural resources. The term includes the imminent threat of an emergency, but the term does not include a state of emergency or disaster declared by the governor pursuant to 10-03-302 or 10-3-303.
- (8) "Political subdivision" means any county, city, town, or other legally constituted unit of local government in this state.
- (9) "**Principal executive officer**" means the mayor, presiding officer of the county commissioners, or other chief executive officer of a political subdivision.
- (10) "Temporary housing" means unoccupied habitable dwellings, suitable rental housing, mobile homes, or other readily fabricated dwellings.

"Political subdivision" to Exclude Indian Reservation: An Indian reservation, represented by a tribal council, is not a political subdivision of the state of Montana for purposes of receiving aid and assistance pursuant to state civil defense law. 36 A.G. Op. 53 (1976).

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