

ANNEX U

LEGAL

APPROVAL & IMPLEMENTATION

Annex U

Legal

National Response Plan ESF#
Nevada State CEMP ESF# 17

PRIMARY AGENCY: **County District Attorney's Office**
SUPPORT AGENCY: **County Emergency Management**

County District Attorney

Date _____

County Emergency Management

Date

RECORD OF CHANGES

Annex U

Legal

Change #	Date of Change	Entered By	Date Entered

ANNEX U

LEGAL

I. AUTHORITY

A. See Section I of the Basic Plan for general authorities.

II. PURPOSE

The purpose of this annex is to make provision for legal services during emergency situations or when such situations appear imminent and to provide guidance for invoking the emergency powers of government when necessary.

III. EXPLANATION OF TERMS

EOC	Emergency Operating Center
FEMA	Federal Emergency Management Agency
IC	Incident Commander
NAC	Nevada Administrative Code
NRS	Nevada Revised Statutes

IV. SITUATION & ASSUMPTIONS

A. Situation

The County faces a number of hazards that could threaten public health and safety and personal and government property; see Section IV.A of the basic plan for a summary of these hazards. Legal issues requiring timely resolution may arise during pre-disaster hazard mitigation designed to lessen the effects of known hazards, during pre-disaster preparedness activities designed to enhance the local capability to respond to a disaster, during the actual response to a disaster, or during the post-disaster recovery process.

B. Assumptions

1. Local emergency preparedness plans and programs should have a sound legal basis.
2. In responding to major emergencies and disasters, local officials may be required to take extraordinary measures to protect public health and safety and preserve property. They will also probably require timely advice regarding the legality of proposed measures.
3. Implementation of measures to protect public health and safety and preserve property during emergency recovery and mitigation activities generally require issuance of appropriate legal documents. These should be prepared by competent legal service professionals.

V. CONCEPT OF OPERATIONS

A. General

1. Emergency Declaration.

- a. Pursuant to Chapter 414 , Nevada Revised Statutes, the chief elected official or the governing body of a city or county may request the Governor declare a state of emergency for a jurisdiction or a portion thereof. For purposes of this statute, an emergency exists in the following situations: riot or unlawful assembly by three or more persons acting together by use of force or violence, the existence of a clear and present danger of violence, or a natural or man-made disaster. The Governor may proclaim a state of emergency and issue directives to control and terminate the emergency and protect life and property. A sample request for an emergency declaration is provided in Appendix 1.
- b. A disaster declaration may be for responding to natural, technological or terrorist emergencies. An emergency declaration may be appropriate for security-related incidents where local law enforcement resources are inadequate to handle the situation.
- c. If the actions taken by the Governor after an initial emergency declaration do not resolve the emergency situation, the chief elected official or governing body may request that the emergency declaration be continued. If the local emergency situation that was the basis for an emergency declaration is resolved before the Governor's directives expire, it is desirable to advise the Governor that the emergency declaration is no longer required.

2. Disaster Declaration

- a. Nevada Revised Statute 414, provides that the Board of County Commissioners' may declare a local state of disaster. A disaster declaration may be issued when a disaster has occurred or appears imminent. Chief elected officials, in order to respond to or recover from a significant natural or man-made disaster, typically use the disaster declaration process. A sample disaster declaration is provided in Appendix 1. Copies of a disaster declaration shall be filed with the Nevada Division of Emergency Management (NDEM) and the County Clerk.

3. Authority for Evacuations. State law provides the Governor with the authority to order the evacuation of all or part of the population from a stricken or threatened area within their respective jurisdictions.

B. Activities by Phases of Emergency Management

1. Prevention

- a. Brief the elected officials and department heads on possible liabilities arising from disaster operations, procedures for invoking the emergency powers of government, and legal documents relating to emergency powers.

- b. Maintain current copies of existing disaster-related laws, regulations, and orders.
 - c. Develop local procedures for invoking emergency powers.
 - d. Prepare sample legal documents (included in this annex) for approval by elected officials.
2. Preparedness
- a. Ensure county emergency call-out rosters include the District Attorney, who should maintain current telephone numbers and addresses for the legal staff.
 - b. Review plans and procedures.
 - c. Review mutual aid agreements submitted to the jurisdiction for approval and prepare mutual aid agreements to be submitted to other jurisdictions for approval.
3. Response
- a. Advise the Board of County Commissioners and emergency services staff on legal implications of response activities.
 - b. If required, prepare, have approved and signed, and disseminate legal documents declaring a disaster, terminating a disaster declaration, or invoking emergency powers.
 - c. If required, advise the Incident Commander (IC) on legal matters, such as emergency proclamations, legality of evacuation orders, and legal rights and restrictions pertaining to media access.
4. Recovery
- a. Advise county officials on legal aspects of recovery operations.
 - b. Assist county officials in preparing emergency ordinances, permits, applications for state or federal assistance, grant applications, and, if necessary, litigation.

VI. ORGANIZATION & ASSIGNMENT OF RESPONSIBILITIES

A. General.

Overall responsibility for providing legal services to the Board of County Commissioners, department heads, and other local officials during an emergency rests with the District Attorney. The District Attorney will be assisted by his or her subordinates.

B. Task Assignments

1. Board of County Commissioners

- a. Will take such actions that are legal and necessary to manage the disaster at hand.
- b. If the situation warrants, may declare a local state of disaster. Issuance of a local disaster declaration is advisable if an emergency situation has resulted in substantial damage to privately-owned or government property and state or federal assistance will be needed to recover from the incident. If a local disaster declaration is issued, it shall be given prompt and general publicity.
- c. If the situation warrants, may request the Governor to declare a state of emergency.
- d. If requesting state assistance to cope with a local disaster, should attach copies of any local disaster declaration that has been issued to the request for state assistance. See Annex J, Damage Assessment, for further information.

2. District Attorney

- a. Advise county elected officials and department heads regarding the emergency powers of local government and necessary procedures for invoking measures to:
 - 1) suspend procedural laws and rules
 - 2) establish curfews
 - 3) restrict or deny access to a disaster area
 - 4) control the movement of persons and occupancy of premises in a disaster area
 - 5) implement wage, price, and rent control;
 - 6) establish rationing for critical supplies
 - 7) limit or restrict use of water or other utilities
 - 8) use any publicly owned resource to respond to the disaster
 - 9) commandeer private property, subject to compensation requirements, to respond to the disaster
 - 10) remove debris from publicly or privately owned property
 - 11) restrict outdoor burning and use of fireworks
- b. Review and advise county officials on possible liabilities arising from disaster operations, including the exercising of any or all of the above powers.
- c. Prepare and recommend legislation to implement the emergency powers that may be required during an emergency.
- d. Advise county officials and department heads on record keeping requirements and other documentation necessary for the exercising of emergency powers.
- e. Prepare and keep current this annex.
- f. During an emergency, report instances of overcharging for emergency supplies, equipment, and repair materials to the Consumer Affairs section of the Office of the Attorney General.

3. County Clerk-Treasurer

- a. Publish required agenda of meetings.

- b. Prepare a record of public meetings
- c. Receive a copy of disaster declarations and documents extending or terminating a state of disaster.
- d. Ensure proper protection of all records.

VII. DIRECTION & CONTROL

- A. General.** The District Attorney is responsible for providing legal services to the Board of County Commissioners and department heads and for preparing all legal documents necessary for the conduct of emergency operations and the exercise of emergency powers. Supervisors will exercise their usual supervisory responsibilities over legal personnel.
- B. Coordination.** The District Attorney will designate a person to coordinate with the Board of and the EOC, if activated. The District Attorney will identify staff members to be called for emergency duty and will designate those responsible for contacting such staff members.
- C. Line of Succession.** The line of succession for legal services personnel will be:
 - 1. District Attorney
 - 2. Chief Deputy District Attorney

VIII. READINESS LEVELS

A. Readiness Level IV – Normal Conditions

See the prevention and preparedness activities in paragraphs V.B.1) and V.B.2) above.

B. Readiness Level III - Increased Readiness

- 1. The District Attorney will review the potential emergency situation, determine staff availability, and review emergency tasks assigned in the emergency management plan and this annex.
- 2. The District Attorney will designate the personnel on call for emergency duty.

C. Readiness Level II – High Readiness

- 1. Senior County officials and department heads will be briefed on the legal ramifications, if any, of the potential emergency situation.

2. The District Attorney will brief the legal staff on the potential emergency situation and plans to deal with it should it occur and ensure that on-call staff members are available by telephone and ready to report duty if called.

D. Readiness Level I – Maximum Readiness

The designated on call District Attorney representative will proceed to the EOC if requested.

IX. ADMINISTRATION & SUPPORT

- A. Maintenance of Records.** All records generated during an emergency will be collected and filed in an orderly manner so a record of events is preserved for use in determining response costs, settling claims, and updating emergency plans and procedures.
- B. Preservation of Records.** Vital legal records should be protected from the effects of disaster to the maximum extent feasible. Should records be damaged during an emergency situation, professional assistance in preserving and restoring those records should be obtained from a firm specializing in these tasks as soon as possible.
- C. Training.** Legal services personnel who will be participating in EOC operations shall receive training on the operating procedures for that facility.

X. ANNEX DEVELOPMENT & MAINTENANCE

- A. Development.** The District Attorney, in coordination with the Emergency Management Coordinator, is responsible for developing and maintaining this annex.
- B. Maintenance.** This annex will be reviewed annually and updated in accordance with the schedule outlined in Section X of the Basic Plan.

XI. REFERENCES

- A.** Nevada State Comprehensive Emergency Management Plan *ESF 17 Legal Support Annex*
- B.** FEMA *Guide for All-Hazard Emergency Operations Planning* (SLG-101)

APPENDICES:

- Appendix 1 Sample Disaster Declaration
Appendix 2.....Sample Termination of Disaster

DECLARATION OF A DISASTER EMERGENCY

Resolution No. _____

A RESOLUTION WHERE BY THE _____ COUNTY BOARD OF COMMISSIONERS

PROCLAIMS THE EXISTENCE OF AN

EMERGENCY AND/OR DISASTER AND REQUESTS ASSISTANCE FROM

THE GOVERNOR OF THE STATE OF NEVADA

WHEREAS, on _____, The Board of Commissioners of _____ County, Nevada, found that a state of emergency and/or disaster does exist due to conditions arising from _____ (List type of emergency and/or disaster: Flood, Earthquake, etc.) generally located within the _____ (Provide geographic location) area; and

WHEREAS, in accordance with Nevada Revised Statutes Chapter 414 and _____ County Code Title 2, the Board of County Commissioners declares that an emergency and/or disaster exists in _____ County.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners that:

1. It is declared and ordered that a copy of the declaration be forwarded to the Governor of the State of Nevada requesting that he proclaim _____ County to be a state of emergency and/or disaster.
2. It is further declared and ordered that this declaration be made through the Director of the Nevada State Division of Emergency Management.

ADOPTED this ____ day of _____, 20__

Ayes: _____
Nays: _____
Absent: _____

Commissioner: _____

Commissioner: _____

Commissioner: _____

Commissioner: _____

Commissioner: _____

Attest:

Clerk/Treasurer

DECLARATION THAT DISASTER EMERGENCY NO LONGER EXISTS

Resolution No. _____

A RESOLUTION WHERE BY THE _____ COUNTY BOARD OF COMMISSIONERS

PROCLAIMS THE EXISTENCE OF AN

EMERGENCY AND/OR DISASTER AND REQUESTS ASSISTANCE FROM

THE GOVERNOR OF THE STATE OF NEVADA

WHEREAS, on _____, The Board of Commissioners of _____ County, Nevada, found that a state of emergency and/or disaster does exist due to conditions arising from _____ (List type of emergency and/or disaster: Flood, Earthquake, etc.) generally located within the _____ (Provide geographic location) area; and

WHEREAS, in accordance with Nevada Revised Statutes Chapter 414 and _____ County Code Title 2, the Board of County Commissioners declares that an emergency and/or disaster exists in _____ County.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners that:

3. It is declared and ordered that a copy of the declaration be forwarded to the Governor of the State of Nevada requesting that he proclaim _____ County to be a state of emergency and/or disaster.
4. It is further declared and ordered that this declaration be made through the Director of the Nevada State Division of Emergency Management.

ADOPTED this ____ day of _____, 20__

Ayes: _____
Nays: _____
Absent: _____

Commissioner: _____

Attest:

Commissioner: _____

Clerk/Treasurer

Commissioner: _____

Commissioner: _____

Commissioner: _____