

## City State of Emergency Declarations

As of March 13, 2020 both President Donald J. Trump and Governor Andy Beshear have declared states of emergency. Each declaration operates to provide additional funding and emergency powers to the executives on the national and state level. On a local level, city executives are empowered to declare states of emergency to more rapidly respond to the COVID-19 outbreak.

Issuing an executive order declaring a state of emergency enables cities to seek reimbursement from the Federal Emergency Management Agency (FEMA) for some expenses incurred in eliminating or lessening the spread of COVID-19. (link to FEMA Doc). Executive orders are effective upon the mayor's signature. However, to apply for FEMA funding for the costs associated with responding to the emergency a city must provide a signed copy of the executive order to the Kentucky Division of Emergency Management (KYEM) in Frankfort.

KYEM's Recovery Branch acts as the Kentucky grantee for the Public Assistance (PA) Program through which local governments receive FEMA funding. Some local emergency management offices are compiling state of emergency declarations issued in a given territory. KYEM has requested that cities email state of emergency declarations directly to [ky.seoc.operations@ky-em.org](mailto:ky.seoc.operations@ky-em.org), regardless of whether they have been sent to the regional emergency management office. This ensures that KYEM has a copy on file when the city seeks reimbursement and there is no harm in sending it more than once.

During a catastrophe or state of emergency, KRS 39A.020 (3) defines the chief executive of home rule class cities as the mayor, regardless of the form of government. KRS 39A.100 (2) authorizes the mayor, or the mayor's designee as established by ordinance, to declare a state of emergency during a public health emergency or other catastrophe. Declaring a state of emergency in the city enables the mayor to respond to the crises more quickly and effectively.

While operating under a state of emergency, mayors can exercise emergency powers, subject to the orders of the governor, pursuant to KRS 39A.100 (2) as follows:

- (a) To enforce all laws and administrative regulations relating to disaster and emergency response and to direct all local disaster and emergency response forces and operations in the affected county, city, urban-county, or charter county;
- (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative personnel from the scene of the emergency, and to command persons or groups of persons at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;
- (c) To declare curfews and establish their limits;
- (d) To order immediate purchase or rental of, contract for, or otherwise procure, without regard to procurement codes or budget requirements, the goods and services essential for

protection of public health and safety or to maintain or to restore essential public services;  
and

(e) To request emergency assistance from any local government or special district and, through the Governor, to request emergency assistance from any state agency and to initiate requests for federal assistance as are necessary for protection of public health and safety or for continuation of essential public services.

KRS 39B.070 confers additional powers on a mayor, or the mayor's designee as established by ordinance, after the city statement of emergency is declared. Subsection 1 explains that these powers are granted to make sure the city can adequately respond to the emergency at hand. The remaining sections of KRS 39B.070 enumerate specific authority given to the mayor during the statement of emergency as follows:

(2) Appropriate and expend funds, make contracts, enact cost-recovery ordinances, obtain and distribute equipment, materials, and supplies for disaster and emergency response purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any disaster or emergency; review or approve local emergency operations plans; and enact orders or ordinances pertaining to local emergency management programs in accordance with the policies and plans prescribed by the federal and state emergency management agencies and the provisions of KRS Chapters 39A to 39F;

(3) Appoint, employ, remove, or provide, with or without compensation, staff assistants to the local emergency management director, and clerical, administrative, technical or other local emergency management agency staff personnel, and local emergency management agency-supervised operating units officially affiliated with the local disaster and emergency services organization by city or county order or ordinance including rescue squads, auxiliary fire, police, and medical personnel, urban search and rescue teams, severe weather spotters teams, damage assessment teams, amateur radio or communications personnel, or other emergency response groups, teams, or personnel, and other disaster and emergency response workers;

(4) Establish a primary and one (1) or more secondary emergency operations centers or on-scene command posts to serve as official local government command posts during an emergency, declared emergency, disaster, or catastrophe;

(5) Subject to the order of the Governor, or the chief executive of the county, urban-county government, charter county government, or city, to assign and make available for duty, the employees, property, or equipment of the county or city relating to firefighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for disaster and emergency response purposes within or outside of the physical limits of the county, urban-county government, charter county government, or city;

(6) In the event of a national emergency or state of declared emergency or declared disaster or catastrophe, as provided in KRS 39A.100, waive procedures and formalities otherwise required by the law pertaining to: the performance of public work; entering into contracts; the incurring of obligations; the employment of permanent and temporary workers; the utilization of volunteer workers; the rental of equipment; the purchase and distribution, with or without compensation, of supplies, materials, and facilities; the appropriation and expenditure of public funds; and the demolition and removal of damaged public and private structures; and

(7) Confer or authorize the conferring upon members of the auxiliary police the powers of peace officers, subject to the provisions of KRS 61.300, and any other restrictions imposed by the appointing authority.

The emergency management statutory scheme establishes a targeted disaster response based upon coordination of effort and clear communication with all chief executives in the government. Each city will coordinate with the local director of emergency management for responding to the public health crisis. This is not an erosion of city authority. Emergency management activity within the city is subject to the direction of the mayor. KRS 39B.010 – 39B.030.

During this critical time for response, city leaders are looking to efficiently and effectively provide for the health, safety, and welfare of citizens. During a public health emergency, the local health departments and Kentucky Department for Public Health ultimately determine what containment measures and responses are necessary. However, a city state of emergency declaration can be useful for the rapid deployment of emergency services in this time of uncertainty.