

LITIGATION ADVISORY

Arizona Attorney General Issues Opinion on Enforcement of Emergency Declarations



On March 31, 2020, Arizona Attorney General Mark Brnovich issued [Opinion No. 120-006](#) regarding enforcement of emergency declarations by cities and towns.

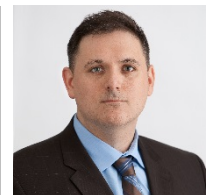
The Opinion was issued in response to a question from Arizona Senator Boyer: **“If a city or town issues a lawful emergency declaration, what authority do local law enforcement and county sheriffs have to enforce such declarations?”**

THE ANSWER

Local law enforcement officials and county sheriffs have authority to enforce lawful emergency declarations issued by cities and towns, and violations of such orders are Class 1 misdemeanors. Law enforcement agencies that enforce local emergency orders must take care to maintain constitutional safeguards that protect individual rights and fundamental liberties, and should continue to enforce the law in a manner that promotes justice.

Here are some highlights:

1. In addition to emergency declarations and executive orders from the Arizona governor, local mayors and chairs of boards of supervisors have the power to issue emergency declarations under A.R.S. § 26-311.
2. When an emergency is declared, the mayor or chairman may “impose all necessary regulations to preserve the peace and order.” Those powers can range from curfews and closing streets to ordering a business to close.



Craig Morgan
Member
Phoenix
602.240.3062
[Email](#)



Matt Hesketh
Member
Phoenix
602.240.3034
[Email](#)

However, this authority “shall not be inconsistent with orders, rules, and regulations promulgated by the governor.”

3. The Opinion does not address how to resolve a conflict between executive orders issued by the governor and what local officials decide is an appropriate emergency response.
4. Any person who knowingly refuses to obey an emergency declaration issued by a mayor or chairman is guilty of a Class 1 misdemeanor under A.R.S. § 26-317.
5. Police officers and sheriff deputies can enforce emergency proclamations and orders issued by state and local officials under A.R.S. § 26-316. However, law enforcement officials must be mindful of constitutional rights and should execute their duties in a manner that promotes justice.
6. Quarantine or isolation orders must be “by the least restrictive means necessary to protect public health,” and civil liberties are protected by due process requirements, including the right to speedy hearings and appointment of counsel. Quarantined individuals must have adequate food, clothing, medication, and other necessities made available to them.

QUESTIONS

Please reach out to [Craig Morgan](#) or [Matt Hesketh](#) with any questions regarding enforcement of executive orders.