

ORDINANCE NO. O-2020-46

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING TYLER CITY CODE CHAPTER 1, "GENERAL PROVISIONS", ARTICLE V., "EMERGENCY PREPAREDNESS", BY UPDATING AND CLARIFYING THE EMERGENCY PREPAREDNESS PROVISIONS TO TRACK THE STATE LAW MORE CLOSELY AND TO REFLECT CURRENT PRACTICES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and general welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the Tyler City Council is acting pursuant to all appropriate authority including Texas Government Code Chapter 481, Texas Government Code Chapter 791, Texas Administrative Code Title 37, Texas Local Government Code Sections 51.001 and 51.072; Tyler City Charter Sections 1, 2, 6 and 89, Tyler City Code Chapter 1, Article V., as well as the City of Tyler's Emergency Management Plan; and

WHEREAS, consistent with State law, the City Council has adopted certain Emergency Preparedness regulations in City Code Chapter 1, Article V.; and

WHEREAS, it is important to amend City Code Chapter 1 to update and clarify the current Emergency Preparedness provisions in City Code Chapter 1, Article V. to make them more consistent with State law and to reflect current practices;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That Tyler City Code Chapter 1, "General Provisions", Article V., "Emergency Preparedness", is hereby amended to read as follows:

ARTICLE V. EMERGENCY PREPAREDNESS

Sec. 1-40. Preparation of plan.

The City Manager or designee shall provide for planning in the area of emergency preparedness and disaster relief. As mandated by State law, an Emergency Management Plan setting out specific details for the handling of such situations in Tyler and Smith County shall be prepared for Council adoption and periodic review. Under this Article and City Code Section 1-30, the City Manager is also authorized to create and adopt administrative policies and procedures necessary to govern emergency situations. The City Manager or designee shall also provide for the preparation of such inter-local agreements as are necessary to adequately prepare adequately for,

and/or to address, emergencies .(Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2017-20; 2/22/17 (Ord. No. O-2020-46; 5/13/20)

Sec. 1-41. Declaration of local disaster; Override of local ordinance during declared disaster.

a. State law sets forth the process for the Mayor to declare a local state of disaster for a public health emergency, and for the extension thereof. Upon the Mayor's declaration that a state of disaster exists within the City, the City Council may meet in regular or emergency session to issue such orders, rules, and regulations as are deemed necessary to protect the life or property of citizens and critical resources while the state of disaster is in effect. If time is of the essence and it is impossible or impractical for the City Council to meet, then the Mayor shall have the authority to issue emergency orders, rules and regulations. If it is impossible or impractical for the Mayor to so act, then the City Manager shall have the authority to issue such emergency orders, rules and regulations. The City Council, at a meeting following either the Mayor's or the City Manager's issuance of such measures, shall either ratify or reject the measures. Those orders, rules, and regulations that are ratified by the City Council shall remain in effect until the measures expire and those orders, rules, and regulations that are rejected by the City Council shall cease to be in effect.

b. At all times when the orders, rules, and regulations made and issued pursuant to State law, Section 89 and/or other provisions of the City Charter and/or this chapter shall be in effect, the same shall supersede all existing ordinances and regulations of the City insofar as the latter may be inconsistent therewith.

c. The effect of the orders, rules, and regulations issued pursuant to this Article shall cease to apply following action by the Mayor or City Council action terminating the local state of disaster. (Ord. No. O-98-45, 5/27/98) (Ord. No. O-2020-46; 5/13/20)

Sec. 1-42. No liability for emergency management operations.

a. All actions performed under the Emergency Management Plan and this Article are hereby deemed an exercise of governmental functions by the City for the protection of the public health, safety, and welfare and neither the City, its officials, agents, employees, or representatives nor any individual, receiver, firm, partnership, corporation, or association or agent thereof in good faith carrying out, complying with, or attempting to comply with the provisions of the Emergency Management Plan, this Article or any order, rule, or regulation issued under the authority hereof, shall be liable in any form or manner for damage sustained to persons or property as a result of said activity.

b. Any person and/or successors in interest who owns or controls any real property or other premises and who voluntarily and without compensation grants to the City the right, license, or privilege, or otherwise permits the City to inspect, designate, and use the whole or any part of such premises for the purpose of sheltering persons during any actual, impending or practice enemy attack or natural or man-made disaster shall not be liable for death, injury or damage to the property of any such persons. (Ord. No. O-98-45, 5/27/98) (Ord. No. 0-2020-46; 5/13/20)

Sec. 1-43. Prohibited acts; penalty.

a. It shall be unlawful for any person to hinder, obstruct, or delay any member of the emergency management organization in the implementation of the Emergency Management Plan or the enforcement of any order, rule, or regulation issued pursuant to this Article.

b. It shall be unlawful for any person to carry, display, exhibit, or wear any emblem, insignia, or other identification of emergency management personnel without due authorization.


c. It shall be unlawful for any person to operate a siren or other device so as to simulate a false signal warning of disaster or a false termination of warning or all clear signal without due authorization.

d. Any violation of this Article, or any emergency orders, rules or regulations adopted pursuant to this Article, is unlawful and shall be subject the violator to a penalty as set forth in State law and/or City Code Section 1-4. Each day or fractional part thereof that any violation of this Article shall continue constitutes a separate offense. (Ord. No. O-2020-46; 5/13/20)

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be May 15, 2020.

PASSED AND APPROVED this the 13th day of May, A.D., 2020.




MARTIN HELMES, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:



CASSANDRA BRAGER, CITY CLERK



APPROVED:


DEBORAH G. PULLUM,
CITY ATTORNEY