

ORDINANCE NO. 13-2020

AN ORDINANCE AMENDING CHAPTER 7, "CIVIL DEFENSE," OF THE CODE OF THE CITY OF ABILENE BY AMENDING THE CHAPTER AS SET OUT BELOW, PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY.

WHEREAS, Chapter 7 of the Abilene Code of Ordinances regulates civil defense and emergency management of the City of Abilene; and

WHEREAS, pursuant to Section 418.173, Texas Government Code, a local emergency plan may provide that failure to comply with the plan or with a rule, order, or ordinance adopted under the plan is an offense which may be punishable by fine not to exceed \$1,000, or confinement in jail for a term not to exceed 180 days; and

WHEREAS, pursuant to Section 418.015 Texas Government Code, during a local state of disaster and the following recovery period, the Mayor has the authority to issue orders to in response to the local state of disaster; and

WHEREAS, it is in the best interest of the residents of the city of Abilene to amend Chapter 7, Civil Defense, Code of Ordinances, to specify authority of the Mayor to issue orders during a local state of disaster, and to provide for effective enforcement of issued orders; and

WHEREAS, this ordinance amendment relates to the immediate preservation of the public peace, health, safety or welfare, and the nature of the emergency is the COVID-19 pandemic and state of local disaster.

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

PART 1: That Chapter 7, "Civil Defense," of the Code of Ordinances of the City of Abilene, Texas, is hereby amended by adding new Section 7-9, "Public Orders," and new Section 7-10, "Offenses and Penalties", to read as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

PART 2: That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

PART 3: Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense.

PART 4: That pursuant to Section 18, Charter, City of Abilene, the requirement for reading this Ordinance upon two separate readings is hereby waived by the affirmative vote of at least five City Council members, because such ordinance relates to the immediate preservation of the public peace, health, safety or welfare, and the nature of the emergency is the COVID-19 pandemic and state of local disaster.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 22nd day of March, 2020, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 4:30 p.m. on the 26th day of March, 2020, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON this 26th day of March, 2020.


ATTEST:



CITY SECRETARY



MAYOR



CITY ATTORNEY



Chapter 7

CIVIL DEFENSE*

Sec. 7-1. Organization.

There exists the office of Emergency Management Director of the City of Abilene, which shall be held by the mayor in accordance with the state law.

- (a) An emergency management coordinator may be appointed by and serve at the pleasure of the director.
- (b) The director shall be responsible for a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in this chapter. He/she may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the director.
- (c) The operational emergency management organization of the City of Abilene shall consist of the officers and employees of the city so designated by the director in the emergency management plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan.

(Ord. No. 8-1994, pt. 1(Exh. A), 3-10-94)

Sec. 7-2. Emergency management director; powers and duties.

The duties and responsibilities of the emergency management director shall include the following:

- (a) Conduct an on-going survey of actual or potential hazards which threaten life and property within the city and an on-going program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.
- (b) Supervision of the development and approval of an emergency management plan for the City of Abilene, and shall recommend for adoption by the city council all mutual aid arrangements deemed necessary for the implementation of such plan.
- (c) Authority to declare a local state of disaster. The declaration may not be continued or renewed for a period in excess of seven (7) days except by or with the consent of the city council. Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary.
- (d) Issuance of necessary proclamations, regulations, or directives which are necessary for carrying out the purposes of this chapter. Such proclamations, regulations, or directives shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede, promptly filed with the city secretary.
- (e) Direction and control of the operations of the Abilene Emergency Management organization as well as the training of emergency management personnel.
- (f) Determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.
- (g) Maintenance of liaison with other municipal, county, district, state, regional or federal emergency management organizations.
- (h) Marshaling of all necessary personnel, equipment, or supplies from any department of the city to aid in the carrying out of the provisions of the emergency management plan.
- (i) Supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with the county in which said city is located and with other municipalities within the county, for the countywide coordination of emergency management efforts.

(j) Supervision of, and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.

(k) Authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.

(l) Survey of the availability of existing personnel, equipment, supplies, and services which could be used during a disaster, as provided for herein.

(m) Other requirements as specified in the Texas Disaster Act of 1975, Texas Government Code Annotated section 418.001 et seq. (Vernon 1987), as amended.

(Ord. No. 8-1994, pt. 1(Exh. A), 3-10-94)

Sec. 7-3. Emergency management plan.

(a) A comprehensive emergency management plan shall be developed and maintained in a current state. The plan shall set forth the form of the organization; establish and designate divisions and functions; assign responsibilities, tasks, duties, and powers; and designate officers and employees to carry out the provisions of this chapter. As provided by state law, the plan shall follow the standards and criteria established by the State Division of Emergency Management of the State of Texas.

(b) Insofar as possible, the form of organization, titles, and terminology shall conform to the recommendations of the state division of emergency management. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The emergency management plan shall be considered supplementary to this chapter and have the effect of law during the time of a disaster.

(Ord. No. 8-1994, pt. 1(Exh. A), 3-10-94)

Sec. 7-4. Interjurisdictional program.

The mayor is hereby authorized to join with the County Judge of the County of Taylor and the mayors of the other cities in said county in the formation of an interjurisdictional emergency management program for the County of Taylor, and shall have the authority to cooperate in the preparation of an interjurisdictional emergency management plan and in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a countywide program of emergency management insofar as said program may affect the City of Abilene.

(Ord. No. 8-1994, pt. 1(Exh. A), 3-10-94)

Sec. 7-5. Conflicting ordinances, orders, rules and regulations suspended.

At all times when the orders, rules, and regulations made and promulgated pursuant to this chapter shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.

(Ord. No. 8-1994, pt. 1(Exh. A), 3-10-94)

Sec. 7-6. No municipal or private liability.

(a) This chapter is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety and neither the City of Abilene, the agents and representatives of said city, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this chapter shall be liable for any damage sustained to persons as the result of said activity.

(b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the City of Abilene a license of privilege, or otherwise permits the city to inspect, designate, and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, or practice enemy attack or natural or manmade disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person.

(Ord. No. 8-1994, pt. 1(Exh. A), 3-10-94)

Sec. 7-7. Commitment of funds.

No person shall have the right to expend any public funds of the City in carrying out any Emergency Management activity authorized by this chapter without prior approval by the City Council, nor shall any person have any right to bind the City by contract, agreement, or otherwise without prior and specific approval of the City Council unless during a declared disaster. During a declared disaster, the Mayor may expend and/or commit public funds of the City when deemed prudent and necessary for the protection of health, life, or property.

(Ord. No. 8-1994, pt. 1(Exh. A), 3-10-94)

Sec. 7-8. Certain conduct unlawful.

- (a) It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any rule or regulation issued pursuant to this chapter.
- (b) It shall likewise be unlawful for any person to wear, carry, or display any emblem, insignia, or any other means of identification as a member of the emergency management organization of the City of Abilene, unless authority to do so has been granted to such person by the proper officials.
- (c) Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning, shall be deemed guilty of a violation of this chapter and shall be subject to the penalties imposed by this chapter.

Sec. 7-9. Public Orders.

If a local disaster is declared by the mayor under Texas Government Code Section 418.108

(*Declaration of Local Disaster*), the mayor may issue public orders and direct the City Manager to take action necessary to:

- (1) implement the emergency management program;
- (2) comply with this chapter and Texas Government Code Chapter 418 (*Emergency Management*);
and
- (3) protect public health, safety, and welfare.

Sec. 7-10 Offenses and Penalties.

- (a) A person who fails to obey an order adopted under an emergency management program, this chapter, or Texas Government Code Chapter 418 (*Emergency Management*) commits an offense.
- (b) An offense is punishable by a fine of not more than \$1,000, or by confinement in jail for a term of not more than 180 days.