

AN ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS, AMENDING THE CITY OF FAIR OAKS RANCH CODE OF ORDINANCES CHAPTER 1 "GENERAL PROVISIONS," ARTICLE 1.06 "EMERGENCY MANAGEMENT," DIVISION 2 "EMERGENCY MANAGEMENT PROGRAM;" AND PROVIDING FOR A SEVERABILITY CLAUSE AND EFFECTIVE DATE

WHEREAS, the City Council of the City of Fair Oaks Ranch finds that the identification of potential hazards and the prevention or mitigation of their effects must be an ongoing concern to protect the lives and property of the populace, and,

WHEREAS, the City of Fair Oaks Ranch ("City") takes a proactive role in mitigating, preparing, responding, and recovering from potential natural and man-made events, and,

WHEREAS, the City recognizes the importance of a unified and consistent system to prepare for, respond to and recover from disasters and emergencies, and,

WHEREAS, this Emergency Management Ordinance sets the foundations for disaster response for the City of Fair Oaks Ranch, and,

WHEREAS, an Emergency Operations Plan (EOP) provides the framework for emergency response and emergency management during disasters.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

- Section 1.** Chapter 1 "General Provisions," Article 1.06 "Emergency Management," Division 2 "Emergency Management Program" of the City's Code of Ordinances is hereby amended as set forth in the attached **Exhibit A**.
- Section 2.** That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.
- Section 3.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.
- Section 4.** That it is officially found, determined, and declared that the meeting at which this ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

- Section 5.** The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.
- Section 6.** If any provision of this ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this ordinance would have been enacted without such invalid provision.
- Section 7.** All ordinances, or parts thereof, which are in conflict or inconsistent with any provision of this ordinance are hereby repealed to the extent of such conflict, and the provisions of this ordinance shall be and remain controlling as to the matters ordained herein.
- Section 8.** This ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.
- Section 9.** The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.
- Section 10.** This ordinance shall take effect immediately from and after its second reading, passage and any publication requirements as may be required by governing law.

PASSED and APPROVED on first reading by the City Council of the City of Fair Oaks Ranch, Texas, on this 1st day of August 2024.

PASSED, APPROVED, and ADOPTED on second and final reading by the City Council of the City of Fair Oaks Ranch, Texas, on reading this 15th day of August 2024.

Gregory C. Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, TRMC
City Secretary

Denton Navarro Rodriguez Bernal Santee & Zech
P.C., City Attorney

EXHIBIT A

The City of Fair Oaks Ranch Code of Ordinances Chapter 1-General Provisions, Article 1.06-Emergency Management, Division 2-Emergency Management Program is hereby amended as set follows:

[Deletions are shown as strikethrough and additions shown as underscore]

ARTICLE 1.06 EMERGENCY MANAGEMENT¹

Division 2. Emergency Management Program

Sec. 1.06.031 Emergency Management Organization

- (a) There exists the office of Emergency Management Director of the City, which shall be held by the Mayor in accordance with state law.
- (b) An emergency management coordinator may be appointed by and serve at the pleasure of the Director.
- (c) 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 division. He/she may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the Director.
- (d) The operational emergency management organization of the City 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.

Sec. 1.06.032 Duties of Emergency Management Director

The duties and responsibilities of the Emergency Management Director shall include the following:

- (1) Conduct an ongoing survey of actual or potential hazards which threaten life and property within the City and an ongoing 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.
- (2) Supervision of the development and approval of an emergency management plan for the City and shall recommend for adoption by the City Council all mutual aid arrangements deemed necessary for the implementation of such plan.
- (3) 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.

¹State law reference(s)—Local and interjurisdictional emergency management, V.T.C.A., Government Code, ch. 418.

EXHIBIT A

- (4) Issuance of necessary proclamations, regulations or directives which are necessary for carrying out the purposes of this division. Such proclamation, regulation, or directive 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.
- (5) Direction and control of the operations of the City emergency management organization as well as the training of emergency management personnel.
- (6) Determination of all questions of authority and responsibility that may arise within the emergency management organization of the City.
- (7) Maintenance of liaison with other municipal, county, district, state, regional or federal emergency management organizations.
- (8) 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.
- (9) 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 the City is located, and with other municipalities within the county, for the countywide coordination of emergency management efforts.
- (10) 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.
- (11) Authorizing of agreements, after approval by the City Attorney, for use of private property for public shelter and other purposes.
- (12) Survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein.
- (13) Other requirements as specified in the Texas Disaster Act of 1975 (V.T.C.A. Government Code ch. 418 (Vernon 1988)).

Sec. 1.06.033 Emergency Operations Management Plan

A comprehensive emergency ~~operations 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 division. As provided by state law, the plan shall follow the standards and criteria established by the state division of emergency management. 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 operations management plan shall be considered supplementary to this division and have the effect of law during the time of a disaster.

EXHIBIT A

Sec. 1.06.034 Interjurisdictional Program

The Mayor is hereby authorized to join with the County Judge of Bexar County, Kendall County or Comal County and the Mayors of other cities in the formation of an emergency management council if deemed feasible and shall have the authority to cooperate in the preparation of a joint 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.

Sec. 1.06.035 Override of Existing Regulations by Emergency Regulations

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

Sec. 1.06.036 Liability

This division is an exercise by the City of its governmental functions for the protection of the public peace, health, and safety, and neither the City, the agents and representatives of the 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 division shall be liable for any damage sustained to persons as the result of said activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the City a license or 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 man-made 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.

Sec. 1.06.037 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 division 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.

Sec. 1.06.038 Offenses; Penalties

- (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 division, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this division.

EXHIBIT A

- (b) It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or other means of identification as a member of the emergency management organization of the City, 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 division and shall be subject to the penalties imposed by this division.
- (d) Convictions for violations of the provisions of this division shall be punishable by fine not less than twenty-five dollars (\$25.00) nor to exceed two thousand dollars (\$2,000.00). Each day the violation continues to occur shall be considered a separate offense.

Sec. 1.06.039 Limitations

This division shall not be construed so as to conflict with any state or federal statute or with any military or naval order, rule, or regulation.