

CITY OF STATESBORO

COUNCIL
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Paulette Chavers
Venus Mack
John C. Riggs
Shari Barr



Jonathan M. McCollier, Mayor
Charles Penny, City Manager
Leah Harden, City Clerk
Cain Smith, City Attorney

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To: Charles Penny, City Manager and Leah Harden, City Clerk

From: Cain Smith, City Attorney

Date: March 17, 2020

RE: March 17, 2020 City Council Agenda Items

Policy Issue: Consideration of motion to adopt revision of Chapter 30- Emergency and Disaster Management Ordinance

Recommendation: Approval upon staff recommendation and unanimous Council decision to adopt and waive the standard ordinance presentation formalities contained in Section 2-2-4.

Background: Presented revision is based on the Georgia Municipal Association Model Emergency Management Ordinance and allows for Mayor to declare a local emergency and exercise and delegate the emergency powers granted by the Georgia Emergency Management Act of 1981.

Budget Impact: None

Council Person and District: All

Attachments: Proposed revision of Chapter 30.

CHAPTER 30. - EMERGENCY AND DISASTER MANAGEMENT

Sec. 30-1 - Short title.

This Chapter shall be known as the "Emergency and Disaster Management Ordinance."

Sec. 30-2. - Definitions.

As used in this chapter, the term:

(a) City means the City of Statesboro, Georgia a municipal corporation existing under the laws of the State of Georgia.

(b) City Council means the City Council of the City of Statesboro.

(c) Curfew means a temporary prohibition against any persons walking, loitering, standing, bicycling or motoring upon any sidewalk, street, public property, vacant premises or any public place within this city, or some designated part or parts thereof, except, however, those persons whose official duties require them to be present during time of an emergency.

(d) Debris means displaced, broken, or discarded building/construction materials, garbage, vegetative matter, spoiled or ruined household goods or materials, dead fish, or marine flotsam or jetsam.

(e) Disaster means any calamity, including but not limited to, fire, flood, snowstorm, ice, ice storm, heat, tornado, hurricane, windstorm, wave action, oil spill, water contamination, utility failure, hazardous peacetime radiological incident, major transportation accident, hazardous material incident, epidemic, air contamination, drought, infestation, explosion, or hostile military or para-military action, or similar occurrences resulting from terrorist activities, riots, or civil disorders, which threatens or causes injury or death to persons or destruction of property whereby extraordinary measures must be taken to protect the public health, safety, welfare, lives and property of the people of this city.

(f) Emergency means any extraordinary condition in which there exists the threat or actual occurrence of a disaster or event, which may result in the large-scale loss of life, injury, property damage, or destruction, or in the major disruption of routine community affairs or business and government operations, and is of sufficient severity and magnitude to warrant extraordinary assistance by other agencies to supplement the efforts of available public and private resources.

(g) Local state of emergency means a declaration by the Mayor pursuant to the Georgia Emergency Management Act of 1981, as amended, and this chapter, which implements the appropriate emergency or disaster response and recovery measures of the city and authorizes certain actions as described in this chapter and applicable emergency plans.

(h) Private property means all property that is not owned or controlled by a governmental entity.

(i) Private streets, roads, and roadways means the rights-of-way as well as the improved surface that are not owned or controlled by a governmental entity and which provide access to residential and commercial areas.

(j) State declared emergency means a declaration by the governor pursuant to the Georgia Emergency Management Act of 1981, as amended.

(k) Unavailable means either that a vacancy in an office exists as the result of any local emergency and there is no deputy or other successor authorized to exercise all of the powers and discharge all of the duties of the office, or that the lawful incumbent of the office, including any deputy exercising the powers and discharging the duties of an office because of a vacancy, and his duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

Sec. 30-3. - State of emergency.

(a) Existence. For purposes of this chapter, a state of emergency exists when either, the President of the United States, the Governor of the State of Georgia, the Chair of the Bulloch County Commission, or the Mayor of the city declares a state of emergency that applies to the city, or when an emergency situation exists or is imminent in the city that impacts the health, safety, and welfare of the public.

(b) Grant of authority. The Mayor may declare a local state of emergency in the event of an actual or threatened occurrence of a disaster or emergency.

(c) Duration. The duration of a state of local emergency shall be limited to 30 days unless extended by the Mayor.

(d) Notice. Upon the declaration of a state of local emergency, the City Manager shall, if practicable, post a written notice of such declaration upon the bulletin board at city hall, and shall, as promptly as practicable, file in the office of the City Clerk a notice of a declared state of local emergency, or emergency measure declared or ordered and promulgated by virtue of state law or this chapter. The City Manager shall notify the local media and residents as soon as possible.

(e) Confirmation of emergency by City Council. Any declaration of a local emergency and all emergency regulations activated under the provisions of this chapter shall be confirmed by the City Council by resolution at a special meeting or at its next regularly scheduled meeting. Confirmation of the emergency declaration shall disclose the reasons for, anticipated impacts of, actions proposed and taken to manage the emergency and other pertinent data relating to the emergency requiring the declaration. The City Council may review, and if necessary, revise any emergency orders issued by the Mayor and shall take whatever actions as may be necessary in respect to any such emergency.

(f) Continuance of local state of emergency. The Mayor may, by resolution, end a state of local emergency at any time. The City Manager shall execute and file with the City Clerk a document marking the end of the local state of emergency. No state of local emergency shall continue for longer than 30 days, unless renewed by the Mayor.

(g) Form of Declaration. Upon the declaration of local emergency by the Mayor, an official "Declaration of Local Emergency" in substantially the same form set forth below, shall be signed and filed in the office of the city clerk and shall be communicated to the public of the affected area using the most effective and efficient means available. The declaration shall state the nature of the emergency or disaster, the conditions that require the declaration any section of this chapter which shall be in effect.

DECLARATION OF LOCAL EMERGENCY

WHEREAS, the City of Statesboro, Bulloch County, Georgia has experienced an incident of critical significance as a result of [description of event] on [date];

WHEREAS, the Governor [has/has not] declared a state of emergency for Bulloch County or the City of Statesboro;

WHEREAS, the Chair of the Bulloch County Commission [has/has not] declared a state of emergency for Bulloch County or the City of Statesboro

WHEREAS, in the judgment of the Mayor of the City of Statesboro, with advice from the City Manager, there exist emergency circumstances located in [describe geographic location] requiring extraordinary and immediate corrective actions for the protection of the health, safety, and welfare of the citizens of the City of Statesboro, including individuals with household pets and service animals; and

WHEREAS, to prevent or minimize injury to people and damage to property resulting from this event, certain actions are required.

NOW, THEREFORE, pursuant to the authority vested in me by local and state law;

IT IS HEREBY DECLARED that a local state of emergency exists and shall continue until the conditions requiring this declaration are abated.

THEREFORE, IT IS ORDERED:

(1) That the City Manager shall activate the Emergency Operations Plan;

(2) That the following sections of the Code of Ordinances be implemented [If deemed appropriate, choose from the following]:

() Activation of City's Emergency Operations Plan

() Section 30-8 Authority to Waive Procedures and Fee Structures

() Section 30-9 Curfew and Closed or Restricted Areas

() Section 30-10 Price overcharging prohibited

() [Any other Emergency management actions, such as an Emergency purchasing ordinance, etc.]

(3) That the following measures also be implemented:

ENTERED at [time] on [date].

{Signed}

Mayor, City of Statesboro

Sec. 30-4. - Mayor's emergency management powers and duties.

(a)The Mayor may declare a state of local emergency when the conditions in section 30-2 exist.

(b) When the state of local emergency is declared, the Mayor shall exercise all powers granted to him or her under state law and under the City Charter and, in doing so, may waive any requirement of any law or rule that impedes the emergency efforts being undertaken by the city. Specifically the Mayor may:

1. Delegate his or her authority to the City Manager;
2. Issue evacuation and curfew orders;
3. Call emergency meetings of the City Council;
4. Issue orders necessary for the protection of life and property, establishment of public order, and control of adverse conditions affecting public welfare resulting from an emergency, and implement orders issued by federal, state or county emergency management agencies;
5. Suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and or combustibles; provided, however, that for purposes of this paragraph, the terms "explosives" and "combustibles" shall not include firearms or ammunition or any component thereof;
6. Direct and compel the evacuation of all or part of the population from any stricken or threatened area, for the preservation of life or other disaster mitigation, response or recovery;
7. Authorize the use of public property when necessary to cope with the emergency or disaster or when there is compelling necessity for the protection of lives, health, and welfare, and/or the property of citizens;
8. Perform such other functions, powers, and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population, including individuals with household pets and service animals prior to, during, and following a major disaster or emergency; and
9. Exercise all powers granted in O.C.G.A. §§38-3-27 through 38-3-28 and 38-3-54 through 38-3-56, as amended.

Sec. 30-5. - City Manager's emergency management powers and duties.

The City Manager shall:

1. Exercise all powers delegated to him/her by the Mayor, when the declaration of state of emergency is issued, and take all prudent and lawful actions necessary to protect the health, safety and welfare of the community and the public;
2. Exercise the power granted to the Mayor in section 30-4 if the mayor is unavailable or where delay in the exercise of such powers would be contrary to the public interest;
3. Coordinate with other governmental entities to ensure the city's actions are consistent with federal, state and county emergency management plans;
4. Utilize all available resources of the city as reasonably necessary to cope with the emergency or disaster to include relieving employees of normal duties and temporarily reassign them to other emergency or disaster-related duties;

5. Suspend any ordinance, resolution, order, rule or regulation prescribing the procedures for conduct of city business, or the orders, rules or regulations of any city department, if strict compliance with any ordinance, resolution, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency or disaster;
6. Recommend funding to the City Council for the creation and maintenance of an emergency response capability as provided in this chapter;
7. Develop and manage the city's emergency awareness public information program;
8. Apply for public assistance or other disaster relief funding;
9. Expend funds of the city as necessary to cope with the emergency;
10. Enter into contracts addressing situations arising out of the emergency;
11. Provide benefits to citizens upon execution of an intergovernmental agreement for grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by an emergency or disaster in cases where the individuals or families are unable to meet the expenses or needs from other means, provided that such grants are authorized only when matching state or federal funds are available for such purposes;
12. Perform and exercise such other functions, powers, and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population, including individuals with household pets and service animals prior to, during, and following a major disaster or emergency; and
13. If a state of disaster or emergency is declared by the governor, assign and make available for duty the employees, property, or equipment of the city within or outside the geographical limits of the city as ordered by the governor.

Sec. 30-6 - When emergency orders effective; contents and publication of orders.

Any emergency order issued by the Mayor or City Manager shall become effective immediately upon issuance and shall be reduced to writing as soon as practicable thereafter, and filed with the city clerk. Such orders upon being reduced to writing shall state the nature of the emergency, the length of time such orders are to remain in effect, and shall call attention to the penalty for violation thereof. Such emergency orders shall not initially exceed 30 days, but may be extended in 30-day increments if necessary.

Sec. 30-7. - Activation of emergency plans.

A declaration of an emergency or a declaration of local emergency shall activate the city's emergency operations plan which shall be the authority for deployment of personnel and use of any forces to which the plan applies and for use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled or arranged to be made available pursuant to the Georgia Emergency Management Act or any other laws applicable to emergencies or disasters.

Sec. 30-8. - Authority to waive procedures and fees.

(a) City business. Upon declaration of an emergency, the affairs and business of the city may be conducted at places other than the regular or usual location, within or outside of the city, when it is not

prudent, expedient or possible to conduct business at the regular location. When such meetings occur outside of the city, all actions taken by the City Council shall be as valid and binding as if performed within the city. Such meetings may be called by the presiding officer or any two members of the City Council without regard to or compliance with time-consuming procedures and formalities otherwise required by law.

(b)Public works contracts. Upon declaration of an emergency, the City Manager may contract for public works without letting such contract out to the lowest, responsible bidder and without advertising and posting notification of such contract for four weeks; provided, however, that the emergency must be of such nature that immediate action is required and that the action is necessary for the protection of the public health, safety and welfare. Any public works contract entered into pursuant to this subsection shall be entered on the minutes of the city as soon as practical and the nature of the emergency described therein in accordance with O.C.G.A. § 36-91-22(e), as amended. Any E-Verify or Systematic Alien Verification for Entitlements ("SAVE") affidavit shall be obtained from any contractor if otherwise required by law.

(c)Procurement. Upon declaration of an emergency, the City Manager may suspend purchasing ordinances, regulations, or policies. City officials shall exercise reasonable efforts to obtain the best prices during the state of emergency.

(d)Code enforcement. Upon declaration of a state of emergency, the City Manager may temporarily suspend the enforcement of the ordinances of the city, or any portion thereof, where the emergency is of such nature that immediate action outside the code is required, such suspension is consistent with the protection of the public health, safety and welfare, and such suspension is not inconsistent with any federal or state statutes or regulations.

(e)Fees. Upon declaration of a state of emergency, the City Manager may temporarily reduce or suspend any permit fees, application fees or other rate structures as necessary to encourage the rebuilding of areas impacted by the disaster or emergency. The term "fees" includes fees or rates charged by the city for building permits, land disturbance permits, zoning applications, special land use permits, temporary land use permits and other fees relating to the reconstruction, repair and cleanup of areas impacted by the disaster or emergency. The term "fees" does not include fees collected by the city on behalf of the state or federal government or fees charged by the city pursuant to a state or federal statute or regulation.

(f)Temporary dwellings. Upon the declaration of a state of emergency, the City Manager may issue temporary permits for mobile homes, trailers, recreational vehicles or other temporary dwelling structures in any zoning district, even though not otherwise permitted by development code, while the primary dwelling is being repaired, provided that such temporary dwellings are designed by an engineer and the plans are approved by the county health department and the city's development services department. The temporary permit shall not exceed six months in duration. In the case of a continuing hardship, and in the discretion of the City Manager or his/her designee, the permit may be extended for a period of up to an additional six months. Upon expiration of the temporary permit and/or extension, the temporary dwelling must be removed.

Sec. 30-9 - Closed or restricted areas and curfews during an emergency.

(a)Unlawful to violate curfew. To preserve, protect or sustain the life, health, welfare or safety of persons, or their property, within a designated area under a declaration of emergency, it shall be unlawful for any person to travel, loiter, wander or stroll in or upon the public streets, highways, roads, lanes, parks or other public grounds, public places, public buildings, places of amusement, eating places, vacant lots or any other place during a declared emergency between hours specified by the Mayor or City Manager until the curfew is lifted.

(b)Authority to impose. To promote order, protect lives, minimize the potential for looting and other crimes, and facilitate recovery operations during an emergency, the Mayor or City Manager shall have discretion to impose re-entry restrictions on certain areas. The Mayor or City Manager shall exercise such discretion in accordance with the city's emergency operations plan, which shall be followed during emergencies.

(c)Exceptions. The provisions of this section shall not apply to persons acting in the following capacities:

1. Authorized and essential law enforcement personnel;
2. Authorized and essential health care providers;
3. Authorized and essential personnel of the city;
4. Authorized National Guard or federal military personnel;
5. Authorized and essential firefighters;
6. Authorized and essential emergency response personnel;
7. Authorized and essential personnel or volunteers working with or through the city;
8. Authorized and essential utility repair crews;
9. Citizens seeking to restore order to their homes or businesses while on their own property or place of business; and
10. Other authorized and essential persons as designated on a list compiled by the city.

(d)Enforceability. This section shall be enforced by officers of the law enforcement personnel approved to provide aid and assistance during the emergency. Nothing contained in this section shall prohibit a law enforcement officer from bringing other charges under state law.

(e)Effective date. This section shall become effective only upon the signing of a declaration of emergency, stating this section is in effect.

Sec. 30-10. - Price overcharging prohibited.

(a)The health, safety and welfare of the citizens of the city depend upon the availability and affordability of certain essential commodities and reasonable access to shelter. During certain periods of emergency, resulting from natural or manmade disasters, the public is at risk from dramatic and unjustified increases in the prices of certain essential goods, materials, services and housing. Such increases in prices may be excessive and unconscionable during an emergency and may delay recovery. Legislation is necessary to prohibit any person from raising prices for goods, materials, services and housing to

excessive, unconscionable or unfair levels during an emergency or subsequent recovery period. Limitations on price overcharging an emergency are authorized pursuant to the police powers of the City of Statesboro, Georgia and O.C.G.A. §38-3-28, as amended.

(b) In order to preserve, protect or sustain the life, health or safety of persons or their property, within the disaster area, it shall be unlawful, during the duration of the emergency or subsequent recovery period, for any person, firm, or corporation located or doing business in the city to overcharge for any goods, materials, services, motel rooms, temporary lodging or houses, sold or rented, within the City of Statesboro. For the purposes of this chapter, the term "overcharging" means charging prices for goods, materials, foods, equipment, supplies, services, labor or housing which are substantially in excess of the customary charges by 25 percent or, in applicable cases, substantially in excess of the suppliers' or providers' costs for such goods, materials, foods, equipment, supplies, services, labor or housing by 25 percent. The existence of overcharging shall be presumed from a 25 percent increase in the price at which the merchandise or cost/rental of housing was offered in the usual course of business immediately prior to the onset of the emergency, but shall not include increases in cost to the supplier directly attributable to the higher cost of material, supplies, and labor costs resulting from the emergency.

(c) Subsequent recovery period. The term "subsequent recovery period" is defined as that period during which the emergency continues to cause disruptions in the disaster area, but shall not exceed six months after the emergency declaration has been terminated.

Sec. 30-11. - Enforcement and remedies.

(a) Right of entry. No person shall refuse entry or access to any authorized representative or agent of the city who requests entry for purposes of evaluating sites involved with emergency management functions to protect the public's health, safety, or welfare, and who presents appropriate credentials. Nor shall any person obstruct, hamper, or interfere with any such representative while that individual is in the process of carrying out his or her official duties.

(b) Enforcement. Except as otherwise provided for herein, and in accordance with O.C.G.A. § 38-3-4, as amended, the city's police department, emergency management coordinator and code enforcement personnel shall be authorized, within the corporate limits of the city, to enforce the orders, rules and regulations contained in this chapter and/or implemented by the Mayor, City Council or City Manager during a declared emergency.

(c) Penalties. Failure to comply with any of the requirements or provisions of the regulations contained in this chapter, or with any code section, order, rule or regulation made effective by the Mayor, City Council or City Manager upon or after the declaration of an emergency shall constitute a violation of the provisions of this ordinance. Any person who violates any provision in this ordinance shall, upon conviction thereof, be guilty of a misdemeanor punishable by a fine not to exceed \$1,000.00, imprisonment for a term not exceeding 60 days, or both such fine and imprisonment, for each violation. Each person assisting in the commission of a violation shall be guilty of separate offenses. Each day during which a violation or failure to comply continues shall constitute a separate violation.

(d) Injunctive relief. In accordance with O.C.G.A. § 38-3-5, as amended, in addition to the remedies prescribed in this section, the city attorney is authorized to obtain an injunction to restrain violation of

laws, code sections, orders, rules and regulations that are contained in the Georgia Emergency Management Act and/or this ordinance, and/or are implemented by the Mayor, City Council or City Manager during a declared emergency.

Sec. 30-12 - Regulations continued in effect.

All ordinances, resolutions, motions, and orders pertaining to emergency management and disaster relief that are not in conflict with this chapter are continued in full force and effect. Such ordinances, etc., are on file in the office of the City Clerk.