

ORDINANCE NO. 20-28

AN ORDINANCE AMENDING SECTIONS 2.08.010, 2.08.110, AND 2.08.220 OF THE OLATHE MUNICIPAL CODE PERTAINING TO THE CITY EMERGENCY OPERATION ACT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Section 2.08.010 of the Olathe Municipal Code is hereby amended to read as follows:

“2.08.010 Title. This ~~Act~~ Chapter shall be known as the “City Emergency Operation ~~Act~~ Ordinance.”

SECTION TWO: Section 2.08.110 of the Olathe Municipal Code is hereby amended to read as follows:

“2.08.110 Powers of Mayor and City Manager.

During any state of disaster emergency declared under this ~~Act~~ Chapter, the City Manager shall be commander of all forces available for emergency duty and shall delegate or assign command authority pursuant to the Emergency Operations Plan.

(A) The Mayor may in the interest of public safety and welfare make any or all of the following orders or actions:

(1) Order the discontinuance of the sale of beer or liquor by any establishment in the City.

(2) Order the discontinuance of selling, distributing, transporting, or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(3) Order that no person shall possess, transport, or consume any alcoholic beverages in a public street or place which is publicly owned or in any motor vehicle driven or parked thereon which is within a duly designated restricted area.

(4) Order that no person shall carry or possess any rock, bottle, club, brick, explosive, combustibles, or weapon, who uses or intends to use the same unlawfully against the person or property of another.

(5) Order that no person shall make, carry, possess, or use any type of "Molotov Cocktail," gasoline or petroleum-base fire bomb or other incendiary missile.

(6) Order law enforcement officer or City employee to confiscate any items, including alcoholic beverages, explosives, weapons, and combustibles, which other orders prohibits possession thereof.

(7) Order suspension of the quorum requirement under K.S.A. 12-3002 and Charter Ordinance No. 28 needed to hold a City Council meeting due to the unavailability or death of any member(s) of the City Council after a good faith effort to find such member(s).

(8) Issue such other orders as are imminently necessary for the protection of life and property.

(B) The City Manager may in the interest of public safety and welfare make any or all of the following orders or actions:

(1) Direct and compel the evacuation of all or part of the population from any area of the City stricken or threatened by a disaster, if the City Manager deems this action necessary for the preservation of life or other disaster mitigation, response or recovery.

(2) Prescribe routes, modes of transportation and destinations in connection with such evacuation.

(3) Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premise therein.

(4) Order that no person shall enter any area designated by City Manager as a restricted area unless in the performance of official duties or with written permission from any City employee or such person shall prove residence therein.

(5) Order the suspension of the confinement time period for animals picked up by City employees in order for the animals to be destroyed immediately if the capacity of the City animal shelter is full and said animals shall be destroyed in a humane fashion and to order animals, if found to be roaming in pack of four or more in the City, to be destroyed immediately and in any manner based upon the law enforcement officer's discretion.

(6) Order suspension of any or all provisions of any rule, resolution, or Ordinance necessary for the immediate and effective response of City and/or City employees to the local disaster emergency, including the right to acquire needed supplies and equipment by any means necessary provided that compensation shall be paid under Section Eight hereof.

(7) Transfer the supervision, personnel or functions of the City departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.

(8) Commandeer or utilize any private property if the City Manager finds such action necessary to cope with the disaster, subject to any applicable requirements for compensation.

(9) Issue such other orders as are imminently necessary for the protection of life and property.

The City Council, through the majority of the remaining members, may rescind or amend any order issued by the Mayor and/or City Manager at any time under this section."

SECTION THREE: Section 2.08.180 of the Olathe Municipal Code is hereby amended to read as follows:

"2.08.180 Liability.

Pursuant to K.S.A. 48-915, and any amendment thereof, neither the City, its employees, members of the City Council, employees from other cities or county, or volunteers, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer worker, or any City employees engaged in emergency operations activities. The foregoing shall not affect the right of any person to receive benefits or compensation to which he or she might otherwise be entitled under the workmen's compensation law or any pension law or any act of congress. Upon a declaration of a local disaster emergency, neither the City nor, except in cases of willful misconduct, gross negligence or bad faith, the employees, agents of the City nor any volunteer workers, or employees from other cities or counties, complying with or reasonably attempting to comply with this ~~act~~ chapter, or any proclamation, order, rules, regulations or the Emergency Operations Plan adopted pursuant to the provisions of this Ordinance relating to blackout or other precautionary measures enacted by the City, shall be liable for the death of or injury to persons, or for damages to property, as a result of any such activity performed during the existence of such state of local disaster emergency."

SECTION FOUR: Section 2.08.220 of the Olathe Municipal Code is hereby amended to read as follows:

"2.08.220 Violation and Penalties. ~~The violation of~~ Any person who intentionally violates any provision of this ~~act~~ Chapter or any rule, regulations, or plan adopted under this ~~act~~ Chapter or any lawful order or proclamation issued under authority of this ~~Ordinance~~ Chapter, whether pursuant to a proclamation declaring a state of local disaster emergency may incur a civil penalty in an amount not to exceed \$2,500 per violation ~~shall constitute an Unclassified Public Offense. The sentence shall be a definite term of confinement in jail which shall not exceed one hundred eighty days (180) days, or a fine to be at least Two Hundred Fifty Dollars and not to exceed One Thousand Dollars, or both.~~"

SECTION FIVE: Existing Sections 2.08.010, 2.08.110, 2.08.180, and 2.08.220 are hereby repealed.

SECTION SIX: This Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

PASSED by the Governing Body this _____ day of _____, 20__.

SIGNED by the Mayor this _____ day of _____, 20__.

Mayor

ATTEST:

City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.