

EMERGENCY MANAGEMENT AND SERVICES ORDINANCE

WHEREAS, O.C.G.A. §§ 38-3-27 through 38-3-28 and 38-3-54 through 38-3-56 authorizes the City of Tucker to provide emergency management within the City; and

WHEREAS, the city governing authority believes that an ordinance should be adopted to protect the health and safety of persons and property during an emergency or disaster resulting from manmade or natural causes.

WHEREAS, the Georgia Emergency Management Agency is the state agency assigned responsibility for the coordination of all organizations for emergency management activities within this state; and

WHEREAS, the DeKalb County Emergency Management Agency is an established emergency management agency; and

WHEREAS, to ensure an effective and coordinated response to disasters the City of Tucker wishes to coordinate emergency management activities and response with the Georgia Emergency Management Agency and the DeKalb County Emergency Management Agency.

NOW THEREFORE BE IT ORDAINED by the authority invested in the Mayor and City Council of the City of Tucker, Georgia as follows:

SECTION ONE

The Code of Ordinances of the City of Tucker is hereby amended to create a new Chapter 12, Emergency Management and Services, to read as follows:

“Chapter 12, Emergency Management and Services

Sec. 12-1.

Emergency management and response powers.

(a) *Declaration of local emergency.*

- (1) *Grant of authority.* In the event of an actual or threatened occurrence of a disaster or emergency, which may result in the large-scale loss of life, injury, property damage or destruction or in the major disruption of routine community affairs, business or governmental operations in the city and which is of sufficient severity and magnitude to warrant extraordinary assistance by federal, state and local departments and agencies to supplement the efforts of available public and private resources, the Mayor may declare a local emergency for the City of Tucker. The form of the

declaration shall be similar to that provided in subsection (b) of this Code section.

- (2) *Request for state assistance.* Consistent with a declaration of local emergency, the Mayor may request the Governor to provide assistance, provided that the disaster or emergency is beyond the capacity of the city to meet adequately and state assistance is necessary to supplement local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster.
- (3) *Continuance.* The declaration of local emergency shall continue until the Mayor finds that emergency conditions no longer exist, at which time, the Mayor shall execute and file with the City Clerk a document marking the end of the state of emergency. No state of local emergency shall continue for longer than 30 days, unless renewed by the Mayor. The city governing authority may, by resolution and in accordance with the city charter, end a state of local emergency at any time.
- (4) *Effect of declaration of local emergency.*
 - a. *Activation of emergency operations plan.* A declaration of emergency by the Governor or a declaration of local emergency by the Mayor shall automatically activate the local emergency operations plan and shall be authority for the 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.
 1. The City Manager and designees shall have the legal authority to exercise the powers and discharge the duties conferred by law, including the implementation of the applicable local emergency operations plan, coordination of the emergency responses of public and private agencies and organizations, coordination of recovery efforts with county, state and federal officials, and inspection of emergency or disaster sites.
 2. In responding to the emergency and conducting necessary and appropriate survey of the damages caused by the emergency, the City Manager or designee is authorized to enter at a reasonable time upon any property, public or private, for the purpose of evaluating sites involved with emergency management functions to protect the health, safety, and welfare of the public.

3. The City Manager or designee is authorized to execute a right of entry and/or agreement to use property for these purposes on behalf of the city; however, any such document shall be later presented for ratification by the city governing authority.
 4. 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 health, safety, or welfare of the public, 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. *Emergency powers.* Following a declaration of emergency and during the continuance of such state of emergency, the Mayor is authorized to implement local emergency measures to protect life and property or to bring the emergency situation under control. In exercising this authority, the Mayor may cause to become effective any of the sections of this chapter as appropriate. If any of these sections is included in a declaration of local emergency, the same shall be filed in the office of the City Clerk and shall be in effect until the declaration of local emergency has terminated.
- c. *Authority to waive procedures and fees.* Pursuant to a declaration of emergency, the city governing authority is authorized to cause to be effective any of the subsections of section 12-3 of this chapter as appropriate. The implementation of such subsections shall be filed in the office of the City Clerk.
- d. *Additional emergency powers.* The Mayor shall have and may exercise for such period as the declared emergency exists or continues, the following additional emergency powers:
1. To 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;
 2. To prescribe routes, modes of transportation and destinations in connection with evacuation;
 3. To make provision for the availability and use of temporary emergency housing, emergency shelters and/or emergency medical shelters.

4. To transfer the direction, personnel or functions of any city departments and agencies or units thereof for the purpose of performing or facilitating emergency services;
5. To utilize all available resources of the city and subordinate agencies over which the city has budgetary control as reasonably necessary to cope with the emergency or disaster;
6. To utilize 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;
7. To suspend any law, code provision or regulation prescribing the procedures for conduct of city business, or the orders, rules or regulations of any city agency, 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, provided that such suspension shall provide for the minimum deviation from the requirements under the circumstances and further provided that, when practicable, specialists shall be assigned to avoid adverse effects resulting from such suspension;
8. To 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;
9. To 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.

(b) *Form of declaration.* Upon the declaration of local emergency, 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 citizens 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 and any sections of this chapter which shall be in effect.

“DECLARATION OF LOCAL EMERGENCY

WHEREAS, the City of Tucker, Georgia has experienced an event of critical significance as a result of *[DESCRIPTION OF EVENT]* on *[DATE]*; and

WHEREAS, in the judgment of the Mayor of the City of Tucker, 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 Tucker, 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;

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.

WHEREFORE, IT IS ORDERED:

- (1) That the applicable local emergency operations plan is hereby activated;
- (2) That the following sections of the City of Tucker Code be implemented: *[If deemed appropriate, choose from the following: Section 12-4, Overcharging; Section 12-5, Registration of Building and Repair Services; Section 12-6, Closed or Restricted Areas and Curfews];* and
- (3) That the following measures also be implemented: *[If deemed appropriate, select items from Section 12-1(a)(4)c, d or such other measures as appropriate.]*

ENTERED at *[TIME]* on *[DATE]*.

[Signed]

Mayor, City of Tucker.”

- (c) *Contracts with local governments.* In addition to the normal agreements embodied in the applicable local emergency operations plan for mutual emergency assistance, the city may contract with any municipality or county for the administration of a local emergency response program.

Sec. 12-2. Enforcement and remedies.

- (a) *Law enforcement.* In accordance with O.C.G.A. § 38-3-4, law enforcement for the city shall be authorized to enforce the orders, rules and regulations

contained in this chapter and/or implemented by the City Manager (see Sec. 12-1 (a)(4)a.1.) or local governing authority during a declared emergency.

- (b) *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 City Manager (see Sec. 12-1 (a)(4)a.1.) or local governing authority upon or after the declaration of an emergency shall constitute a violation of the provisions of this chapter. Any person who violates any provision in this chapter shall, upon conviction thereof, be punishable by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding 180 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.
- (c) *Injunctive relief.* In accordance with O.C.G.A. § 38-3-5, in addition to the remedies prescribed in this section, the City is authorized to obtain an injunction to restrain violation of laws, code sections, orders, rules and regulations which are contained in the Georgia Emergency Management Act and/or this code, and/or which are implemented by the local governing authority during a declared emergency.
- (d) *Enforcement.* Except as otherwise provided in this chapter, this ordinance may be enforced by law enforcement and code enforcement for the city.

Sec. 12-3. Authority to waive procedures and fee structures.

- (a) *City business.* Upon declaration of an emergency or disaster by the Governor or Mayor, 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 governing authority 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 governing body without regard to or compliance with time-consuming procedures and formalities otherwise required by law. Where reasonably possible, public meetings shall be called in compliance with the Georgia Open Meetings Act, particularly O.C.G.A. § 50-14-1, and may be held on an emergency basis or telephonically as provided in that statute, as it may be amended from time to time.
- (b) *Public works contracts.* Upon declaration of an emergency or disaster by the Governor or Mayor, the city 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). Any E-Verify affidavit or other state required affidavit shall be obtained from any contractor if otherwise required by law.

- (c) *Purchasing.* Upon declaration of an emergency or disaster by the Governor or Mayor, the purchasing ordinances, regulations or policies may be suspended. City officials shall continue to seek to obtain the best prices during the state of local emergency.
- (d) *Code enforcement.* Upon declaration of a state of emergency or disaster by the Governor or the Mayor, the city governing authority 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 or disaster by the Governor or the Mayor, the city may temporarily reduce or suspend any permit fees, application fees or other rate structures as necessary to encourage the rebuilding of the areas impacted by the disaster or emergency. The term “fees” include 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 clean up 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 or disaster by the Governor or Mayor, the city or its designees may issue permits for temporary mobile home, trailer, recreational vehicle or other temporary dwelling structures or parks in any zoning district, even though not otherwise permitted by development code, while the primary dwelling is being repaired. The temporary permit shall not exceed six months in duration. Upon expiration of the temporary permit and/or extension, the temporary dwelling must be removed.

Sec. 12-4. Overcharging.

It shall be an unlawful, unfair, and deceptive trade practice for any person, firm, or corporation doing business in any area in which a state of emergency, as such term is defined in O.C.G.A. § 38-3-3 or by the city has been declared, for as long as such state of emergency exists, to sell or offer for sale at retail any goods or services necessary to preserve, protect, or sustain the life, health, or safety of persons or their property at a price higher than the price at which such goods were sold or offered for sale immediately prior to the declaration of a state of emergency, provided, however, that such price may be increased only in an amount which accurately reflects an increase in cost of the goods or services

to the person selling the goods or services or an increase in the cost of transporting the goods or services into the area.

Sec. 12-5. Registration of building and repair services.

- (a) In accordance with O.C.G.A. § 38-3-56, before building, constructing, repairing, renovating or making improvements to any real property, including dwellings, homes, buildings, structures or fixtures within an area in the city designated in a declared emergency or disaster, any person, firm, partnership, corporation or other entity must register with the city clerk and secure a building permit that is posted at the work site. Each day any such entity does business in the city without complying with this ordinance constitutes a separate offense.
- (b) The cost of registration fees in a declared emergency or disaster is fixed at \$50.00 per annum. Registration is nontransferable. The cost of the emergency building permit shall be equal to the cost for a building permit under existing regulations. The permit shall only be authorized for repairs.
- (c) When registering, any person, partnership, corporation or other entity making application must, under oath, complete an application, providing the following information:
 - (1) Name of applicant;
 - (2) Permanent address and phone number of applicant;
 - (3) Applicant's Social Security number or federal Employer Identification number;
 - (4) If applicant is a corporation, the state and date of incorporation;
 - (5) Tag registration information for each vehicle to be used in the business;
 - (6) List of cities and/or counties where the applicant has conducted business within the past 12 months;
 - (7) Georgia sales tax number or authorization;
 - (8) Georgia business license number, if required.
 - (9) Copy of license from Secretary of State, if required.
 - (10) A signed and sworn affidavit verifying the applicant's legal presence in the United States as required by O.C.G.A. § 50-36-1.
 - (11) At least one secure and verifiable document as defined in O.C.G.A. § 50-36-2.
- (d) *Effective date.* This section shall become effective only upon the signing of a declaration of emergency, stating this section is in effect. Unless otherwise specified in the declaration of emergency or otherwise extended by the city governing authority, the provisions of this Code section shall remain in effect

during the state of emergency and for a subsequent recover period of three months.

Sec. 12-6. Closed or restricted areas and curfews during emergency.

- (a) 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 until the curfew is lifted.
- (b) To promote order, protect lives, minimize the potential for looting and other crimes, and facilitate recovery operations during an emergency, the Mayor shall have discretion to impose reentry restrictions on certain areas. The Mayor shall exercise such discretion in accordance with the applicable local emergency operations plan, which shall be followed during emergencies.
- (c) 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 an emergency management agency (EMA);
 - (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;
 - (10) Other authorized and essential persons as designated on a list compiled by the City Manager (see Sec.12-1 (a)(4)a.1.).
- (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.

SECTION TWO

- A. Severability Clause. It is the express intention of the Mayor and City Council that each independent provision of this ordinance should be adopted, and the Mayor and City Council would have adopted each such independent provision even if the others had not been adopted. Therefore, in the event that a court of competent jurisdiction finds any provision of this ordinance to be unlawful, invalid or unenforceable, it is the intent of the Mayor and City Council that the offending provision be severed, and all lawful provisions remain in force. In the event that any provision of this ordinance is found to be overly broad by a court of competent jurisdiction, it is the intent of the Mayor and City Council that the court apply the broadest legally permissible interpretation of such provision.
- B. General Repealer. Any ordinance not expressly addressed by this ordinance that is inconsistent with the provisions of this ordinance is expressly repealed to the extent that it conflicts with this ordinance.
- C. Effective Date. The public welfare demanding, this ordinance shall be effective immediately after its adoption.

So ordained this 18th day of March, 2020.

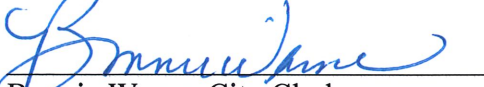
City of Tucker, Georgia



Frank Auman, Mayor



Attest:



Bonnie Warne, City Clerk