

CITY OF TOLEDO

ORDINANCE NO. 1338A

AN ORDINANCE ADOPTING CHAPTER 2.40 OF THE TOLEDO MUNICIPAL CODE PROVIDING FOR DECLARATION OF EMERGENCIES, AUTHORIZING THE EMERGENCY PROGRAM DIRECTOR TO ORDER MEASURES IN RESPONSE TO EMERGENCIES; AND, DECLARING AN EMERGENCY.

WHEREAS, an emergency or disaster affecting the lives and property of the citizens of the City of Toledo is a future event likely to occur; and

WHEREAS, the preparation, mitigation, training and recovery functions of the city are essential to responding to such emergencies and disasters in order to minimize loss of life and property, and restore essential city functions; and

WHEREAS, the City of Toledo desires to add the following provisions to the Code to ensure an efficient response by city personnel to such emergencies or disasters; and

WHEREAS, a declaration of a state of emergency pursuant to ORS 401.165 and 401.309 qualify the city to receive county, state and federal emergency assistance,

NOW THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:

SECTION 1.

Sections 2 through 10 of this Ordinance are added to and made a part of the Toledo Municipal Code, Chapter 2.40, as indicated.

SECTION 2.

2.40.010 Purpose

The purposes of this chapter are to:

A. Provide for the preparation, mitigation, training and recovery functions for the city; to carry out plans for the protection of persons and property within this city in the event of an emergency; the direction of the emergency management organization; and for the coordination of the emergency functions of this city with all other public agencies, corporations, organizations and affected private persons; for the agency created herein to lead, coordinate and direct during times of emergency; and

B. Implement applicable provisions of ORS Chapter 401.

SECTION 3.

2.40.020 Creation of emergency management agency

A. Pursuant to ORS 401.305 there is hereby created within the city an emergency management agency to be under the direction of the emergency program director.

B. The emergency management agency shall, in addition to the emergency program director, be staffed by such employees of the various departments of the city as may be designated by the emergency program director pursuant to the emergency management plan as provided in TMC 2.40.070.

C. The definitions set forth in ORS 401.025 apply to terms used in this title, unless otherwise defined herein.

D. The emergency program director shall be the city manager or, in the absence of the city manager, the person designated to succeed the city manager in the emergency management plan as provided in TMC 2.40.070.

SECTION 4.

2.40.030 Definitions

For purposes of this chapter, the following definitions apply:

A. "Disaster " means an occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from, but not limited to any natural, technological or human-made cause, including fire, flood, earthquake, windstorm, wave action, oil spill or other contamination, radioactive incident, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile or paramilitary action, or structure failure of a dam, building or infrastructure, or other public calamity requiring emergency action.

B. "State of emergency" means a situation which involves an emergency or a disaster. Generally, a state of emergency is a declaration by governing officials that an emergency situation exists and that extraordinary measures are required to preserve the peace or safety for the public.

SECTION 5.

2.40.040 Emergency program director

The city manager is designated as the city of Toledo emergency program director.

A. The emergency program director may appoint an emergency management coordinator to serve as his or her deputy and to coordinate the preparation, mitigation, preparedness, recovery efforts and training of the emergency management plan and the operation of the city emergency operations center.

B. The city emergency program director shall be responsible for the development of the city emergency plan which shall provide for the effective mobilization of all of the resources of the city, both public and private, to meet any condition constituting a local emergency, and shall provide for the organization, powers and duties, services and staff of the emergency organization.

SECTION 6.

2.40.050 Declaration and ratification of emergency

A. The declaration by the emergency program director shall:

1. State the nature of the emergency.
2. Designate the geographical boundaries of the area subject to the emergency controls.
3. State of the duration of time during which the area so designated shall remain an emergency area.
4. State any special regulations imposed as a result of the state of emergency.

B. The ratification by the council may also authorize additional specific emergency powers for the duration of the emergency period set forth in the declaration.

SECTION 7.

2.40.060 Powers and duties of the emergency program director

The emergency program director is empowered to:

A. Request the city council to pass a resolution proclaiming the existence or threatened existence of a "local emergency" or to issue such proclamation if the city council is not reasonably available. Whenever a local emergency is proclaimed by the emergency program director, the city council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect.

B. Request the Governor, in coordination with the counties and appropriate state agencies, to proclaim a "state of emergency" when, in the opinion of the emergency program director, the locally available resources are inadequate to cope with the emergency.

C. Control and direct the effort of the emergency management agency of this city for the accomplishment of the purposes of this chapter.

D. Direct cooperation between and coordination of services and staff of the emergency organization of this city, and resolve questions of authority and responsibility that may arise between them.

E. Represent this city in all dealings with the public or private agencies on matters pertaining to emergencies as defined in ORS 401.025(1).

F. In the event of the proclamation of a "local emergency" as provided in this section and declared by the city council in accordance with subsection A herein, the proclamation of a "state of emergency" by the Governor or the existence of a "state of war emergency," the emergency program director is empowered, to the extent lawfully permissible:

1. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council;

2. To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the city for the fair value thereof and, if required immediately, to commandeer the same for public use;

3. To require emergency services of any city officer or employee and, in the event of the proclamation of a "state of emergency" in Lincoln County or the existence of a "state of war emergency," to enlist the aid of as many citizens of this community as he or she deems necessary in the execution of his or her duties; such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered emergency service workers;

4. To requisition necessary personnel or material of any city department or agency;

5. To redirect city funds for emergency use and suspending standard city procurement procedures;

6. To establish a curfew which fixes the hours during which all persons other than officially authorized personnel may not be upon the public streets or other public places;

7. To prohibit or limit the number of persons who may gather or congregate upon any public street, public place, including any indoor place, or any outdoor place. These limits and prohibitions shall include private property;

8. To barricade streets, prohibiting vehicular or pedestrian traffic, or regulate such traffic on any public street leading to the emergency area for such distance as may be deemed necessary under the circumstances;

9. To order mandatory evacuation of persons, which shall be enforceable by peace officers, fire officials, and firefighters;

10. To curtail or suspend commercial activity, including activity of public or private schools;

11. To order such other measures as are necessary for the protection of the public health, safety or welfare, or for the recovery from the emergency; and

12. To execute all of his or her ordinary power as city manager, all of the special powers conferred upon him or her by this chapter or by resolution or emergency plan pursuant hereto, all powers conferred upon him or her by ORS Chapter 401, by any agreement approved by the city council, and by any other lawful authority.

G. The city manager may delegate authority to order the measures described in subsections (F)(4) and (F)(5) of this section to city personnel in the plan developed as provided in TMC Section 2.40.070.

H. Within ten days of the date of the order, any person aggrieved by an emergency order may request a hearing before the municipal court to determine whether issuance of the order was an abuse of discretion. The municipal court shall hear the matter within thirty days of the request for hearing. The hearing shall be summary in nature and shall not be subject to the Oregon rules of evidence. The case shall be heard by the judge, only, without jury. The only issue for the court is to determine whether or not the emergency order was an abuse of discretion. If the court finds that there is no abuse of discretion in issuing the order, the order shall be affirmed. In the event that the court finds that the issuance of the order was an abuse of discretion, the court shall invalidate the order.

SECTION 8.

2.40.070 Emergency management plan

A. The city manager shall develop and revise from time to time a plan for response to emergencies directly or indirectly involving the city; and for provision of emergency services, both directly and in coordination with other public and private agencies.

B. Such plan shall include provisions for temporary reassignment of city personnel, equipment and supplies to emergency services functions under lines of authority designated in the plan; for the emergency acquisition of necessary equipment, materials and services; and for the assignment of duties relating to pre-planning, training, and ongoing support for the emergency management agency.

SECTION 9.

2.40.080 Expenditures

Any expenditure made in connection with emergency activities, including mutual-aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the city.

SECTION 10.

2.40.090 Violations-Penalties

It shall be a Class A infraction during a state of emergency to:

A. Willfully obstruct, hinder or delay any member of an emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him or her by virtue of this chapter.

B. Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if the act is of such nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives and property of inhabitants of this city, or to prevent, hinder or delay the defense or protection thereof.

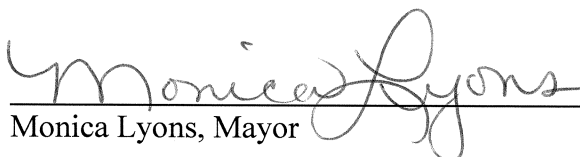
SECTION 11.

This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

APPROVED AND ADOPTED by the City Council of the City of Toledo, Oregon on this 2nd day of March, 2011:

APPROVED by the Mayor of the City of Toledo, Oregon, on this 2nd day of March, 2011.

APPROVED



Monica Lyons, Mayor

ATTEST:



Nancy Bryant, City Recorder