

ORDINANCE NO. 738

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AMENDING CHAPTER 2.35 OF THE UNIVERSITY PLACE MUNICIPAL CODE; RELATING TO EMERGENCY MANAGEMENT

WHEREAS, disasters and emergencies may disrupt or destroy existing systems upon which we depend, and thus would diminish the capability of the City of University Place to respond to protect life, public health and public property; and

WHEREAS, it is appropriate for the City of University Place to be prepared and equipped to handle emergencies, and to be able make effective use of personnel, resources, and facilities for dealing with emergencies or disasters; and

WHEREAS, an identified Emergency Management plan would provide the City with a method to address the City's preparedness for handling and responding to disasters and emergencies, and assisting citizens to be prepared in the case of disasters and emergencies; and

WHEREAS, a "Comprehensive Emergency Management Plan" (CEMP) is required by RCW 38.52.070; and

WHEREAS, the City originally implemented emergency management provisions within its municipal code and it is appropriate to reexamine and update those provisions.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment of Chapter 2.35 UPMC. Chapter 2.35 of the University Place Municipal Code is amended as set forth on Exhibit A to this Ordinance.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk or the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 3. Severability. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 4. Savings. No offense committed, no declaration of emergency or ratification thereof, no emergency order issued, no penalty or forfeiture incurred prior to the effective date of this Ordinance, nor any proceeding undertaken to enforce this Ordinance, nor any actions to safeguard public health, public safety public property or the public peace shall be affected by this Ordinance and the same shall proceed in all respects as if this Ordinance had not been enacted. Furthermore, any act, claim or action undertaken pursuant to any provision of this Section is not intended to be lost, impaired or affected by this Ordinance.

Section 5. Effective Date. This Ordinance will be shall be in full force and effect five (5) days after publication of the Ordinance Summary.

PASSED BY THE CITY COUNCIL ON DECEMBER 7, 2020.


Caroline Belleci, Mayor

ATTEST:



Emma J. Genetia, City Clerk

APPROVED AS TO FORM:



Matthew S. Kaser, City Attorney

Publication Date: 12/09/20
Effective Date: 12/14/20

EXHIBIT A

Chapter 2.35

EMERGENCY MANAGEMENT

Sections:

[2.35.010](#) Purpose.

[2.35.020](#) Policy.

[2.35.030](#) Definitions.

[2.35.040](#) Organization.

[2.35.050](#) Plan and program.

[2.35.055](#) ~~Disaster and Emergency Powers of the City Manager~~

[2.35.060](#) Director – Emergency management responsibilities.

[2.35.070](#) ~~Chain of command~~~~Incapacity of Manager, Director and Deputy Director.~~

[2.35.080](#) ~~Director – Emergency powers.~~

[2.35.090](#) Private liability.

[2.35.100](#) Penalty.

2.35.010 Purpose.

The purposes of this chapter are to provide for the preparation and carrying out of plans for emergency mitigation, preparedness, response, prevention and recovery for persons and property within the city in the event of an emergency or disaster. Additionally, the purpose is to provide for the coordination of emergency functions and services of the city with other public agencies and affected private persons, corporations and organizations. Any expenditures made in connection with such emergency management 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 of University Place.

2.35.020 Policy.

It is the policy of the city to make effective preparation for and use of ~~manpower~~personnel, resources, and facilities to deal with any emergency or disaster that may occur. Emergencies and disasters by their very nature may disrupt or destroy existing systems and the capability of the city to respond to protect life, public health, public and private property and to provide essential city services. Therefore, citizens are advised to be prepared to be on their own for up to ~~72 hours~~fourteen (14) days should an emergency or disaster occur.

2.35.030 Definitions.

A. "Emergency" or "disaster" shall mean an event or set of circumstances which: (1) demands immediate attention to preserve public health, protect life, protect public property, or to provide relief to any stricken neighborhood overtaken by such occurrences, or (2) reaches such a dimension or degree of destructiveness as to warrant the ~~emergency services director~~a proclaiming proclamation of the existence of a disaster or the Governor declaring a state of emergency in accordance with appropriate local or state statute.

B. "Emergency management" shall mean the preparation for and the carrying out of all emergency functions, other than those for which the military forces are primarily responsible, to mitigate, prepare for, respond to and recover from emergencies and disasters, and to aid victims suffering from injury or property

damage resulting from disasters caused by all hazards, whether natural or manmade, and to provide support for search and rescue operations for persons and property in distress.

C. "Director of Emergency Management" or "Director" means the person appointed by the City Manager who is responsible for the administration and operation of the emergency management program for the City of University Place. "Emergency management director" shall mean the city manager or authorized designee.

D. "Deputy Director of Emergency Management" means the person appointed by the City Manager to represent the Director in his/her absence.

E. "City Manager" means the City Manager of the City of University Place or such other person who may be discharging the duties of the City Manager.

F. "Emergency Management Plan," shall refer to the "Comprehensive Emergency Management Plan" (CEMP) required by RCW 38.52.070.

2.35.040 Organization.

A. The Emergency Management organization of the City of University Place is hereby created, and shall consist of:

1. The City Manager, who shall be the administrative head and have direct responsibility for the organization, administration and operation of the emergency management program for the City of University Place and direct responsibility for the emergency operations of departments of the City of University Place;

2. The Director who shall be appointed by the City Manager, and who shall develop and maintain the emergency management plan and program of the City of University Place, and shall have such other duties as may be assigned to him/her by the City Manager;

3. A Deputy Director, who shall be appointed by the City Manager, and who shall perform such functions as outlined in the emergency management plan and shall act for and exercise the powers and perform the duties of the Director during his/her absence or disability;

4. Compensated members of the emergency management organization, if appropriate; and

5. Such other individuals whom the City Manager deems necessary.

B. The City of University Place may form its own Department of Emergency Management, or it may contract pursuant to Chapter 39.34 RCW for emergency management services with one or more political subdivisions which have an approved emergency management program in accordance with Chapter 38.52 RCW.

The emergency management organization of the city shall include a disaster and emergency management team. The team shall be comprised of the city manager who shall serve as emergency management director; the deputy city manager; the community development director; the community services director; the city attorney; and the city clerk.

2.35.050 Plan and program.

The City Manager and the Director are authorized to develop and implement an emergency management plan for the City of University Place. The emergency management plan so developed shall be the official emergency management plan of the City of University Place. The Director shall file a copy of said plan in the office of the City Clerk and shall distribute copies of said plan to appropriate city departments. The City Manager is further authorized to assign to the various departments and to the officers and employees of the City the functions, duties and powers set forth in the emergency management plan.

The emergency management director shall update the emergency management plan and program for the city no later than December 31, 2001. The emergency management plan and program shall be submitted to the city council to receive and file. The plan and program shall also be transmitted to the director of the Department of Community, Trade and Economic Development for certification of consistency with the state

~~comprehensive emergency management plan. Upon receipt by the city council and certification by the state, the emergency management plan and program shall become the official emergency management plan of the city.~~

2.35.055 Disaster and Emergency Powers of the City Manager

In the event of an emergency or disaster as defined herein, or upon the proclamation of a state of emergency by the Governor covering the region in which the City of University Place is located, the City Manager is hereby empowered:

A. To proclaim the existence of an emergency, as authorized by local and state statute, and to report the facts concerning the emergency to the City Council at the earliest practical time;

B. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, such rules and regulations are confirmed at the earliest practical time by the City Council.

C. Upon the proclamation of a state of emergency and prior to terminating such, may issue an order or orders concerning waiver or suspension of obligations or limitations for those regulatory obligations or limitations if strict compliance with the provision of any municipal code provision, ordinance, resolution, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the disaster or emergency. This waiver or suspension may extend to include fees imposed under the City's fee schedule. A waiver or suspension of such obligations under this subsection is not allowed in those circumstances where either (1) authority to waive or suspend a specific statutory or regulatory obligation or limitation has been expressly granted to another agency or the City Council; (2) the waiver or suspension would conflict with requirements that are a prescribed condition to the allocation of funds to the City; (3) conflict with any provision of State or Federal law; or (4) the municipal code or other legislation of the City expressly precludes a waiver. Any orders issued under this subsection must be confirmed by the City Council at the earliest practical time.

D. To obtain vital supplies, equipment and such other property found lacking and needed for the protection of the life and property of the people and to bind the City of University Place for the fair value thereof, and, if required immediately, to appropriate the same for public use.

E. To control and direct the efforts of the emergency management organization of the City of University Place for the accomplishment of the purposes of this chapter;

F. To delegate to individuals, as necessary, the authority to accomplish specific or general emergency actions in conduction with the emergency response;

G. To require emergency services of any City employee, or to reassign the duties of any City officer or employee which the code may delegate to a specific officer or employee, unless prohibited by either State law or professional licensing or credentialing requirements, to enlist the aid of as many citizens of the City of University Place as may be deemed necessary in the execution of the Director's duties, and such persons to be entitled to all privileges, benefits and immunities as are provided by State law for registered emergency workers;

H. To requisition necessary personnel or material of any city department or agency; and,

I. To execute all of the special powers conferred upon the City Manager by this chapter, by any other statute, agreement or lawful authority, as necessary.

2.35.060 Disaster and Emergency Powers of the Director.Director — Emergency management responsibilities.

The Director is hereby empowered:

A. To request the City Manager to proclaim the existence or threatened existence of an emergency and the termination thereof, or to issue such proclamation, if the City Manager is not available, subject to confirmation by the City Manager at the earliest practical time;

B. To direct coordination and cooperation between divisions, services and staff of the departments of the City of University Place and other governmental agencies in carrying out the provisions of the emergency management plan, and to resolve questions of authority and responsibility that may arise between them;

C. To recommend for adoption by the City Manager or City Council, as appropriate, emergency management plans and mutual aid agreements;

D. To act on behalf of the City Manager if he/she is unable to carry out his/her duties, in accomplishing the purposes of this chapter or the provisions of the emergency management plan;

E. To represent the emergency management organization of the City of University Place in dealing with issues pertaining to emergency management; and

F. To prepare and maintain the emergency management plan of the City of University Place and to manage the day-to-day responsibilities of the emergency management program activities of the City of University Place.

~~The emergency management director (the city manager or designee as set forth below) has direct responsibility for the organization, administration and operation of the emergency management plan for the city. The emergency management director is responsible for directing the emergency operations of departments of the city of University Place. The emergency management director shall have such other duties as may be assigned to the director by the city council. The emergency management director is hereby empowered:~~

~~A. To request the city council, if the city council is in session, to proclaim the existence of or threatened existence of a disaster or an emergency, and the termination thereof. If the city council is not in session, to issue a proclamation declaring the existence of a disaster or an emergency, subject to confirmation by the city council at the earliest practical time; and~~

~~B. To direct coordination and cooperation between the staff of the departments and services of the city in carrying out the provisions of the emergency management plan and program, and to resolve questions of authority and responsibilities that may arise between them; and~~

~~C. To develop and implement appropriate mutual aid agreements.~~

2.35.070 -Chain of command Incapacity of Manager, Director and Deputy Director.

The City Manager is authorized to establish a line of succession or "chain of command" for the position of Director of Emergency Management to be in place in the event that if the City Manager, Director of Emergency Management and Deputy Director of Emergency Management are for any reason is unable either to act fulfill his/her duties in a disaster or emergency as emergency management director or to communicate to the disaster and emergency management team, the city manager is authorized to establish a line of succession or "chain of command" for the position of city manager/emergency management director. This line of succession shall be published in the city's emergency management plan. An acting emergency management director shall have the same authority to act as the Director.

2.35.080 Director— Emergency powers.

~~In the event of a proclamation of a disaster or emergency as provided in this chapter, or upon the proclamation of an emergency by the Governor covering the region in which the City of University Place is located, the Emergency Management Director is hereby empowered:~~

~~A. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, such rules and regulations are confirmed at the earliest practical time by the City Council.~~

~~B. Upon the proclamation of a state of emergency and prior to terminating such, may issue an order or orders concerning waiver or suspension of obligations or limitations for those regulatory obligations or limitations if strict compliance with the provision of any municipal code provision, ordinance, resolution, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the disaster or emergency. This waiver or suspension may extend to include fees imposed under the City's fee schedule. A waiver or suspension of such obligations under this subsection is not allowed in those circumstances where either (1) authority to waive or suspend a specific statutory or regulatory obligation or limitation has been expressly granted to another agency or the City Council; (2) the waiver or suspension would conflict with requirements that are a prescribed condition to the allocation of funds to the City; (3) conflict with any provision of State or Federal law; or (4) the municipal code or other legislation of the City expressly precludes a waiver. Any orders issued under this subsection must be confirmed by the City Council at the earliest practical time.~~

~~C. To delegate to individuals, as necessary, the authority to accomplish specific or general emergency actions in conduction with the emergency response.~~

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

~~E. To require emergency services of any City employee, or to reassign the duties of any City officer or employee which the code may delegate to a specific officer or employee, unless prohibited by either State law or professional licensing or credentialing requirements, to command the aid of as many citizens of the City of University Place as may be deemed necessary in the execution of the Director's duties, and such persons to be entitled to all privileges, benefits and immunities as are provided by State law for registered emergency workers.~~

~~F. To execute all of the special powers conferred upon the Director by this chapter, or by any other statute, agreement or lawful authority, as necessary.~~ **2.35.085 Emergency Authority of Mayor**

A. In addition to other authority conferred by law, this Code or the current version of the City Council's rules of procedure, upon the declaration of an emergency, the Mayor is empowered to perform the following acts:

1. Form ad hoc committees of the City Council, consisting of not more than a quorum of the entire Council, which may be necessary to meet the emergency. The Mayor shall be the chair of such committees, or if the Mayor is not willing or able to serve as chair, the Mayor may appoint a chair;

2. To waive applicable provisions of the City Council's rules of procedure which may be necessary to expeditiously conduct meetings of the City Council.

3. If warranted due to the death, disability or inability of a commissioner to serve or otherwise warranted by the nature of the emergency, to appoint provisional members of citizen advisory committees established pursuant to chapter 1.35 UPMC. Such appointments may exceed the total membership of a commission established by chapter 1.35 UPMC. Unless independently confirmed pursuant to the procedures set forth in chapter 1.35 UPMC or otherwise set forth in either the order terminating the emergency or the order provisionally appointing the commissioner, provisional appointments of commissioners shall lapse at the conclusion of the emergency.

B. All acts of the Mayor undertaken pursuant to subsection (A) are subject to confirmation by the City Council at the earliest practical time.

C. For the purposes of this Section, "Mayor," shall refer to the duly-selected Mayor of the City of University Place, or in his or her absence, death, disability or inability to serve as such, the Mayor Pro Tempore. In the absence, death, disability, or inability to serve of both the Mayor and Mayor Pro Tempore, all references to "Mayor," shall refer to the member of the City Council with the most years of service as a member of the City Council.

2.35.090 Private liability.

No individual, firm, association, corporation or other party owning, maintaining or controlling any building or 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 building or premises for the purpose of sheltering persons during an actual, impending, mock or practice emergency or disaster, or their successors in interest, or the agents or employees of any of them, shall be subject to liability for injuries sustained by any person while in or upon said building or premises as a result of any act or omission in connection with the upkeep or maintenance thereof, except a willful act of misconduct, when such a person has entered or gone into or upon said building or premises for the purpose of seeking refuge therein during an emergency or disaster or an attack by enemies of the United States or during a disaster drill, exercise or test ordered by a lawful authority.

2.35.100 Penalties.

A. It is a violation of this chapter for aAny person who shall to:

A1. Willfully obstruct, hinder, or delay any member of the emergency management organization of the City in the enforcement of any lawful rule, order or regulation issued pursuant to this chaptersection- in the performance of any duty imposed upon such member by virtue of this chaptersection; or

B2. Do any act forbidden by any lawful rules, orders or regulations issued pursuant to this chaptersection if such act is of such a nature as to imperil the lives or property of inhabitants of the City or to prevent, hinder or delay the protection thereof; or

G3. Wear, carry or display, without authority, any means of identification specified by the emergency management agency of the state ~~shall, upon conviction, be fined in a sum not exceeding \$1,000, or by imprisonment for a period not exceeding 90 days, or by both such fine and imprisonment, at the discretion of the court.~~

B. Violations of subsection (A) shall be a misdemeanor punishable by imprisonment for up to ninety (90) days in jail and by a fine of not more than one thousand dollars (\$1,000).

C. For any provision of this Code punishable as an infraction and for which a lesser penalty is set forth, if it is plead and proved that such an act either (1) imperils the lives or property of inhabitants of the City or prevents, hinders or delays the protections thereof; or (2) is related to the City's emergency response efforts, the penalty shall be raised to five hundred dollars (\$500) together with fees, costs and penalties.