

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 012-019

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS CONTINUING IN EFFECT, UNTIL TERMINATED BY ORDER OF THE CITY COUNCIL, THE STATE OF DISASTER FOR THE TOWN ORDERED BY THE MAYOR ON AUGUST 16, 2012 IN CONNECTION WITH THE IMMEDIATE DANGERS TO THE PUBLIC HEALTH, SAFETY AND WELFARE FROM THE WEST NILE VIRUS AND THE PROLIFERATION OF MOSQUITOES THAT CARRY THE SAME; PROVIDING THAT THE ADOPTION OF THIS ORDINANCE CONSTITUTES AN EMERGENCY; PROVIDING THAT THIS CONTINUATION OF A LOCAL STATE OF DISASTER SHALL BE GIVEN PROMPT AND GENERAL PUBLICITY AND BE FILED PROMPTLY WITH THE CITY SECRETARY; PROVIDING FOR THE CONTINUATION OF THE ACTIVATION OF THE TOWN'S EMERGENCY MANAGEMENT PLAN AND AUTHORIZING THE FURNISHING OF AID AND ASSISTANCE UNDER THIS CONTINUATION OF DISASTER DECLARATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 16, 2012 the Mayor of the Town of Addison, Texas ("Town") issued an order declaring a state of disaster for the Town in connection with the West Nile Virus and the dangers to the public health, safety and welfare resulting therefrom; and

WHEREAS, the said order:

- recites that Dallas County, Texas, and including the Town, is experiencing a severe outbreak of West Nile Virus ("WNV") which is transmitted primarily through the bite of an infected mosquito;
- states that as of the date of the order, there have been at least 190 human cases of (including 10 deaths resulting from) WNV in the County, including 2 cases in Addison and numerous cases and WNV positive mosquito traps in areas adjacent to Addison as set forth in a Resolution adopted by the City Council of the Town of Addison on August 14, 2012;
- provides that, in that Resolution, the City Council (i) recognized the findings and determinations regarding WNV made by the Dallas County Judge and the Texas Department of State Health Services (Texas DSHS), (ii) determined that the control of mosquitoes that carry WNV is imperative to protect the health, safety and welfare of the citizens of the City, and that (iii) authorized the Town's participation in aerial spraying for mosquito control purposes to be conducted by Texas Department of State Health Services and/or the County of Dallas in conjunction with other municipalities in Dallas County;

- concludes that, as a result of the severe and widespread WNV infestation and the immediate, ongoing and continuous threat to the public health, safety and welfare, extraordinary measures must be taken to alleviate the suffering of people and to protect or rehabilitate property; and
- declares a local state of disaster for the Town pursuant to §418.108(a) of the Texas Government Code;

and

WHEREAS, the said order of the Mayor provides that the state of disaster shall continue for a period of not more than seven days from its date (August 16, 2012) unless continued or renewed by the City Council of the Town of Addison; and

WHEREAS, the immediate concerns and emergency concerning the threat to the public health, safety and welfare resulting from the dangers of the WNV and mosquitoes that carry it within the Town, areas adjacent to the Town, and Dallas County remain and continue in place; and

WHEREAS, §418.108(b) of the Texas Government Code provides that a local state of disaster may not be continued for a period of excess of seven days without the consent of the governing body of the Town.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Continuation of State of Disaster. The state of disaster proclaimed for the Town of Addison by the Mayor on August 16, 2012 shall be and is hereby continued until terminated by order of the City Council. By executing this Ordinance, the Mayor hereby continues the local state of disaster until such termination.

Section 2. Publicity. Pursuant to §418.108(c) of the Government Code, this continuation of a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.

Section 2.12 of the Town's City Charter states in part that the City Secretary is to give notice of the enactment of every ordinance imposing any penalty, fine or forfeiture for any violation of any of its provisions, and of every other Ordinance required by law or this Charter to be published, by causing the said ordinance, or its caption and penalty, to be published at least one time within ten (10) days after final passage thereof in the official newspaper of the Town, and that such ordinance shall take effect ten (10) days after the date of such publication.

Section 418.108(c), Tex. Gov. Code, states that an order declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.

Section 418.1015(a) , Tex. Gov. Code states that the Mayor of the Town, as the presiding officer of the City Council, is designated as the emergency management director for the Town,

and Section 418.1015(b) states that the Mayor, as the emergency management director, serves as the Texas Governor's designated agent in the administration and supervision of duties under Chapter 418, Tex. Gov. Code and may exercise the powers granted to the Governor under Chapter 418 on an appropriate scale.

The Governor, in Executive Order RP32 dated January 28, 2004, stated that mayors of each municipal corporation shall serve as the Governor's designated agents in the administration and supervision of the Texas Disaster Act of 1975 (being Chapter 418, Tex. Gov. Code), and may exercise the powers, on an appropriate local scale, granted the Governor in that Act.

Section 418.016, Tex. Gov. Code, provides that the Governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

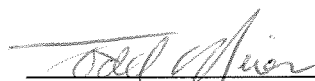
The notice provision of Section 2.12 of the City Charter, described above, is a regulatory provision prescribing the procedures for conduct of Town business, or an order or rule of the Town, that if applicable to this Ordinance may restrict this Ordinance from becoming effective until 10 days following its publication. However, such a restriction would prevent, hinder, and delay necessary action in coping with the disaster described herein and with the continuance of the declaration of disaster as set forth above. Accordingly, the requirement included in Charter Section 2.12 that an ordinance that is required by law or the Charter to be published in fact be published and that it take effect 10 days after the date of such publication is hereby suspended by the Mayor and by the City Council, and this Ordinance shall take effect as set forth below.

Section 4. Emergency Management Plan. Pursuant to §418.108(d) of the Government Code, this continuation of a local state of disaster continues the activation of the Town of Addison emergency management plan and authorizes the furnishing of aid and assistance under this continuation of the disaster declaration.

Section 5. Incorporation of Recitals. The above and foregoing recitals to this Ordinance are true and correct and are incorporated herein and made a part hereof.

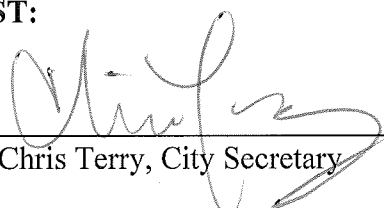
Section 6. Effective Date. This Ordinance is passed as an emergency measure and shall become effective immediately upon its passage and adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 20th day of August, 2012.



Todd Meier, Mayor

ATTEST:

By: 

Chris Terry, City Secretary

APPROVED AS TO FORM:

By: 
John Hill, City Attorney