



**RCA
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 13
AGENDA DATE: Thu 08/04/2005
PAGE: 1 of 2**

SUBJECT: Approve an ordinance repealing and replacing Chapter 2-6 of the City Code to create the Public Safety and Emergency Management Department, create an offense, and provide a maximum penalty of a \$1,000 fine or confinement in jail up to 180 days for each offense; Amending section 13-2-13(b) of the City Code relating to ground transportation passenger services enforcement; repealing sections 8-1-3, 8-1-4, 13-1-52 of the City Code; and declaring an emergency.

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Management Services **DIRECTOR'S**
DEPARTMENT: **AUTHORIZATION:** Rudy Garza

FOR MORE INFORMATION CONTACT: Rudy Garza, Assistant City Manager/974-7789; David Petersen, Assistant City Attorney/974-2518; Anita Stevenson, Assistant City Attorney/974-2421

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

The City Manager proposes the creation of a new City department called the Public Safety and Emergency Management Department. Creation of the new department will improve specialized public safety services provided at the Airport, City Parks and Recreation facilities, and City courts, integrate the Office of Emergency Management with related public safety activities and facilitate implementation of the new bargaining law.¹

The Public Safety and Emergency Management Department will be comprised of four divisions: Office of Emergency Management; Parks Public Safety Division, Airport Public Safety Division, and City Marshals Division. The three Public Safety Divisions will be comprised of the peace officers currently serving as City Marshals, Park Police, and Airport Police, who will remain in their current assignments.

The public safety services currently provided by the City Marshals, Park Police, and Airport Police will continue to be provided by the respective Divisions of the new department through service agreements with the Municipal Court, Airport, and Parks Departments. The Office of Emergency Management will continue to maintain the Emergency Operations Center, provide emergency and disaster management services, and provide homeland security planning and preparedness.

A related ordinance transferring FTE's and amending the current operating budget is also on the August 4, 2005 agenda.

¹ The Texas Legislature recently enacted House Bill 304 which creates a system of labor negotiation known as "Meet and Confer" for some peace officers employed by the City, effective September 1, 2005. The peace officers covered by the legislation are City Marshals, Park Police Officers, and Airport Police Officers



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ORDINANCE NO.

AN ORDINANCE REPEALING AND REPLACING CHAPTER 2-6 OF THE CITY CODE TO CREATE THE PUBLIC SAFETY AND EMERGENCY MANAGEMENT DEPARTMENT, CREATE AN OFFENSE, AND PROVIDE A MAXIMUM PENALTY OF A \$1000 FINE OR CONFINEMENT IN JAIL UP TO 180 DAYS FOR EACH OFFENSE; AMENDING SECTION 13-2-13(B) OF THE CITY CODE RELATING TO GROUND TRANSPORTATION PASSENGER SERVICES ENFORCEMENT; REPEALING SECTIONS 8-1-3, 8-1-4, 13-1-51, AND 13-1-52 OF THE CITY CODE; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Chapter 2-6 of the City Code is repealed and replaced with a new Chapter 2-6 to read:

CHAPTER 2-6. PUBLIC SAFETY AND EMERGENCY MANAGEMENT DEPARTMENT.

ARTICLE 1. GENERAL PROVISIONS.

§ 2-6-1 DEFINITIONS.

(A) In this chapter:

- (1) CITY COURT means the Municipal Court, the Austin Downtown Community Court, and other courts the City may establish.
- (2) DEPARTMENT means the Public Safety and Emergency Management Department.
- (3) DIRECTOR means the director of the Public Safety and Emergency Management Department.

§ 2-6-2 CREATION AND DUTIES OF PUBLIC SAFETY AND EMERGENCY MANAGEMENT DEPARTMENT.

- (A) The Public Safety and Emergency Management Department is created.
- (B) The department shall provide:

- (1) specialized public safety and facility security services for the city airport, parks and recreation facilities, city courts, and other designated city facilities; and
- (2) disaster management services and homeland security planning and preparedness.

ARTICLE 2. DEPARTMENT PUBLIC SAFETY DIVISIONS.

§ 2-6-11 AIRPORT PUBLIC SAFETY DIVISION.

- (A) The director shall employ one or more airport public safety officers. An airport public safety officer employed under this division shall be commissioned, appointed, and designated a peace officer under Article 2.12(12) (*Who are Peace Officers*) of the Texas Code of Criminal Procedure.
- (B) An airport public safety officer may:
 - (1) enforce a federal, state, or local law or regulation at a city airport, and
 - (2) perform other duties as assigned by the director.
- (C) Subsection (B) does not limit an airport public safety officer's law enforcement authority in the officer's capacity as a peace officer.

§ 2-6-12 PARK PUBLIC SAFETY DIVISION.

- (A) The director shall employ one or more park public safety officers to patrol public recreation areas. A park public safety officer employed under this section shall be commissioned, appointed and designated a peace officer under Article 2.12(13) (*Who are Peace Officers*) of the Texas Code of Criminal Procedure.
- (B) A park public safety officer may enforce a federal, state, or local law or regulation in a park or nature preserve owned or controlled by the city.
- (C) Subsection (B) does not limit a park public safety officer's law enforcement authority in the officer's capacity as a peace officer.
- (D) A park public safety officer shall prioritize enforcement on property designated as a park, recreational facility, or nature preserve, to:
 - (1) maintain law and order;

- (2) control traffic;
- (3) enforce rules relating to the use of a park or nature preserve;
- (4) protect a public recreation area; and
- (5) perform other duties assigned by the director.

§ 2-6-13 CITY MARSHAL DIVISION.

- (A) The director shall employ one or more city marshals. A city marshal employed under this section shall be commissioned, appointed and designated a peace officer under Article 2.12(3) (*Who are Peace Officers*) of the Texas Code of Criminal Procedure.
- (B) A city marshal may:
 - (1) serve processes issued by a City Court, including Class C warrants, subpoenas, and summons;
 - (2) transport prisoners with Class "C" warrants between City and County courts, booking, and detention facilities;
 - (3) accept prisoners arrested for Class "C" offenses by an Austin Police officer, airport public safety officer, or park public safety officer, and process the prisoners through a city court or detention facility;
 - (4) provide building and courtroom security for city courts; and
 - (5) perform other duties as assigned by the director.
- (C) A city marshal may enforce a federal, state, or local law or regulation in the course and scope of the performance of the duties described in Subsection (B).
- (D) Subsection (C) does not limit an city marshal's law enforcement authority in the officer's capacity as a peace officer.

§ 2-6-14 STATUS OF DEPARTMENT PEACE OFFICERS.

- (A) An airport public safety officer, park public safety officer, or city marshal is an employee of the department and is not an employee or member of the Austin police department. An employee of the department is not entitled to the pension or civil service benefits received by a City police officer.

- (B) For purposes of the Texas Transportation Code and for the preservation of the public peace and safety, a public safety officer is in the actual course and scope of the officer's employment if the circumstances authorize police action by a peace officer.

ARTICLE 3. OFFICE OF EMERGENCY MANAGEMENT.

§ 2-6-21 DEFINITIONS.

Words and phrases in this Article have the meanings assigned by Chapter 418 (*Emergency Management*) of the Texas Government Code.

§ 2-6-22 OFFICE OF EMERGENCY MANAGEMENT.

- (A) The Office of Emergency Management is created.
- (B) The director of the Office of Emergency Management shall:
- (1) maintain and manage the emergency operations center;
 - (2) develop an emergency management program;
 - (3) coordinate emergency preparedness activity within the City;
 - (4) issue rules approved by the city manager to implement the emergency management program;
 - (5) act as liaison with federal, state, county, and other emergency planning and control agencies;
 - (6) distribute emergency preparedness information to City residents; and
 - (7) perform other duties assigned by the city manager.

§ 2-6-23 EMERGENCY MANAGEMENT FOR LOCAL DISASTER.

- (A) If a local disaster is declared by the mayor under Texas Government Code Section 418.108 (*Declaration of Local Disaster*), the mayor may issue public orders and direct City employees to take action necessary to:
- (1) implement the emergency management program;
 - (2) comply with this article and Texas Government Code Chapter 418 (*Emergency Management*); and
 - (3) protect public health, safety, and welfare.

- (B) Council must consent to the continuation or renewal of a declaration of local disaster for a period of more than seven days.

§ 2-6-24 OFFENSE AND PENALTY.

- (A) A person who fails to obey an order adopted under an emergency management program, this article, or Texas Government Code Chapter 418 (*Emergency Management*) commits an offense.
- (B) An offense under this article is punishable by a fine of not more than \$1,000, by confinement in jail for a term of not more than 180 days, or by both a fine and confinement.

PART 2. Section 13-2-13(B) of the City Code is amended to read:

§ 13-2-13 ENFORCEMENT.

- (B) The city manager, the department, the Police Department, the Department of Aviation, and the Public Safety and Emergency Management Department [~~Parks and Recreation Department Park Police~~] shall enforce this chapter, rules adopted under this chapter, and orders issued under this chapter.

PART 3. Sections 8-1-3, 8-1-4, 13-1-51 and 13-1-52 of the City Code are repealed.

PART 4. The council finds that the necessity to create the Public Safety and Emergency Management Department and consolidate airport public safety officers, park public safety officers, city marshals, and the Office of Emergency Management under the department constitutes an emergency. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health and safety.

PASSED AND APPROVED

_____, 2005 §
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 § _____
 Will Wynn
 Mayor

APPROVED: _____
 David Allan Smith
 City Attorney

ATTEST: _____
 Shirley A. Brown
 City Clerk

