

11-11-20

ORDINANCE NO. 31695

An ordinance amending Chapter 45, "Reserved," of the Dallas City Code; providing general provisions and permit requirements for the operation of a temporary inclement weather shelter; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date. Now, Therefore,

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

SECTION 1. That Chapter 45, "Reserved," of the Dallas City Code is amended to read as follows:

**"CHAPTER 45**

**TEMPORARY INCLEMENT WEATHER SHELTER PROGRAM [RESERVED]**

**ARTICLE I.**

**GENERAL PROVISIONS.**

**SEC. 45-1. PURPOSE.**

The purpose of this chapter is to establish standards for the operation of temporary shelters during times of inclement weather by entities that assure compatibility of shelter activities with surrounding uses and provide a safe place for individuals and families to obtain temporary shelter.

**SEC. 45-2. DEFINITIONS.**

In this chapter,

(1) APPLICANT means a person or entity who submits a written application to host or operate a temporary inclement weather shelter.

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(2) INCLEMENT WEATHER means the following weather conditions:

(A) COLD WEATHER ADVISORY means an advisory issued:

(1) when the minimum nighttime temperature is forecasted by the National Oceanic and Atmospheric Administration's National Weather Service to be 36 degrees Fahrenheit or below at any point between 4:00 p.m. and 8:00 a.m. (the next day);

(2) for any amount of freezing rain or ice; or

(3) for two or more inches of snow (alone or in combination with sleet and freezing rain).

(B) HEAT WEATHER ADVISORY means an advisory issued when the minimum nighttime temperature is forecasted by the National Oceanic and Atmospheric Administration's National Weather Service to be 90 degrees Fahrenheit or higher at any point between 10:00 p.m. and 8:00 a.m. (the next day).

(3) OPERATOR means a person or entity permitted by the city to operate a temporary inclement weather shelter for a specified period.

(4) SHELTER PARTICIPANT means a homeless individual or family lodging overnight at a shelter.

(5) TEMPORARY INCLEMENT WEATHER SHELTER or SHELTER means a facility operating as a temporary inclement weather shelter as defined in Sections 51-4.217 and 51A-4.217 and in accordance with this chapter.

(6) TEMPORARY INCLEMENT WEATHER SHELTER COORDINATOR or COORDINATOR means a city employee designated by the city manager to implement, administer, and enforce this chapter or his or her designated representative.

(7) TEMPORARY INCLEMENT WEATHER SHELTER PERMIT means written approval issued by the coordinator to operate a shelter.

**SEC. 45-3. AUTHORITY AND DUTIES OF THE COORDINATOR.**

(a) The coordinator shall implement and enforce this chapter and shall discharge any duty necessary under or to affect the policy of this chapter.

(b) The coordinator may assist the applicant or operator in coordinating applications for any required city-issued permit or license in addition to the temporary inclement weather shelter permit.

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**SEC. 45-4. OPERATION OF SHELTERS GENERALLY.**

- (a) Shelters may only operate and host shelter participants during times of cold weather advisory and heat weather advisory.
- (b) Shelters must be operated in compliance with an approved operation plan.
- (c) Shelters' intake procedures must comply with Chapter 46, "Unlawful Discriminatory Practices Relating to Sexual Orientation and Gender Identity and Expression."

**SEC. 45-5. SHELTER SPACE.**

- (a) Except as provided in this section, shelters must provide a minimum of 40 square feet of space per shelter participant.
- (b) Each designated sleeping area must provide a walkway of four feet between each row to provide emergency access.

**SEC. 45-6. CHAPTER CUMULATIVE.**

The provisions of this chapter are cumulative of all city ordinances. Building, electrical, food establishment, fire safety, and all other permits and licenses required by ordinance or other law for specific activities to be conducted in conjunction with or as part of a temporary inclement weather shelter permit must be applied for separately, in accordance with the applicable city ordinance or state or federal law.

**SEC. 45-7. EXEMPTION.**

The provisions of this chapter do not apply to a shelter established as disaster relief operated by the office of emergency management.

**ARTICLE II.****TEMPORARY INCLEMENT WEATHER SHELTER PERMITS.****SEC. 45-8. APPLICATION; ISSUANCE.**

- (a) To obtain a temporary inclement weather shelter permit, an applicant shall submit an application on a form provided for that purpose to the coordinator.
- (b) The application must contain the following information:
  - (1) Proof of a valid certificate of occupancy for a use allowed by the Dallas Development Code.

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(2) Project plans, including a site plan and floor plan, that accurately depict the location of the shelter facility and areas to be used by shelter participants.

(3) A proposed operation plan that complies with Section 45-9.

(c) Upon receipt of the completed temporary inclement weather shelter permit application, the coordinator may request a building and fire inspection to ensure required life safety systems and equipment are in working condition. City departments and the coordinator may prescribe additional licenses, permits, and authorizations required by other city ordinances or applicable law, restrictions, regulations, safeguards, and other conditions necessary for the safe and orderly operation of a shelter, to be incorporated into the temporary inclement weather shelter permit before issuance.

**SEC. 45-9. OPERATION PLAN.**

The operation of a shelter must comply with an operation plan approved by the coordinator. The operation plan must include the following:

(1) A supportive services plan that describes supportive services, programs, and case management services, if any, offered to shelter participants.

(2) Infection control policies and plans that comply with the guidelines of the Centers for Disease Control and Prevention.

(3) Reasonable accommodations made for shelter participants who are deemed a vulnerable sub-population or require supportive equipment, such as a wheelchair, lift equipment, or service animals.

(4) Staffing plan to support operations.

**SEC. 45-10. EXPENSES.**

An operator shall pay any expenses incurred by the city associated with the operation of a shelter, such as a fire watch or requests for security to be provided by the city.

**SEC. 45-11. INDEMNIFICATION.**

An applicant shall execute a written agreement to indemnify the city and its officers and employees against all claims of injury or damage to persons or property, whether public or private, arising out of the temporary inclement weather shelter operation.

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**SEC. 45-12. EMERGENCY RESPONSE NOTICE.**

The coordinator shall notify the fire and police departments when a permit has been issued for a shelter at least 36 hours prior to operation and shall provide those departments with the approved site plan and floor plan.

**SEC. 45-13. EXPIRATION; REAPPLICATION.**

A temporary inclement weather shelter permit expires two years after the date of issuance. Applicants may file a new application to operate a temporary inclement weather shelter for the next two-year period before the expiration of the current period.

**SEC. 45-14. PERMIT DENIAL OR REVOCATION.**

(a) The coordinator shall deny or revoke a temporary inclement weather shelter permit if:

(1) The applicant falsifies information on, or fails to properly complete, the temporary inclement weather shelter application.

(2) The operator fails to maintain public order in or around the shelter location.

(3) The fire or police department declares a structure or property a serious threat to the public's health, safety, and welfare.

(4) The applicant or operator has had a temporary inclement weather shelter permit revoked within the preceding 24 months or has committed two violations of this chapter within the preceding 12 months.

(5) The operator fails to comply with or the shelter violates a city ordinance or state or federal law.

(6) The operator fails to comply with Chapter 46, "Unlawful Discriminatory Practices Relating to Sexual Orientation and Gender Identity and Expression."

(b) Any violation of a city ordinance or state or federal law by shelter participants while on shelter premises may be grounds for revocation of shelter's temporary inclement weather permit. When considering whether to revoke a temporary inclement weather shelter permit on these grounds, the coordinator shall consider the severity of the violation and the frequency of repeated violations.

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SEC. 45-15.NOTICE AND APPEAL FROM DENIAL OR REVOCATION OF A  
TEMPORARY INCLEMENT WEATHER SHELTER PERMIT.

(a) If the coordinator denies or revokes a permit, the coordinator shall contact and send to the applicant or permit holder by certified mail, return receipt requested, written notice of the denial or revocation and the right to an appeal to the permit and license appeal board.

(b) An applicant or operator whose permit is denied or revoked by the coordinator may file an appeal with the permit and license appeal board in accordance with Section 2-96, "Appeals from Actions of Department Directors," of this code.

(c) The applicant or permit holder may reapply for a temporary inclement weather shelter permit once conditions are met upon inspection by appropriate city departments."

SECTION 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

SECTION 3. That the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 5. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

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SECTION 6. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By   
Assistant City Attorney

Passed NOV 11 2020



## PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL NOV 11 2020

ORDINANCE NUMBER 31695

DATE PUBLISHED NOV 14 2020

ATTESTED BY: