

**NOTICE AND AGENDA OF THE SPECIAL/EMERGENCY MEETING  
OF THE MARIETTA CITY COUNCIL**

**Friday, March 20, 2020 at 4:00 PM**

***This meeting will be conducted via videoconferencing pursuant to Oklahoma Senate Bill No. 661 on the Zoom® Cloud Meetings system due to the recommendation of the U.S. Center for Disease Control to avoid gathering in groups of more than ten people. The proceedings of this meeting will be broadcast to the public, allowing the same opportunity to participate as in previous traditional meetings.***

***All participants of the meeting will meet virtually; there will be no physical location for this meeting. Instructions for accessing and participating in the meeting are attached to this notice and agenda as Exhibit A. (As per said Senate Bill No. 661, all public body members will appear remotely, and the method of the remote appearance is the virtual method stated herein.)***

BUSINESS TO BE CONDUCTED (which will include discussion, consideration, action for approval or disapproval, voting to take any appropriate action, and the passage of resolutions, on the following agenda items):

**CALL TO ORDER.**

**DECLARATION OF QUORUM.**

**INVOCATION.**

**SPECIAL/EMERGENCY BUSINESS.**

1. Ordinance enacting provisions for riot prevention and disaster control in a state of emergency as allowed under the Oklahoma Riot Control and Prevention Act and amending Section 2-174 of the Marietta Code of Ordinances regarding competitive bidding requirements during a state of emergency.
2. Proclamation declaring state of emergency in the City of Marietta.

**MAYOR'S COMMENTS.**

**ADJOURN.**

POSTED: Thursday, March 19, 2020, at 4:00 PM, at the Marietta City Hall, located at 101 W. Main Street, Marietta, Oklahoma.



Dottie Gwin, City Clerk  
Scott Chaney, Deputy City Clerk

Agenda – Special/Emergency Meeting  
March 20, 2020  
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## EXHIBIT A

### INSTRUCTIONS TO ACCESS VIRTUAL CITY COUNCIL MEETING

Friday, March 20, 2020 at 4:00 PM

You may access the City Council proceedings by navigating to <https://zoom.us/j/479287087> on a PC, or by downloading the Zoom® Cloud Meetings app on an Android® or iOS® device and entering Meeting ID: 479 287 087.

**THE ONLINE WAITING ROOM IS NOW OPEN!  
ATTEMPT TO ACCESS THE MEETING SYSTEM NOW TO ENSURE THAT YOU WILL HAVE ACCESS WHEN THE PROCEEDINGS BEGIN.**

If you have any questions or require assistance accessing the online meeting system, please call City Hall at 580-276-5569.

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Topic: Special/Emergency Meeting of the Marietta City Council  
Time: Mar 20, 2020 04:00 PM Central Time (US and Canada)

Join Zoom Meeting  
<https://zoom.us/j/479287087>

Meeting ID: 479 287 087

One tap mobile  
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Dial by your location  
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Meeting ID: 479 287 087

Find your local number: <https://zoom.us/u/adcUG9LpZB>

**Item Attachment Documents:**

1. Ordinance enacting provisions for riot prevention and disaster control in a state of emergency as allowed under the Oklahoma Riot Control and Prevention Act and amending Section 2-174 of the Marietta Code of Ordinances regarding competitive bidding requirements during a state of emergency.

**ORDINANCE NO. 2020-02**

**ORDINANCE ENACTING PROVISIONS FOR RIOT PREVENTION AND DISASTER CONTROL IN A STATE OF EMERGENCY AS ALLOWED UNDER THE OKLAHOMA RIOT CONTROL AND PREVENTION ACT; PROVIDING FOR THE FOLLOWING: TITLE; DEFINITIONS; PROCLAMATION AND TERMINATION OF STATE OF EMERGENCY; POWERS OF MAYOR DURING STATE OF EMERGENCY; OFFENSES DURING STATE OF EMERGENCY INCLUDING FOR DESTROYING OR DAMAGING PROPERTY OR INJURING ANOTHER PERSON, FOR ENTRY INTO SCENE OF EMERGENCY, FOR REFUSAL TO LEAVE; FOR LEAVING AN AREA OF QUARANTINE; PROVIDING FOR PENALTY; AMENDMENT OF SECTION 2-174 OF THE MARIETTA CODE OF ORDINANCES; AND REPEAL OF CONFLICTING ORDINANCES; AND DECLARING AN EMERGENCY**

**WHEREAS**, the Oklahoma Riot Control and Prevention Act, which pertains to proclamations by the Governor during a state of emergency, stating what acts may be proclaimed as prohibited, has been enacted by the State of Oklahoma and is codified as Title 21, Oklahoma Statutes, Sections 1321.1 et seq.;

**WHEREAS**, cities and towns are authorized by Section 1321.9 of said Oklahoma Riot Control and Prevention Act to enact ordinances in general conformity with the provisions of said Oklahoma Riot Control and Prevention Act;

**WHEREAS**, it in the best interest of the City of Marietta to enact an ordinance in conformity with the provisions of the Oklahoma Riot Control and Prevention Act, and further to allow the City Council or the Mayor, or both, to declare an emergency with regard to suspending competitive bidding under Section 2-174 of the Marietta Code of Ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARIETTA, OKLAHOMA:**

**Section 1. Title.**

This ordinance shall be known as the State of Emergency Riot Prevention and Disaster Control Ordinance.

**Section 2. Definitions.**

For the purposes of this ordinance, the definition of "Mayor" shall mean the Mayor of the City of Marietta or the acting Mayor as head of government under Oklahoma law. Further, the term "City" shall mean the City of Marietta.

**Section 3. Proclamation and termination of a state of emergency.**

- (a) The Mayor, after finding that a public disorder, disaster or riot exists within the City or any part thereof, which affects life, health, property or the public peace, may proclaim a state of emergency in the area affected.
- (b) The proclamation of a state of emergency shall be in writing and shall be signed by the Mayor and shall then be filed with the City Clerk.
- (c) The Mayor shall give as much public notice as practical through the news media of the issuance of a proclamation pursuant to this section.
- (d) The state of emergency shall cease to exist upon the issuance of a proclamation of the Mayor declaring its termination; provided that, the Mayor must terminate the state of emergency when order has been restored in the area affected.

**Section 4. Powers of Mayor during a state of emergency.**

- (a) The Mayor, during the existence of a state of emergency, by proclamation, may, in the area described by the proclamation, which proclamation shall not cover any part or portion of the City not affected by public disorder, disaster or riot at the time the proclamation is issued, prohibit:
  - (1) Any person being on the public streets, or in the public parks or at any other public place during the hours declared by the Mayor to be a period of curfew;
  - (2) Such number of persons, as designated by the Mayor, from assembling or gathering on the public streets, parks or other areas of the City, either public or private;
  - (3) The manufacture, transfer, use, possession or transportation of a Molotov cocktail or any other device, instrument or object designed to explode or produce uncontained combustion;
  - (4) The transporting, possessing or using of gasoline, kerosene or combustible, flammable or explosive liquids or materials in a glass or uncapped container of any kind except in connection with the normal operation of motor vehicles, normal home use or legitimate commercial use;
  - (5) The sale, purchase or dispensing of alcoholic beverages;

(6) The sale, purchase or dispensing of other commodities or goods, as the Mayor reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace;

(7) The use of certain streets, highways or public ways by the public; and

(8) Such other activities as the Mayor reasonably believes should be prohibited to help preserve and maintain life, health, property, or the public peace.

(b) In imposing the restrictions provided for by this section, the Mayor may impose them for such times, upon such conditions, with such exceptions and in such areas of this City as the Mayor, from time to time, deems necessary.

#### **Section 5. Offenses during the state of emergency—Generally.**

(a) The provisions of this section shall apply during a state of emergency.

(b) A person is guilty of riot and an offense when he participates with two or more persons in the course of disorderly conduct:

(1) With intent to commit or facilitate the commission of a felony or misdemeanor; or

(2) With intent to prevent or coerce official action; or

(3) When the accused or any other participant, to the knowledge of the accused, uses or plans to use a firearm or other deadly weapon.

(c) Any person upon any public way within the described area who is directed by the authorities to leave the public way but refuses to do so shall be guilty of an offense.

(d) A person is guilty of an offense under this section committed by another person when:

(1) Acting with the state of mind that is sufficient for the commission of the offense, he causes an innocent or irresponsible person to engage in conduct constituting the offense; or

(2) Intending to promote or facilitate the commission of the

offense he:

- a. Solicits, requests, commands, importunes or otherwise attempts to cause the other person to commit it; or
- b. Aids, counsels or agrees or attempts to aid the other person in planning or committing it; or
- c. Having a legal duty to prevent the commission of the offense, fails to make a proper effort to do so; or

(3) His conduct is expressly declared by a statute of this state to establish his complicity.

(e) In any prosecution for an offense under this section in which the criminal liability of the accused is based upon the conduct of another person under this section, it is no defense that:

(1) The other person is not guilty of the offense in question because of irresponsibility or other legal incapacity or exemption, or because of unawareness of the criminal nature of the conduct in question or for the accused's criminal purpose, or because of other factors precluding the mental state required for the commission of the offense; or

(2) The other person has not been prosecuted for or convicted of any offense based on the conduct in question, or has previously been acquitted thereof, or has been convicted of a different offense or in a different degree, or has legal immunity from prosecution for the conduct in question.

(f) "Disorderly conduct," as used in this section, means a course of conduct by a person who:

(1) Causes public inconveniences, annoyance or alarm, or recklessly creates a risk thereof by:

- a. Engaging in fighting or in violent, tumultuous or threatening behavior; or
- b. Making an unreasonable noise or an offensively coarse utterance, gesture or display, or addressing abusive language to any person present; or
- c. Dispersing any unlawful procession or meeting of persons not being a peace officer of this City and

without lawful authority; or

- d. Creating a hazardous or physically offensive condition which serves no legitimate purpose; or

(2) Engages with at least one other person in a course of disorderly conduct, as defined in subsection (f)(1) of this section, which is likely to cause substantial harm or serious inconvenience, annoyance or alarm, and refuses or knowingly fails to obey an order to disperse, made by a peace officer to the participants.

**Section 6. Destroying or damaging property or injuring another person.**

(a) During a state of emergency, any person who maliciously destroys or damages any real or personal property or maliciously injures another person shall be guilty of an offense.

(b) Any person 16 years of age or over, who violates the provisions of this section, shall be prosecuted as an adult.

(c) A person is guilty of an offense under this section committed by another person when:

(1) Acting with the state of mind that is sufficient for commission of the offense, he causes an innocent or irresponsible person to engage in conduct constituting the offense; or

(2) Intending to promote or facilitate the commission of the offense he:

- a. Solicits, requests, commands, importunes or otherwise attempts to cause the other person to commit it; or
- b. Aids, counsels or agrees or attempts to aid the other person in planning or committing it; or
- c. Having a legal duty to prevent the commission of the offense, fails to make a proper effort to do so.

(d) In any prosecution for an offense under this section in which the criminal liability of the accused is based upon the conduct of another person pursuant to this section, it is no defense that:

(1) The other person is not guilty of the offense in question because of unawareness of the criminal nature of the conduct in question or of the accused's criminal purpose, or because of other



factors precluding the mental state required for the commission of the offense; or

(2) The other person has not been prosecuted for or convicted of any offense based on the conduct in question, or has previously been acquitted thereof, or has been convicted of a different offense or in a different degree, or has legal immunity from prosecution for the conduct in question.

**Section 7. Entry into the scene of emergency; refusal to leave; areas of quarantine.**

(a) Any person entering an area declared by Marietta to be the scene of an emergency, which area contains a continuing threat to human life and health, when said person is not a part of the organized rescue efforts controlled by the City of Marietta or the State of Oklahoma or the United States Government, shall be guilty of an offense unless said person is carrying a pass issued by appropriate governmental authority and performing tasks authorized or permitted by said governmental authority.

(b) After being instructed to leave by authorized emergency personnel, any person refusing to leave an area declared by Marietta to be the site of an emergency which contains an ongoing threat to human life or health shall be guilty of an offense.

(c) Any person attempting to leave an area which has been declared by Marietta to be an area of quarantine containing an ongoing threat to human life and health through the spread of contagion, infection, or contamination, shall be guilty of an offense.

**Section 8. Penalty.**

Any person convicted of an offense under this ordinance, or convicted of any violation of the lawful proclamations of the Mayor of the City of Marietta (or authorized designee) during a proclaimed state of emergency, shall be guilty of an offense and upon conviction thereof shall be fined in an amount not exceeding Five Hundred Dollars and No Cents (\$500.00) plus costs. Each such violation and each day of a continuing violation shall be prosecutable as a separate offense.

**Section 9. Amendment of Section 2-174.**

Section 2-174 of the Code of Ordinances of the City of Marietta is amended as follows:

Sec. 2-174. Emergencies.

The sections of this division with reference to competitive bidding shall not apply when the majority of the City Council or the Mayor, or both, declare that an emergency exists. An emergency, as used in this section, shall be limited to conditions resulting from a sudden unexpected happening or unforeseen occurrence or condition and situation wherein the public health or safety is endangered. The reasons for declaring an emergency and not complying with the sections of this division relating to competitive bidding shall be entered into the official minutes of the City Council.

**Section 10. Repeal.**

Any ordinances and code provisions in conflict with the provisions of this ordinance are repealed.

**Section 11. Codification.**

Sections 1 through 8 of this ordinance shall be codified as Article VIII, Sections 70-400 to 70-407, respectively, under Chapter 70, which is titled "Offenses and Miscellaneous Provisions" of the Marietta City Code.

**Section 12. Emergency.**

It being immediately necessary for the preservation of the peace, health, safety and public good of the City of Marietta and the inhabitants thereof that the provisions of this ordinance be put into full force and effect, an emergency is declared to exist, and by reason of which this ordinance shall take effect and be in full force from and after the date provided herein as provided by law.

PASSED by the City Council the City Marietta, Oklahoma and SIGNED by the Mayor on this 20<sup>th</sup> day of March, 2020.

CITY OF MARIETTA:

\_\_\_\_\_  
KIMBERLY FRAIRE, MAYOR

ATTEST:

\_\_\_\_\_  
DOTTIE GWIN, CITY CLERK

**Item Attachment Documents:**

2. Proclamation declaring state of emergency in the City of Marietta.

Office of the Mayor  
City of Marietta, Oklahoma  
**Proclamation**

WHEREAS, Chapter 26, Section 26-26 *et al.* of the Marietta Code of Ordinances and Title 63 Section 683.3 *et al.* of the Oklahoma Statutes allows the Mayor of the City of Marietta to proclaim a civil emergency when a natural disaster, which results in the death or injury of persons to such an extent that extraordinary measures must be taken to protect the public health, safety, and welfare, exists; and

WHEREAS, a respiratory disease caused by a novel coronavirus ("COVID-19") was first detected in China and has now been detected in more than 100 locations internationally, including the United States; and

WHEREAS, the World Health Organization characterized COVID-19 as a pandemic on March 11, 2020; and

WHEREAS, on March 13, 2020, the President of the United States declared COVID-19 a national emergency and ordered each state to set up emergency operations centers and ordered hospitals to activate their emergency preparedness plans; and

WHEREAS, as of March 18, 2020, the Center for Disease Control and Prevention ("CDC") had identified 10,442 confirmed cases of COVID-19 in all 50 states, the District of Columbia, Puerto Rico, Guam and the US Virgin Islands, and 150 deaths as a result of the COVID-19 virus in the United States; and

WHEREAS, of the 10,442 confirmed cases of COVID-19 in the United States, only 290 have been identified as being travel-related, meaning community transmission is responsible for much of the spread of COVID-19 in the United States; and

WHEREAS, as of March 19, 2020, the Oklahoma State Health Department has confirmed 44 cases of COVID-19 in 14 Oklahoma counties and reported 1 death attributed to COVID-19; and

WHEREAS, although there are no reported cases of COVID-19 in Marietta at this time, because of the potential for rapid community spread, immediate attention is required to protect public health, reduce further damage, ensure public safety and render emergency relief; and

WHEREAS, I, Kimberly Fraire, Mayor of the City of Marietta, Oklahoma, do find that the aforementioned conditions constitute a threat to the safety and welfare of the City, and create a civil emergency situation within the meaning of Chapter 26, Section 26-26 *et al.* and scope of Chapter 70, Sections 70-400 to 7-407 of the Marietta Code of Ordinances and Title 63 Section 683.3 *et al.* of the Oklahoma Statutes.

NOW, THEREFORE, I, KIMBERLY FRAIRE, MAYOR OF THE CITY OF MARIETTA, OKLAHOMA, ACTING UNDER THE POWER VESTED IN ME DO HEREBY DECLARE AND PROCLAIM:

SECTION ONE: A state of emergency exists within the City of Marietta; and

SECTION TWO: This declaration shall become effective at 5:00 p.m. on Friday, March 20, 2020.

SECTION THREE: This declaration shall remain in effect within the City of Marietta until 6:00 p.m. on April 14, 2020, unless terminated earlier by further proclamation.

SECTION FOUR: The Love County Library, with said facility being owned by the City of Marietta, shall be closed and all programming and/or events scheduled at said location shall be postponed and/or cancelled until the expiration of this emergency declaration.

SECTION FIVE: Access will be limited to City facilities, including City Hall, Police Department, and Sanitation Transfer Station. The public is encouraged to conduct business with the City by phone at (580) 276-5569, by email at support@mariettaok.city, or on Facebook® at @mariettaok.city.

SECTION FIVE: Meetings of all City of Marietta boards and commissions are hereby postponed and/or cancelled until the expiration of this emergency declaration. All meetings of the Marietta City Council are exempt from this cancellation requirement. Council meetings will be conducted via video conferencing with steps taken to ensure the public has an opportunity to participate in meeting proceedings.

SECTION SIX: Marietta Municipal Court dockets will be suspended other than by teleconference or videoconference where required. No further failure to appear warrants will be issued or served.

SECTION SEVEN: City of Marietta parks and cemeteries will remain open for individual access, however all public and private gatherings, meetings and events attended by fifty (50) or more people are hereby prohibited.

SECTION EIGHT: Any pending permit is hereby revoked, and no new permit shall be issued for any public or private event on any City street, sidewalk, facility, park, or property until the expiration of this emergency declaration.

SECTION NINE: Marietta citizens and visitors should follow the President's Coronavirus Guidelines, more particularly described as:

1. Listen to and follow the directions of federal, state, and local authorities.
2. If you feel sick, stay home and contact your medical provider. Do not go to work.
3. If your children are sick, stay home and contact your medical provider.
4. If someone in your household has tested positive for COVID-19, keep the entire household at home and contact your medical provider.
5. If you are a person with a serious underlying health condition that can put you at an increased risk, stay home and away from other people.
6. If you are an older person, stay home and away from other people.
7. Work or engage in schooling from home, whenever possible. If you are in a critical infrastructure industry, as defined by the Department of Homeland Security, such as healthcare services and pharmaceutical and food supply, you have a special responsibility

- to maintain your work schedule. You and your employers should follow Center for Disease Control guidance to protect your health at work.
8. Avoid social gatherings in groups of more than 10 people.
  9. Avoid eating or drinking at bars, restaurants, and food courts and use drive-thru, pickup, or delivery options.
  10. Avoid discretionary travel, shopping trips, and social visits.
  11. Do not visit nursing homes or retirement or long-term facilities unless to provide critical assistance.
  12. Practice good hygiene and wash your hands, especially after touching any frequently used item or surface, avoid touching your face, sneeze or cough into a tissue, or inside of your elbow, and disinfect frequently used items and surfaces as much as possible.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the City of Marietta, Oklahoma, to be affixed this 20<sup>th</sup> day of March, 2020.

BY THE MAYOR OF THE CITY OF MARIETTA

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KIMBERLY FRAIRE

ATTEST:

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DUSTIN SCOTT, CITY ADMINISTRATOR