



Declaration of Local Disaster: Flood

Texas Government Code Chapter 418 gives the county judge the power to declare a local disaster within the county under certain circumstances. A "Disaster" is defined for these purposes under Section 418.004(1) as:

... the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, other public calamity requiring emergency action, or energy emergency.

The county judge's authority is set out in Section 418.108 of the Government Code.

Once the county judge has issued a disaster declaration, the procedure to ratify it may involve two steps. The commissioners court must take action to consent to the continuance or renewal of a local disaster declaration within seven days after its issuance or it expires.

The county may enforce a penalty of a fine not to exceed \$1,000 or confinement in jail for a term not to exceed 180 days for a failure to comply with a disaster declaration, but only if the county's emergency management plan includes a provision establishing an offense under Government Code §418.173. If the county wants the ability to enforce this penalty, its emergency management plan should provide that a failure to comply with the plan, or a rule or order adopted under the plan is punishable as authorized in Government Code §418.173.

A copy of Government Code §418.108 and a sample disaster declaration related to the risk of severe weather and prolonged flooding are included on the following pages. If you have any questions, please contact the Legal Department toll-free at (888) 275-8224.

Texas Government Code

§ 418.108. Declaration of Local Disaster

(a) Except as provided by Subsection (e), the presiding officer of the governing body of a political subdivision may declare a local state of disaster.

(b) A declaration of local disaster may not be continued or renewed for a period of more than seven days except with the consent of the governing body of the political subdivision or the joint board as provided by Subsection (e), as applicable.

(c) An order or proclamation 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, the county clerk, or the joint board's official records, as applicable.

(d) A declaration of local disaster activates the appropriate recovery and rehabilitation aspects of all applicable local or inter-jurisdictional emergency management plans and authorizes the furnishing of aid and assistance under the declaration. The appropriate preparedness and response aspects of the plans are activated as provided in the plans and take effect immediately after the local state of disaster is declared.

(e) The chief administrative officer of a joint board has exclusive authority to declare that a local state of disaster exists within the boundaries of an airport operated or controlled by the joint board, regardless of whether the airport is located in or outside the boundaries of a political subdivision.

(f) The county judge or the mayor of a municipality may order the evacuation of all or part of the population from a stricken or threatened area under the jurisdiction and authority of the county judge or mayor if the county judge or mayor considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(g) The county judge or the mayor of a municipality may control ingress to and egress from a disaster area under the jurisdiction and authority of the county judge or mayor and control the movement of persons and the occupancy of premises in that area.

(h) For purposes of Subsections (f) and (g):

(1) the jurisdiction and authority of the county judge includes the incorporated and unincorporated areas of the county; and

(2) to the extent of a conflict between decisions of the county judge and the mayor, the decision of the county judge prevails.

(i) A declaration under this section may include a restriction that exceeds a restriction authorized by Section 352.051, Local Government Code. A restriction that exceeds a restriction authorized by Section 352.051, Local Government Code, is effective only:

(1) for 60 hours unless extended by the governor; and

(2) if the county judge requests the governor to grant an extension of the restriction.

STATE OF TEXAS §
 §
COUNTY OF _____ §

**DECLARATION OF LOCAL DISASTER RELATED TO SEVERE WEATHER
AND PROLONGED FLOODING**

WHEREAS, _____ County has experienced severe weather, creating widespread and severe property damage and dangerous conditions; and

WHEREAS, the severe weather conditions pose the threat of continued prolonged flooding; and

WHEREAS, such floods have the potential of endangering lives and damaging property on a large scale; and

WHEREAS, the Texas Government Code Chapter 418 gives the county judge the power to declare a local disaster within the county “if the threat of disaster is imminent”; and

WHEREAS, the magnitude of the potential damage and the rapidity with which such severe weather and flooding could escalate constitute an imminent threat of disaster; and

WHEREAS, the declaration of such a disaster authorizes the imposition of controls on activities which tend to increase the likelihood of injury to the public; and

WHEREAS, such controls, once implemented, have the potential of protecting lives and property by mitigating the threat of severe weather and dangerous flooding; and

WHEREAS, a local disaster declaration expires seven days after its issuance, unless the commissioners court consents to its renewal or continuance;

BE IT THEREFORE PROCLAIMED that I, _____, County Judge of _____ County, declare a local state of disaster based on the threat of widespread flooding in _____ County, Texas.

BE IT ALSO PROCLAIMED that this state of disaster will continue until rescinded in accordance with the above cited statute, but in no instance will this

declaration continue for more than seven days without being authorized by the County Commissioners Court.

BE IT ALSO PROCLAIMED that a violation of this Disaster Declaration is punishable as a Class C misdemeanor by a fine not to exceed \$500.00 or as authorized by Government Code §418.173 and adopted in the county's emergency plan by a fine not to exceed \$1,000.00 or confinement in jail for a term not to exceed 180 days, whichever is greater.

This declaration shall be promptly publicized and filed with the County Clerk.

IN WITNESS WHEREOF, I affix my signature this _____ day of _____,
20__.

County Judge

Filed with the Clerk of _____ County on _____, 20__.