
SALT LAKE CITY COUNCIL STAFF REPORT

DATE: August 14, 2008

SUBJECT: Briefing on the proposed ordinance change relating to Proclamation of Emergency, Emergency Interim Succession, and Emergency Powers.

STAFF REPORT BY: Quin Card, Policy Analyst

AFFECTED COUNCIL DISTRICTS: Citywide

ADMINISTRATIVE CONTACT: Lyn Creswell, Chief Administrative Officer
Ed Rutan, City Attorney
Margaret Plane, Assistant City Attorney

KEY ELEMENTS:

- A. Because of changes by the Legislature to the Utah Disaster Response and Recovery Act and the Emergency Interim Succession Act, Salt Lake City Code dealing with the Proclamation of Emergency-Powers is no longer entirely consistent with State law, and needs to be updated to address more clearly emergency succession and the range of powers available to the City in the event of a declared emergency.
1. Current city code gives the Mayor authority to declare a state of local emergency. In the case of the Mayor's "disability" four members of the Council may do the same. The term "disability" needs to be defined more clearly. In the proposed new ordinance, the Mayor could be deemed "unavailable" if he is not able to be communicated with for two hours, so that prompt judgment in an emergency can be made.
 2. The proposed new ordinance will note that the Mayor's power to declare a state of local emergency will pass on to his interim successor if the Mayor is out of town.
 3. Currently, if the Mayor dies in a disaster, his office is considered "vacant" and the chair of the City Council becomes acting Mayor. The Council then has 30 days to appoint a new Mayor. In the proposed new ordinance, if the Mayor dies in connection with a disaster, his office will not be considered "vacant", rather he will be considered "unavailable", and his emergency interim successor will act in his stead.
 4. If in a state of emergency, the Mayor has not appointed an emergency interim successor, the proposed new ordinance provides an order of succession as follows:
 - (1) The Mayor's Chief of Staff
 - (2) The Chief Administrative Officer
 - (3) The Chair of the City Council
 - (4) The Police Chief
 5. State law states that a local emergency may not be continued or renewed for more than 30 days without the consent of the "governing body". This is not stated in current city code, but is included in the proposed new ordinance.

6. The proposed new ordinance would define what emergency powers the City has, to coincide with State code. The changes would allow the City to carry out the following measures.
 - a) Order evacuation and clearing and removal of debris.
 - b) Set price controls and enforce on those controls with cease and desist orders through the Business Licensing Division. This power is only granted to the City if a state of local emergency is declared by the Mayor, it would not apply if a state of emergency is declared by the Governor of Utah, or the President of the United States.

The City may close businesses during a state of emergency, however, to match State code, the proposed ordinance would prohibit the City from changing any restrictions which were not in force prior to the state of emergency dealing with the lawful possession, transfer, sale, transport, storage, display, or use of a firearm or ammunition. This would include any establishment which sells firearms or ammunition.

7. In the event of an emergency, the Mayor, or the emergency interim successor will be able to, by proclamation, temporarily move the principal office of the local government, should the principle office be damaged or make it impossible for the local government to act during an emergency.
- B. In order to reflect the urgency of action during an emergency, the proposed new ordinance makes the following change regarding electronic meetings.
1. Currently, City code states that the majority of a quorum of the City Council must be physically present from the physical location from where the council members are connected to the meeting. The proposed ordinance would state that this requirement does not apply in the event of a declared emergency.
 2. Although the ordinance states that one of the “anchor” locations for an electronic meeting must be at the City & County building, or where the Council usually meets, the “anchor” location would be changed if as discussed earlier, the principal office is moved by declaration of the Mayor or his interim successor.

MATTERS AT ISSUE:

- A. Proposed new Section 2.09.020(1) reads: ...if a Mayor dies in connection with a disaster, the death is treated as initially creating a situation of “unavailability,” not a “vacancy”. This would mean that as long as the Mayor is deemed “unavailable” the Emergency Interim Successor would act as Mayor. According to the Emergency Operations Plan, the Mayor’s office must be considered “vacant” for the City Council to appoint a new Mayor. In the case of the death of a Mayor, is there a provision stating how long the Mayor will be considered “unavailable” before it can be considered “vacant”?

In response, the administration indicated that under the proposed ordinance, the Mayor’s office will be considered “vacant” if he dies, and the Council can appoint a new Mayor at any time, but must have appointed one before 30 days after the event. State law requires that the Council give two weeks public notice before appointing a new Mayor, allowing individuals time to submit their names. The “unavailable” term allows for not the Council Chair, but the interim successor to act as Mayor. As soon as a new Mayor is appointed, that person will succeed the interim designee. The idea behind this is that it frees up the Council

Chair to attend to the business of finding a new Mayor, without having to lead the emergency effort as well.

- B. This represents a significant policy shift in the authority should the Mayor die during an emergency. Currently the Council Chair would serve as the interim Mayor -- the elected Mayor would be replaced by the elected Council Chairperson and then the Council Chairperson would be replaced when the new Mayor is named by the Council. Under this revision the elected Mayor would be replaced by an administrative staff person who is not elected by the public, and may not be a City resident. The Council may wish to inquire further about the policy basis for this recommendation and the pros and cons of this proposed approach. In response, the administration indicated that State code allows for such an action.

In State and Federal Government, the Executive Head is replaced by another elected official (Vice President or Lt. Governor); however, Salt Lake City does not have elected officials in the equivalent offices of the State and Federal leaders. Flexibility is given to municipal governments in this case. It should be noted that with the Federal and State models the leadership does defer to the Legislative Branch if the top elected Administrative officials are not available – it does not divert to appointed staff before elected legislative leaders.

If the interim designee were to be from the administrative staff as proposed, the effort would continue to be led by the executive side of the government rather than the legislative side, which one could argue would provide consistency. If the Council disagrees with this change, there is no statute which would preclude the Council from keeping the succession order as it is today, with the Council Chair succeeding the vacant Mayor's office. If the Council Chair acts as Mayor in this situation, there is nothing that would prevent him / her from receiving advice from executive staff. The policy question before the Council is whether to vest the Mayor's authority with an appointed administrative staff person or retain the authority with an elected official, with the guidance of the administrative support personnel.

SALT LAKE CITY CORPORATION

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LAW DEPARTMENT

RALPH BECKER
MAYOR

COUNCIL TRANSMITTAL

TO: David Everitt, Chief of Staff 

DATE: May 23, 2008

FROM: Edwin P. Rutan, II 
City Attorney
Margaret Plane
Assistant City Attorney

SUBJECT: Proclamation of Emergency, Emergency Interim Succession, and
Emergency Powers

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DOCUMENT TYPE: Ordinance

BUDGET IMPACT: None



BACKGROUND/DISCUSSION:

As a result of changes by the Legislature to the Utah Disaster Response and Recovery Act and the Emergency Interim Succession Act, most recently in 2008, Salt Lake City Code Section 2.04.030 (Proclamation of Emergency-Powers) is no longer entirely consistent with State law. Moreover, Section 2.04.030 should be updated to address more clearly emergency succession and the range of powers available to the City in the event of a declared emergency.

It is proposed that SLCC Section 2.04.030 be repealed, and that a new chapter, Chapter 2.09, "Emergency Proclamation, Emergency Interim Succession, and Emergency Powers," be added so that Salt Lake City Code more closely tracks the Utah Code provisions as discussed below. The purpose of the separate new chapter is to highlight and centralize the provisions relating to emergency response. Additionally, it is proposed that Salt Lake City Code Section 2.06.030E, "Electronic Meetings," be amended to reflect the emergency situation needs of the City Council.

A. Emergency Interim Succession

SLCC Section 2.04.030A grants the Mayor the authority to declare a state of local emergency or in the event of the Mayor's "disability" four members of the Council may do so. However, the term "disability" is not defined.

Although "disability" often refers to physical or mental incapacity rather than simply being unreachable or unavailable, if the Mayor were unreachable in the event of an actual emergency (due to communications failure or otherwise), we would advise under the current ordinance that the disability standard had been met because of the necessity that the City be able to act. However, that conclusion would be subject to the awkward question of how long the City would have to try to reach the Mayor and by what means before the City could say "enough." To avoid this uncertainty, the City Code could track the State statute, which provides that if the Mayor (in the City's case) is "unavailable," then an emergency interim successor exercises the Mayor's power and authority.

There is also potential ambiguity as to whether the Mayor's power to declare a local emergency is delegable or is a power that only the Mayor may exercise. See SLCC Section 1.04.010C(8) (delegation of Mayor's powers permissible unless context "clearly indicates" that the Mayor as an individual person is intended). The Mayor's current practice is to issue a delegation when he is out of town. Recent amendments to State law clearly indicate that the power is delegable as a matter of state law.

Utah Code Annotated Section 63K-1-102(1)(a) [old Section 63-5b-102(1)(a)]¹ defines "absent" as: "(i) not physically present or not able to be communicated with for 48 hours." "Unavailable" is defined as "absent from the place of governance during a disaster that seriously disrupts normal government operations" regardless of whether a "vacancy" would exist under other laws. UCA Section 63K-1-102(16)(a) [old Section 63-5b-16(a)]. The definition of "unavailable" is not mandatory. The City is authorized by statute to develop its own definition. UCA Section 63K-1-16(b) [old Section 63-5b-16(b)]

Proposed SLCC Section 2.09.020 adopts the term "unavailable," and combines the terms "absent" and "unavailable" in the state code into a single definition. However, the new proposed City Code section shortens the amount of time the Mayor cannot be communicated with from 48 hours to two hours before he or she is considered "unavailable." This reflects the judgment that in a disaster prompt action likely will be necessary.

Proposed Section 2.09.020 also includes mental or physical incapacity – which is not included in the State definition – in the definition of "unavailable." The definition of "unavailable" in the new City Code section is intended to be broad enough to encompass a range of situations, including if the Mayor is in town but unreachable, out of town and unreachable,

¹ Effective May 1, 2008, the provisions of the Disaster Response and Recovery Act and the Emergency Interim Succession Act were renumbered. Citations here are to the renumbered sections, with the "old" sections given in brackets.

injured to the point of disability, or otherwise unreachable due to communications failure or other circumstances.

Another potential ambiguity is what happens if the Mayor were to die in a disaster. Under SLCC Section 2.04.060A, the death of the Mayor creates a vacancy, in which case the chair of the City Council becomes Acting Mayor. However, in the event of a disaster, administrative/managerial experience is likely to be critical to a timely and effective response. Therefore, proposed new Section 2.09.020(1) further provides that if a Mayor dies in connection with a disaster, the death is treated as initially creating a situation of “unavailability,” not a “vacancy.” Proposed Section 2.09.020(1) further provides that if a new Mayor is selected by the City Council pursuant to Section 2.04.060A, the new Mayor replaces the Emergency Interim Successor.

Under Utah Code Annotated Section 63K-1-401(1) [old Section 63-5b-401(1)], each “political subdivision officer,” which would include the Mayor, is required by July 1 of each year to designate three emergency interim successors, specify their order of succession, and provide that list to the state.² (This requirement applies to all “political subdivision officers,” not just the Mayor, and thus includes the City Attorney, the City Recorder, the City Engineer, etc.)

The Mayor has designated the following order of succession for his Emergency Interim Successor:

- (1) The Mayor’s Chief of Staff
- (2) The Chief Administrative Officer
- (3) The Director of Public Services
- (4) The Director of Public Utilities

In the event that emergency interim successors are not designated by the Mayor or other officers of the City, Section 63K-1-401-(2) [old Section 63-5b-401(2)] provides the following order of succession: the “Chief executive officer”; the “chief deputy executive officer;” the “chair of the legislative body;” and the “chief law enforcement officer.” New Section 2.09.060 specifically provides the order of succession in the event the Mayor or another city government officer has failed to designate an emergency interim successor as follows:

- (1) The Mayor’s Chief of Staff
- (2) The Chief Administrative Officer

² Once designated and provided to the state, the City would need to have executed in the event of an emergency the “Formalities Of Taking Office,” specified in Utah Code Annotated Section 63K-1-401(2) [old Section 63-5b-501]. It provides:

- (1) At the time that they are appointed as emergency interim successors or special emergency judges, emergency interim successors and special emergency judges shall sign prospectively whatever oath is required to enable them to exercise the powers and duties of the office to which they may succeed.
- (2) Notwithstanding any other provision of law, no person is required to comply with any other provision of law relative to taking office as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds.

Subsection (2) means, for example, that the Mayor’s emergency interim successor would not have to be a resident of the city.

- (3) The Chair of the City Council
- (4) The Police Chief

B. Duration of Local Emergency

UCA Section 63K-4-301(2) [old Section 63-5a-6(2)] provides that a declaration of local emergency:

- “(a) constitutes an official recognition that a disaster situation exists within the affected political subdivision;
- (b) provides a legal basis for requesting and obtaining state or federal government disaster assistance;
- (c) activates the response and recovery aspects of any and all applicable local disaster emergency plans; and
- (d) authorizes the furnishing of aid and assistance in relation to the proclamation.”

Existing Salt Lake City Code Section 2.04.030A provides that the Mayor “(or, in the event of the Mayor’s disability, four members of the City Council)” may determine that an emergency exists and issue a proclamation of emergency. This is consistent with Utah Code Annotated Section 63K-4-301(1)(a) [63-5a-6(1)(a)], which provides that a local emergency may be declared by proclamation of the chief executive officer of a political subdivision (i.e., the Mayor). However, subsection 301(1)(b) [old 6(1)(b)] of the Utah Code also provides that a local emergency may not be continued or renewed for more than 30 days without the consent of the “governing body” – the City Council for these purposes. This limitation on the Mayor’s authority is not contained in City Code Section 2.04.030A and would have to be read into it. New Section 2.09.040, Continuation or Renewal of Local Emergency, makes the limitation contained in the Utah Code explicit in the City Code.

C. Emergency Powers

1. General. The list of emergency powers authorized by Utah Code Annotated Section 63K-4-202-(1)(a) [old Section 63-5a-4(1)(a)] includes some powers not included in current City Code Section 2.04.030A, notably ordering evacuation and clearing and removing debris. New Section 2.09.050, Powers in a Local Emergency, is therefore drafted to include these powers as well as those currently enumerated in SLCC Section 2.04.030A.

2. Sale of Firearms and Ammunition. Current SLCC Section 2.04.030A(2) includes business establishments selling firearms or ammunition among the types of business establishments that may be closed during a local emergency. However, SB157 which was enacted during the 2008 session, creates new UCA Section 63-5a-12 which among other things prohibits a local government entity from adopting during an emergency any “restrictions, which were not in force prior to the declared state of emergency, on the lawful possession, transfer,

sale, transport, storage, display, or use of a firearm or ammunition.”³ Proposed Section 2.090.050(10) incorporates the prohibition from SB157.

3. Price Controls During an Emergency. The state statute on “profiteering” – UCA Section 13-41-101 et seq. the “Price Controls During Emergencies Act” – only includes emergencies or disasters declared by “the President of the United States of America” or “by the governor under Section 63-5a-5.” UCA Section 13-41-102(8). Local emergencies or disasters proclaimed by a Mayor are not explicitly addressed. Thus recourse to proposed SLCC Section 2.09.055 would only be necessary if a local emergency were declared by the City, but an emergency were not declared by the Governor or the President. If a state of emergency were declared by the Governor or the President and UCA 13-41-101 et seq. therefore took effect, proposed SLCC Section 2.09.055 would no longer apply.

The City Council would have the authority to adopt the “profiteering” provision under the “general welfare” power of Section 10-8-84, which is liberally construed.⁴

The state “Price Controls During Emergencies Act” provides for enforcement through the State Division of Consumer Protection, which among other things may enter a “cease and desist order” enforceable in the courts. The City does not have an equivalent body to the State’s Division of Consumer Protection.

Instead, the proposal is for the City’s Business Licensing Division to enforce the prohibition against excessive prices through the same hearing process followed for business license suspensions and revocations. Business Licensing would have the authority to request documents from a person allegedly charging an excessive price. New Section 2.09.055B(3). See also SLCC Chapter 2.59 [City subpoenas].

The hearing examiner is authorized to issue a cease and desist order and/or either assess administrative penalties or revoke or suspend the business license. New proposed new Section 2.09.055C(3).

Rental of private residential property is excluded because UCA Section 57-20-1(1) prohibits a municipality from controlling rents or fees for private residential property without express authorization from the Legislature.

³ Lawful restrictions in force prior to declaration of an emergency are unaffected. For example, SLCC Section 11.48.060, which generally prohibits the discharge of a weapon within the City limits, is unaffected and therefore could be enforced during an emergency, just as it could in the absence of an emergency.

⁴ It could be argued that the City is preempted from adopting a “profiteering” ordinance by the Legislature’s adoption of UCA Section 13-41-101. However, because UCA Section 13-41-101 et seq. does not explicitly prohibit municipalities from adopting profiteering ordinances and does not itself explicitly addresses a situation where the emergency is only local, the better argument is that the City is not preempted. See Salt Lake City v. Newman, 148 P.3d 931 (Utah 2006). But see State v. Hutchinson, 624 P.2d 1116 (Utah 1980) (blanket preemption).

During the 2007 legislative session, House Bill 73 was proposed which would have extended UCA Section 13-41-101 et seq. to local emergencies, but the bill was never voted on in committee. This probably would not be considered sufficiently indicative of a legislative intent that cities not have this authority.

Finally, it must be recognized that in the event of a local emergency, Business Licensing likely would not have the personnel available to enforce these provisions in a timely and effective manner while still performing its regular duties.

D. Temporary Emergency Location for the Principal Office

Article XXII, Section 3 of the Utah Constitution provides that “the seat of state government shall be at Salt Lake City.” See also Article VI, Section 2. Sections 63K-1-601 and 602 [old Sections 63-5b-601 and 602] of the Utah Code authorize the Governor to move the seat of government in the event of an emergency.

There is no equivalent “seat of the government” requirement for municipalities. However, the Open Meetings Act does refer to posting notice at the “principal office” of a public body such as the City Council, UCA § 52-4-202(3)(a)(i)(A), and the Recorder’s Office is required to be located at the “place” of the City Council. UCA § 10-6-137.

In order to give the City flexibility to address this issue should it arise during an emergency, proposed new Section 2.09.080 tracks UCA Sections 63K-1-601 and 602.

E. Electronic Meetings of the City Council

Finally, it is proposed that Salt Lake City Code Section 2.06.030E, “Electronic Meetings,” be amended to reflect emergency situations. The current requirement in this section is that “the council may hold an electronic meeting only if a majority of a quorum of the council [i.e. three members of the four member quorum] is physically present at the physical location from which the electronic meeting originates or from which the council members are connected to the electronic meeting.” This provision could be problematic in the event of an earthquake or other major disaster.

The draft ordinance amends this section to provide that the majority of a quorum requirement does not apply in the event of a declared emergency. This change is permissible under Utah Code Annotated Section 52-4-207(2)(b)(ii)(A), which permits the City to impose the majority of a quorum requirement, but does not require the City to impose such a requirement.

UCA Section 52-4-207(3)(c) provides that at least one of the “anchor locations” must be in the building where the City Council would normally meet – i.e. the City & County Building. If the City & County Building were damaged to the point that it was not physically safe to hold a meeting there, this requirement could be satisfied by changing the location pursuant to proposed Section 2.09.080.

RECOMMENDATION: The Administration recommends that the Council adopt the revised ordinance.

SALT LAKE CITY ORDINANCE

No. _____ of 2008

(Proclamation of Emergency, Emergency Interim Succession and Emergency Powers)

AN ORDINANCE REPEALING SECTION 2.04.030; ENACTING CHAPTER 2.09;
AND AMENDING SECTION 2.06.030E, *SALT LAKE CITY CODE*, RELATING TO
PROCLAMATION OF EMERGENCY, EMERGENCY INTERIM SUCCESSION, AND
EMERGENCY POWERS.

WHEREAS, the City Council recognizes that natural and man-made disasters or emergencies may occur at any time and in any part of Salt Lake City; and

WHEREAS, by Resolution No. 63 of 2005, the City Council adopted the National Incident Management System (NIMS) as Salt Lake City's system of preparing for and responding to disaster incidents;

WHEREAS, the City Council recognizes the importance of clear policy on the authority to issue a proclamation of a local emergency and to exercise authority under such a proclamation; and

WHEREAS, the City Council recognizes the importance of policy on emergency interim succession in a local emergency; and

WHEREAS, the City Council recognizes the benefit of providing additional clarity on the powers that may be exercised during an emergency; and

WHEREAS, recent changes in the Utah Disaster and Response Recovery Act and the Emergency Interim Succession Act make changes to the Salt Lake City Code necessary in some instances and desirable in other instances; and

WHEREAS, the City Council finds that in the event of a local emergency, unjustified increases in the price of essential goods and services may hinder the ability of the City, its citizens and its businesses to recover from such local emergency; and

WHEREAS, Utah Code Annotated Section 10-8-84 authorizes the City Council to pass ordinances to provide for the safety and preserve the health, and promote the prosperity, peace and good order, comfort and convenience of the City and its inhabitants, and for the protection of property in the City; and

WHEREAS, the City Council finds that the proposed ordinance is in the best interest of the City to provide for the safety and preserve the health, and promote the prosperity, peace and good order, comfort and convenience of the City and its inhabitants, and for the protection of property in the City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. That Section 2.04.030, *Salt Lake City Code*, pertaining to the proclamation of emergency be, and the same hereby is, repealed.

SECTION 2. That Chapter 2.09, “Emergency Proclamation, Emergency Interim Succession, and Emergency Powers,” *Salt Lake City Code* be, and the same hereby is, enacted to read as follows:

Chapter 2.09 [Emergency Proclamation, Emergency Interim Succession, and Emergency Powers]

2.09.010 Purpose:

The purpose of this Chapter is to enable the City to respond quickly and effectively to emergencies threatening lives, property, public health, welfare and/or safety within the City’s

jurisdiction. This Chapter is to be liberally construed to achieve that purpose to the full extent of statutory and constitutional authority.

2.09.020 Definitions:

1. “Unavailable” means either (a) not physically present at the place of governance and not able to be communicated with for 2 hours or (b) mentally or physically incapacitated, during a disaster that seriously disrupts normal government operations, regardless of whether that absence, inability or incapacity would give rise to a vacancy under Section 2.04.060 or other constitutional or statutory provision, provided that if a new Mayor is selected by the City Council pursuant to Section 2.04.060A, the new Mayor shall succeed the Emergency Interim Successor. “Unavailable” does not include a person who is reachable by telephone, radio or any electronic means.

2. “Disaster” means a situation causing, or threatening to cause, widespread damage, social description, or injury or loss of life, or property, resulting from attack, internal disturbance, natural phenomenon or technological hazard.

3. “Emergency Interim Successor” means a person designated to exercise the emergency powers and discharge the emergency duties of an office when the person legally exercising those powers and duties of the office is unavailable.

4. “Local Emergency” means a condition which requires that emergency assistance be provided by the City to save lives and protect property within its jurisdiction in response to an emergency or disaster, or to avoid or reduce the threat of a disaster.

5. “Place of Governance” means the physical location where the powers of an office are being exercised.

6. "Technological Hazard" means any hazardous material accident, mine accident, train derailment, truck wreck, or crash, radiation incident, pollution, structural fire or explosion.

2.09.025 Determination of Unavailability:

A. In the event of a dispute as to whether the Mayor is unavailable for purposes of this chapter 2.09, a determination shall be made by the City Attorney (or the City Attorney's Emergency Interim Successor). In the case of all other executive branch officials for whom Emergency Interim Successors have been designated, the determination of unavailability in the case of dispute shall be made by the Mayor (or the Mayor's Emergency Interim Successor). The decision by the Mayor or the City Attorney or their Emergency Interim Successor as the case may be shall be final. A determination of unavailability shall be promptly filed with the City Recorder.

B. All other factual disputes arising under this chapter concerning an executive branch official shall be adjudicated by the Mayor (or the Mayor's Emergency Interim Successor) except those factual disputes concerning the Mayor (or the Mayor's Emergency Interim Successor), which shall be adjudicated by the City Attorney (or the City Attorney's Emergency Interim Successor). The decision by the Mayor or the City Attorney or their Emergency Interim Successors as the case may be shall be final. Any such decision shall be promptly filed with the City Recorder.

2.09.030 Local Emergency Proclamation:

A. The Mayor (or the Mayor's Emergency Interim Successor as provided in Section 2.09.060) may declare a local emergency by proclamation. The proclamation shall state: (i) the

nature of the local emergency; (ii) the area or areas of the City that are affected or threatened; and (iii) the conditions which caused the local emergency.

B. If the Mayor is not personally present to sign the proclamation of local emergency and the Mayor orally or by electronic message directs another person to sign the proclamation on his or her behalf, such person shall sign the proclamation with the Mayor's name followed with the notation "By Direction of the Mayor" and the other person's signature and printed name.

2.09.040 Effectiveness and Continuation or Renewal of Local Emergency:

A proclamation of local emergency is effective upon signature and continues in effect until it expires by its terms or is rescinded, continued, or renewed. A local emergency shall not be adopted, continued, or renewed for a period in excess of thirty days except by or with the consent of the City Council expressed by resolution. Any proclamation or resolution adopting, rescinding, continuing, or renewing a local emergency shall be filed promptly with the City Recorder. Public notice shall be given by the best practicable means under the circumstances.

Section 2.09.050 Powers in a Local Emergency:

In conjunction with a proclamation of local emergency and while a proclamation of local emergency is in effect, the Mayor (or the Mayor's Emergency Interim Successor) may exercise the following powers by proclamation:

1. Issue such orders as are imminently necessary for the protection of life and property, including those authorized in Chapter 4 of Title 63K, Utah Code Annotated or any successor provisions;

2. Utilize all available resources of the City as reasonably necessary to manage the local emergency;

3. Employ measures and give direction to local officers and agencies which are reasonable and necessary to secure compliance;

4. If necessary for the preservation of life, order the evacuation of people from any stricken or threatened part of the City, provided that if the Mayor or his or her Emergency Interim Successor is unavailable the City's Police Chief (or the Police Chief's Emergency Interim Successor) may issue an urgent order for evacuation, if the evacuation is necessary for the preservation of life and does not exceed 36 hours. Once the Mayor (or the Mayor's Emergency Interim Successor) becomes available, the Mayor (or the Mayor's Emergency Interim Successor) may ratify, modify or revoke the order given by the Chief of Police, (or the Chief's Emergency Interim successor).

5. Control ingress and egress to and from any part of the City, including controlling the movement of persons within an emergency or disaster area and ordering the occupancy or evacuation of premises in such area;

6. Clear or remove debris or wreckage that is an immediate threat to public health, public safety, or private property;

7. Invoke the provisions of any mutual aid agreements entered into by the City;

8. Request assistance of political subdivisions participating in the Statewide Mutual Aid system, pursuant to the Statewide Mutual Aid Act UCA Sections 53-2-501 to 510 or any successor provisions;

9. Adopt a curfew upon all or any portion of the City thereby requiring all persons in designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other public places during the specified times; provided, however, that physicians, nurses and ambulance operators performing medical services, utility personnel performing essential public services, firefighters and City authorized or requested law enforcement officers and personnel may be exempted from such curfew;

10. Close any business establishment anywhere within the City for the period of the emergency, which businesses may include, but are not limited to, those selling or dispensing intoxicating liquors or beer; gasoline or other flammable liquids or combustible products; or other products creating a potential of personal harm or property damage, except as prohibited by Utah Code Annotated Section 63-5a-12, or any successor provision with respect to firearms and ammunition;

11. Close all private clubs or taverns or portions thereof where the consumption of intoxicating liquor and/or beer is permitted;

12. Discontinue the sale of intoxicating liquor and/or beer;

13. Designate any public street, thoroughfare, alley, park or vehicle parking areas closed to motor, bicycle, and pedestrian traffic;

14. Call upon regular and auxiliary fire or law enforcement agencies and organizations, within or without the City, to assist in preserving and keeping the peace within the City;

15. Suspend temporarily specific provisions of Salt Lake City ordinances, policies, or executive orders, during the local emergency, if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the local emergency, subject to superior state and federal constitutions, laws, or regulations.

Section 2.09.055 Price Controls During Local Emergency:

A. **Definitions:** For purposes of the section:

1. “Consumer” means a person who acquires a good or service for consumption.
2. “Emergency Territory” means the geographical area:
 - i. for which there has been a state of local emergency declared; and
 - ii. that is directly affected by the events giving rise to the state of local emergency.
 - iii. “Emergency territory” does not include a geographical area that is affected by the events giving rise to a state of local emergency only by economic market forces.
3. “Excessive price” means a price for a good or service that exceeds by more than 10% the average price charged by that person for that good or service in the 30-day period immediately preceding the day on which the state of emergency is declared.
4. “Good” means any personal property displayed, held, or offered for sale by a merchant that is necessary for consumption or use as a direct result of events giving rise to a state of emergency.

5. "Retail" means the level of distribution where a good or service is typically sold directly, or otherwise provided, to a member of the public who is an end-user and does not resell the good or service.
6. "Service" means any activity that is performed in whole or in part for the purpose of financial gain including, but not limited to, personal service, professional service, rental, leasing, or licensing for use that is necessary for consumption or use as a direct result of events giving rise to a state of emergency, provided that "Service" shall not include the rental of private residential property.

B. Excessive price prohibited: Excessive prices are prohibited as follows:

1. Except as provided in Subsection (2), if a state of local emergency exists, a person may not charge a consumer an excessive price for goods or services sold or provided at retail during the time period for which a state of local emergency declared by the City exists within the Emergency Territory.
2. A person may charge an Excessive price if:
 - i. That person's cost of obtaining the good or providing the service exceeds the average cost to the person obtaining the good or providing the service in the 30-day period immediately preceding the day on which the state of local emergency is declared; and
 - ii. The price charged for the good or service does not exceed the sum of:
 1. 10% above the total cost to that person of obtaining the good or providing the service; and
 2. the person's customary markup.

3. Upon request of the Business Licensing Division or the City Attorney's Office, a person allegedly charging an excessive price under Subsection (b) shall provide documentation to the City Attorney's Office that the person is in compliance with this Section 2.09.055.
4. If a good or service has not been sold by a person during the 30-day period immediately preceding the day on which the state of local emergency is declared, a price is not excessive if it does not exceed 30% above the person's total cost of obtaining the good or providing the service.

C. Enforcement –Penalty: Enforcement shall be as follows:

1. To enforce this section, Business Licensing may commence a proceeding following the procedures set forth in Section 5.02.260.
2. In determining whether to issue a cease and desist order; suspend or revoke a business license; or impose civil penalties against a person who violates this Section 2.09.055, the hearing examiner shall consider:
 - a. The person's cost of doing business not accounted for in the cost to the person of the good or service, including costs associated with a decrease in the supply available to a person who relies on a high volume of sales;
 - b. The person's efforts to comply with this chapter;
 - c. Whether the average price charged by the person during the 30-day period immediately preceding the day on which the date of local emergency is declared is artificially deflated because the good or service was on sale for lower price than the person customarily charges for the good or service; and
 - d. Any other factor that the hearing examiner considers appropriate; and

- e. In the case of a suspension or revocation of a business license, whether such suspension or rejection shall begin after the state of local emergency has ended.
3. (a) If the hearing examiner finds that a person has violated, or is violating, this Section 2.09.055B the hearing examiner may:
- i. Issue a cease and desist order; and/or
 - ii. Subject to Subsection (3)(b), either impose an administrative fine of up to \$1,000 for each violation of Section 2.09.055B or revoke or suspend the person's business license.
- (b) Each instance of charging an excessive price under Section 2.09.055B constitutes a separate violation, but in no case shall any administrative fine imposed under Subsection (3)(a) exceed \$10,000 per day.
4. The City may sue in a court of competent jurisdiction to enforce an order under Subsection (3).
5. In a suit brought under Subsection (3), if the City prevails, the court may award the City:
- i. Court costs;
 - ii. Attorney fees; and
 - iii. The City's costs incurred in the investigation of the violation of this Section 2.09.055.
- D. **Non-Applicability:** The provisions of this Section 2.09.55 shall not apply to any part of the City encompassed by a state of emergency declared by the Governor of

Utah or the President of the United States of America while such state of emergency declared by the Governor or the President remains in effect.

Section 2.09.060 Emergency Interim Succession:

Notwithstanding any other provision of law, if the Mayor is unavailable, an Emergency Interim Successor shall exercise the powers and duties of the Mayor according to the order of succession designated by the Mayor. If the Mayor or any other City government officer has not designated an Emergency Interim Successor, the order of succession shall be: (1) the Mayor, (2) the City's chief administrative officer, (3) the Chair of the City Council, and (4) the City's Police Chief. An Emergency Interim Successor shall exercise the powers of the Mayor only until the Mayor or a person earlier in the order of succession is no longer unavailable or in the case of a vacancy, the vacancy is filled in accordance with applicable City code or state statute. If any other City official is unavailable, an Emergency Interim Successor shall exercise such official's powers as provided by Utah Code Annotated Section 63K-1-401 or any successor provision.

Section 2.09.070 Effective Date, Filing and Public Notice:

All orders, rules and regulations promulgated pursuant to Section 2.09.050 shall become effective immediately upon filing with the City Recorder. Public notice shall be given by the best practicable means available under the circumstances.

Section 2.09.080 Temporary Emergency Location for the Principal Office:

A. Whenever, due to emergency resulting from the effects or imminent threat of a disaster, it becomes imprudent, inexpedient or impossible to conduct the affairs of the city

government or any individual office, department, division, or public body of city government at its current principal office or place of governance, the Mayor (or the Mayor's Emergency Interim Successor) may, by proclamation declare an emergency temporary location for the principal office of such office or place of governance, department, division or public body, either within or without the jurisdiction of the City, but within Utah.

B. Any proclamation of temporary emergency location of the principal office of the City Council shall remain in effect until such time as a new location is established by the City Council.

C. During the time that any proclamation of temporary emergency location of the principal office or place of governance remains in effect, all official acts required by law to be performed at the principal office or place of governance by any official or authority of the City, including the convening and meeting of the City Council in regular, extraordinary, emergency or special session, shall be as valid and binding as when performed at the normal location of the principal office or place of governance.

Section 2.09.090 Penalty for Violation of Emergency Proclamation, Rule or Order:

Except as provided with respect to violations of Section 2.09.055, the violation of a proclamation declaring a local emergency, a subsequent proclamation exercising emergency powers, or any order or rule issued pursuant to this Chapter, or an order or directive given by police, fire or other emergency services personnel pursuant to authority resulting from this Chapter is a class B misdemeanor and punishable as provided by Section 1.12.050 or any successor provision.

SECTION 3: That Chapter 2.06.030E, "Electronic Meetings," *Salt Lake City Code* be, and the same hereby is, amended to read as follows:

E. Electronic Meetings:

For purposes of the Utah open and public meetings act, the council may hold an electronic meeting only if a majority of a quorum of the council is physically present at the physical location from which the electronic meeting originates or from which the council members are connected to the electronic meeting. However, if a proclamation of local, state or national emergency is in effect, a majority of a quorum of the council need not be physically present at the physical location from which the electronic meeting originates or from which the council members are connected to the electronic meeting in order for an electronic meeting to be held.

SECTION 4: SEVERABILITY

If any section, subsection, clause, or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5: EFFECTIVE DATE

This ordinance shall take effect upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2008.

CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

ATTEST:

CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. _____ of 2008.

Published: _____.

HB_ATT#265-v2-Emergency_Succession_Powers_Ord.DOC

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date May 23, 2008
By 

SALT LAKE CITY ORDINANCE

No. _____ of 2008

(Proclamation of Emergency, Emergency Interim Succession and Emergency Powers)

AN ORDINANCE REPEALING SECTION 2.04.030; ENACTING CHAPTER 2.09;
AND AMENDING SECTION 2.06.030E, *SALT LAKE CITY CODE*, RELATING TO
PROCLAMATION OF EMERGENCY, EMERGENCY INTERIM SUCCESSION, AND
EMERGENCY POWERS.

WHEREAS, the City Council recognizes that natural and man-made disasters or emergencies may occur at any time and in any part of Salt Lake City; and

WHEREAS, by Resolution No. 63 of 2005, the City Council adopted the National Incident Management System (NIMS) as Salt Lake City's system of preparing for and responding to disaster incidents;

WHEREAS, the City Council recognizes the importance of clear policy on the authority to issue a proclamation of a local emergency and to exercise authority under such a proclamation; and

WHEREAS, the City Council recognizes the importance of policy on emergency interim succession in a local emergency; and

WHEREAS, the City Council recognizes the benefit of providing additional clarity on the powers that may be exercised during an emergency; and

WHEREAS, recent changes in the Utah Disaster and Response Recovery Act and the Emergency Interim Succession Act make changes to the Salt Lake City Code necessary in some instances and desirable in other instances; and

WHEREAS, the City Council finds that in the event of a local emergency, unjustified increases in the price of essential goods and services may hinder the ability of the City, its citizens and its businesses to recover from such local emergency; and

WHEREAS, Utah Code Annotated Section 10-8-84 authorizes the City Council to pass ordinances to provide for the safety and preserve the health, and promote the prosperity, peace and good order, comfort and convenience of the City and its inhabitants, and for the protection of property in the City; and

WHEREAS, the City Council finds that the proposed ordinance is in the best interest of the City to provide for the safety and preserve the health, and promote the prosperity, peace and good order, comfort and convenience of the City and its inhabitants, and for the protection of property in the City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. That Section 2.04.030, *Salt Lake City Code*, pertaining to the proclamation of emergency be, and the same hereby is, repealed.

SECTION 2. That Chapter 2.09, "Emergency Proclamation, Emergency Interim Succession, and Emergency Powers," *Salt Lake City Code* be, and the same hereby is, enacted to read as follows:

Chapter 2.09 [Emergency Proclamation, Emergency Interim Succession, and Emergency Powers]

2.09.010 Purpose:

The purpose of this Chapter is to enable the City to respond quickly and effectively to emergencies threatening lives, property, public health, welfare and/or safety within the City's

jurisdiction. This Chapter is to be liberally construed to achieve that purpose to the full extent of statutory and constitutional authority.

2.09.020 Definitions:

1. “Unavailable” means either (a) not physically present at the place of governance and not able to be communicated with for 2 hours or (b) mentally or physically incapacitated, during a disaster that seriously disrupts normal government operations, regardless of whether that absence, inability or incapacity would give rise to a vacancy under Section 2.04.060 or other constitutional or statutory provision, provided that if a new Mayor is selected by the City Council pursuant to Section 2.04.060A, the new Mayor shall succeed the Emergency Interim Successor. “Unavailable” does not include a person who is reachable by telephone, radio or any electronic means.

2. “Disaster” means a situation causing, or threatening to cause, widespread damage, social description, or injury or loss of life, or property, resulting from attack, internal disturbance, natural phenomenon or technological hazard.

3. “Emergency Interim Successor” means a person designated to exercise the emergency powers and discharge the emergency duties of an office when the person legally exercising those powers and duties of the office is unavailable.

4. “Local Emergency” means a condition which requires that emergency assistance be provided by the City to save lives and protect property within its jurisdiction in response to an emergency or disaster, or to avoid or reduce the threat of a disaster.

5. “Place of Governance” means the physical location where the powers of an office are being exercised.

6. "Technological Hazard" means any hazardous material accident, mine accident, train derailment, truck wreck, or crash, radiation incident, pollution, structural fire or explosion.

2.09.025 Determination of Unavailability:

A. In the event of a dispute as to whether the Mayor is unavailable for purposes of this chapter 2.09, a determination shall be made by the City Attorney (or the City Attorney's Emergency Interim Successor). In the case of all other executive branch officials for whom Emergency Interim Successors have been designated, the determination of unavailability in the case of dispute shall be made by the Mayor (or the Mayor's Emergency Interim Successor). The decision by the Mayor or the City Attorney or their Emergency Interim Successor as the case may be shall be final. A determination of unavailability shall be promptly filed with the City Recorder.

B. All other factual disputes arising under this chapter concerning an executive branch official shall be adjudicated by the Mayor (or the Mayor's Emergency Interim Successor) except those factual disputes concerning the Mayor (or the Mayor's Emergency Interim Successor), which shall be adjudicated by the City Attorney (or the City Attorney's Emergency Interim Successor). The decision by the Mayor or the City Attorney or their Emergency Interim Successors as the case may be shall be final. Any such decision shall be promptly filed with the City Recorder.

2.09.030 Local Emergency Proclamation:

A. The Mayor (or the Mayor's Emergency Interim Successor as provided in Section 2.09.060) may declare a local emergency by proclamation. The proclamation shall state: (i) the

nature of the local emergency; (ii) the area or areas of the City that are affected or threatened; and (iii) the conditions which caused the local emergency.

B. If the Mayor is not personally present to sign the proclamation of local emergency and the Mayor orally or by electronic message directs another person to sign the proclamation on his or her behalf, such person shall sign the proclamation with the Mayor's name followed with the notation "By Direction of the Mayor" and the other person's signature and printed name.

2.09.040 Effectiveness and Continuation or Renewal of Local Emergency:

A proclamation of local emergency is effective upon signature and continues in effect until it expires by its terms or is rescinded, continued, or renewed. A local emergency shall not be adopted, continued or renewed for a period in excess of thirty days except by or with the consent of the City Council expressed by resolution. Any proclamation or resolution adopting, rescinding, continuing, or renewing a local emergency shall be filed promptly with the City Recorder. Public notice shall be given by the best practicable means under the circumstances.

Section 2.09.050 Powers in a Local Emergency:*

In conjunction with a proclamation of local emergency and while a proclamation of local emergency is in effect, the Mayor (or the Mayor's Emergency Interim Successor) may exercise the following powers by proclamation:

* "Legislative" Drafting Note: Proposed Section 2.09.050 is similar to current section 2.04.030A. Because of the importance of the subject matter, proposed Section 2.09.050 has been "black lined" here to show the differences from current Section 2.04.030A.

1. Issue such orders as are imminently necessary for the protection of life and property, including those authorized in Chapter 4 of Title 63K, Utah Code Annotated or any successor provisions;

2. Utilize all available resources of the City as reasonably necessary to manage the local emergency;

3. Employ measures and give direction to local officers and agencies which are reasonable and necessary to secure compliance;

4. If necessary for the preservation of life, order the evacuation of people from any stricken or threatened part of the City, provided that if the Mayor or his or her Emergency Interim Successor is unavailable the City's Police Chief (or the Police Chief's Emergency Interim Successor) may issue an urgent order for evacuation, if the evacuation is necessary for the preservation of life and does not exceed 36 hours. Once the Mayor (or the Mayor's Emergency Interim Successor) becomes available, the Mayor (or the Mayor's Emergency Interim Successor) may ratify, modify or revoke the order given by the Chief of Police, (or the Chief's Emergency Interim successor).

5. Control ingress and egress to and from any part of the City, including controlling the movement of persons within an emergency or disaster area and ordering the occupancy or evacuation of premises in such area;

6. Clear or remove debris or wreckage that is an immediate threat to public health, public safety, or private property;

7. Invoke the provisions of any mutual aid agreements entered into by the City;

8. Request assistance of political subdivisions participating in the Statewide Mutual Aid system, pursuant to the Statewide Mutual Aid Act UCA Sections 53-2-501 to 510 or any successor provisions;

9. Adopt a curfew upon all or any portion of the City thereby requiring all persons in designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other public places during the specified times; provided, however, that physicians, nurses and ambulance operators performing medical services, utility personnel performing essential public services, firefighters and City authorized or requested law enforcement officers and personnel may be exempted from such curfew;

10. Close any business establishment anywhere within the City for the period of the emergency, which businesses may include, but are not limited to, those selling or dispensing intoxicating liquors or beer; gasoline or other flammable liquids or combustible products; firearms or other products creating a potential of personal harm or property damage, except as prohibited by Utah Code Annotated Section 63-5a-12, or any successor provision with respect to firearms and ammunition;

11. Close all private clubs or taverns or portions thereof where the consumption of intoxicating liquor and/or beer is permitted;

12. Discontinue the sale of intoxicating liquor and/or beer;

13. Designate any public street, thoroughfare, alley, park or vehicle parking areas closed to motor, bicycle, and pedestrian traffic;

14. Call upon regular and auxiliary fire or law enforcement agencies and organizations, within or without the City, to assist in preserving and keeping the peace within the City;

15. Suspend temporarily specific provisions of Salt Lake City ordinances, policies, or executive orders, during the local emergency, if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the local emergency, subject to superior state and federal constitutions, laws, or regulations.

Section 2.09.055 Price Controls During Local Emergency:

A. **Definitions:** For purposes of the section:

1. “Consumer” means a person who acquires a good or service for consumption.
2. “Emergency Territory” means the geographical area:
 - i. for which there has been a state of local emergency declared; and
 - ii. that is directly affected by the events giving rise to the state of local emergency.
 - iii. “Emergency territory” does not include a geographical area that is affected by the events giving rise to a state of local emergency only by economic market forces.
3. “Excessive price” means a price for a good or service that exceeds by more than 10% the average price charged by that person for that good or service in the 30-day period immediately preceding the day on which the state of emergency is declared.
4. “Good” means any personal property displayed, held, or offered for sale by a merchant that is necessary for consumption or use as a direct result of events giving rise to a state of emergency.

5. "Retail" means the level of distribution where a good or service is typically sold directly, or otherwise provided, to a member of the public who is an end-user and does not resell the good or service.
6. "Service" means any activity that is performed in whole or in part for the purpose of financial gain including, but not limited to, personal service, professional service, rental, leasing, or licensing for use that is necessary for consumption or use as a direct result of events giving rise to a state of emergency, provided that "Service" shall not include the rental of private residential property.

B. Excessive price prohibited: Excessive prices are prohibited as follows:

1. Except as provided in Subsection (2), if a state of local emergency exists, a person may not charge a consumer an excessive price for goods or services sold or provided at retail during the time period for which a state of local emergency declared by the City exists within the Emergency Territory.
2. A person may charge an Excessive price if:
 - i. That person's cost of obtaining the good or providing the service exceeds the average cost to the person obtaining the good or providing the service in the 30-day period immediately preceding the day on which the state of local emergency is declared; and
 - ii. The price charged for the good or service does not exceed the sum of:
 1. 10% above the total cost to that person of obtaining the good or providing the service; and
 2. the person's customary markup.

3. Upon request of the Business Licensing Division or the City Attorney's Office, a person allegedly charging an excessive price under Subsection (b) shall provide documentation to the City Attorney's Office that the person is in compliance with this Section 2.09.055.
4. If a good or service has not been sold by a person during the 30-day period immediately preceding the day on which the state of local emergency is declared, a price is not excessive if it does not exceed 30% above the person's total cost of obtaining the good or providing the service.

C. Enforcement –Penalty: Enforcement shall be as follows:

1. To enforce this section, Business Licensing may commence a proceeding following the procedures set forth in Section 5.02.260.
2. In determining whether to issue a cease and desist order; suspend or revoke a business license; or impose civil penalties against a person who violates this Section 2.09.055, the hearing examiner shall consider:
 - a. The person's cost of doing business not accounted for in the cost to the person of the good or service, including costs associated with a decrease in the supply available to a person who relies on a high volume of sales;
 - b. The person's efforts to comply with this chapter;
 - c. Whether the average price charged by the person during the 30-day period immediately preceding the day on which the date of local emergency is declared is artificially deflated because the good or service was on sale for lower price than the person customarily charges for the good or service; and
 - d. Any other factor that the hearing examiner considers appropriate; and

- e. In the case of a suspension or revocation of a business license, whether such suspension or rejection shall begin after the state of local emergency has ended.
3. (a) If the hearing examiner finds that a person has violated, or is violating, this Section 2.09.055B the hearing examiner may:
- i. Issue a cease and desist order; and/or
 - ii. Subject to Subsection (3)(b), either impose an administrative fine of up to \$1,000 for each violation of Section 2.09.055B or revoke or suspend the person's business license.
- (b) Each instance of charging an excessive price under Section 2.09.055B constitutes a separate violation, but in no case shall any administrative fine imposed under Subsection (3)(a) exceed \$10,000 per day.
4. The City may sue in a court of competent jurisdiction to enforce an order under Subsection (3).
5. In a suit brought under Subsection (3), if the City prevails, the court may award the City:
- i. Court costs;
 - ii. Attorney fees; and
 - iii. The City's costs incurred in the investigation of the violation of this Section 2.09.055.
- D. **Non-Applicability:** The provisions of this Section 2.09.55 shall not apply to any part of the City encompassed by a state of emergency declared by the Governor of

Utah or the President of the United States of America while such state of emergency declared by the Governor or the President remains in effect.

Section 2.09.060 Emergency Interim Succession:

Notwithstanding any other provision of law, if the Mayor is unavailable, an Emergency Interim Successor shall exercise the powers and duties of the Mayor according to the order of succession designated by the Mayor. If the Mayor or any other City government officer has not designated an Emergency Interim Successor, the order of succession shall be: (1) the Mayor, (2) the City's chief administrative officer, (3) the Chair of the City Council, and (4) the City's Police Chief. An Emergency Interim Successor shall exercise the powers of the Mayor only until the Mayor or a person earlier in the order of succession is no longer unavailable or in the case of a vacancy, the vacancy is filled in accordance with applicable City code or state statute. If any other City official is unavailable, an Emergency Interim Successor shall exercise such official's powers as provided by Utah Code Annotated Section 63K-1-401 or any successor provision.

Section 2.09.070 Effective Date, Filing and Public Notice:

All orders, rules and regulations promulgated pursuant to Section 2.09.050 shall become effective immediately upon filing with the City Recorder. Public notice shall be given by the best practicable means available under the circumstances.

Section 2.09.080 Temporary Emergency Location for the Principal Office:

A. Whenever, due to emergency resulting from the effects or imminent threat of a disaster, it becomes imprudent, inexpedient or impossible to conduct the affairs of the city

government or any individual office, department, division, or public body of city government at its current principal office or place of governance, the Mayor (or the Mayor's Emergency Interim Successor) may, by proclamation declare an emergency temporary location for the principal office of such office or place of governance, department, division or public body, either within or without the jurisdiction of the City, but within Utah.

B. Any proclamation of temporary emergency location of the principal office of the City Council shall remain in effect until such time as a new location is established by the City Council.

C. During the time that any proclamation of temporary emergency location of the principal office or place of governance remains in effect, all official acts required by law to be performed at the principal office or place of governance by any official or authority of the City, including the convening and meeting of the City Council in regular, extraordinary, emergency or special session, shall be as valid and binding as when performed at the normal location of the principal office or place of governance.

Section 2.09.090 Penalty for Violation of Emergency Proclamation, Rule or Order:

Except as provided with respect to violations of Section 2.09.055, the violation of a proclamation declaring a local emergency, a subsequent proclamation exercising emergency powers, or any order or rule issued pursuant to this Chapter, or an order or directive given by police, fire or other emergency services personnel pursuant to authority resulting from this Chapter is a class B misdemeanor and punishable as provided by Section 1.12.050 or any successor provision.

SECTION 3: That Chapter 2.06.030E, "Electronic Meetings," *Salt Lake City Code* be, and the same hereby is, amended to read as follows:

E. Electronic Meetings:

For purposes of the Utah open and public meetings act, the council may hold an electronic meeting only if a majority of a quorum of the council is physically present at the physical location from which the electronic meeting originates or from which the council members are connected to the electronic meeting. However, if a proclamation of local, state or national emergency is in effect, a majority of a quorum of the council need not be physically present at the physical location from which the electronic meeting originates or from which the council members are connected to the electronic meeting in order for an electronic meeting to be held.

SECTION 4: SEVERABILITY

If any section, subsection, clause, or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5: EFFECTIVE DATE

This ordinance shall take effect upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2008.

CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

ATTEST:

CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. _____ of 2008.

Published: _____.

HB_ATT#265-v1-Emergency_Succession_Powers_Ord.DOC