

MEMORANDUM



To: City Council
Mayor

From: Ed Rutan, City Attorney
Margaret Plane, Assistant City Attorney *MP*

cc: David Everitt, Chief of Staff *DE*

Date: September 4, 2008

Re: Proclamation Of Emergency, Emergency Interim Succession, And Emergency Powers Ordinance *AL*

Attached are the requested changes to the proposed Proclamation Of Emergency, Emergency Interim Succession, And Emergency Powers Ordinance. Section 2.09.020 is changed to clarify that the new "Unavailable" definition does not apply "if a vacancy exists in the office of the Mayor pursuant to Section 2.04.060, the provisions of Section 2.04.060 shall prevail over the provisions of this Chapter." Under SLCC Section 2.04.060B, if the Mayor died in an emergency, or a vacancy were otherwise created, the Council Chair becomes the acting mayor until the vacancy is filled.

Also, please note that there is a new Section 4, amending Chapter 2.04.060A, "Vacancies-Appointment Of Successor." The amendment merely adds a reference to Utah Code Section 20A-1-510 (Mid term vacancies in Municipal Offices), or its successor provisions. The state statute requires that before acting to fill a vacancy, the Council must give at least two weeks public notice of the meeting and provide the opportunity for interested persons to submit their names.

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; AMENDING SECTION 2.06.030E, *SALT LAKE CITY CODE*, RELATING TO PROCLAMATION OF EMERGENCY, EMERGENCY INTERIM SUCCESSION, AND EMERGENCY POWERS; AND AMENDING SECTION 2.04.060A, *SALT LAKE CITY CODE*, RELATING TO VACANCIES-APPOINTMENT OF SUCCESSOR.

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 or not able to be communicated with for 2 hours or (b) mentally or physically impaired, during a disaster that seriously disrupts normal government operations, provided that if a vacancy exists in the office of the Mayor pursuant to Section 2.04.060, the provisions of Section 2.04.060 shall prevail over the provisions of this Chapter. “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 disruption, 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 except Section 2.04.060, 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. 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: That Chapter 2.04.060A, “Vacancies-Appointment Of Successor,” *Salt Lake City Code* be, and the same hereby is amended to read as follows:

A. Determination And Filling Of Vacancies:

If the duly elected mayor shall die, resign, terminate legal domicile within the corporate limits of the city as determined by a court of competent jurisdiction or be judicially removed fro office, the office of mayor shall become vacant. The council shall pursuant to Utah Code Section 20A-1-510 (Mid term vacancies in Municipal Offices), or its successor provisions, and within thirty (30) days after such vacancy appoint a resident of the city, who otherwise qualified to be elected mayor to fill such vacancy, The person so appointed shall serve as mayor until the next municipal election and until a successor shall be duly qualified, elected and sworn into office.

SECTION 5: SEVERABILITY

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

SECTION 6: 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: _____.

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 9/4/08
By [Signature]

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.; AND AMENDING SECTION 2.04.060A, *SALT LAKE CITY*
CODE, RELATING TO VACANCIES-APPOINTMENT OF SUCCESSOR.

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 or not able to be communicated with for 2 hours or~~ (b) ~~mentally or physically incapacitated~~ impaired, during a disaster that seriously disrupts normal government operations, provided that if a vacancy exists in the office of the Mayor pursuant to Section 2.04.060, the provisions of Section 2.04.060 shall prevail over the provisions of this Chapter, 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~~ disruption, 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 except Section 2.04.060, 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: That Chapter 2.04.060A, "Vacancies-Appointment Of Successor," *Salt Lake City Code* be, and the same hereby is amended to read as follows:

A. Determination And Filling Of Vacancies:

If the duly elected mayor shall die, resign, terminate legal domicile within the corporate limits of the city as determined by a court of competent jurisdiction or be judicially removed fro office, the office of mayor shall become vacant. The council shall pursuant to Utah Code Section 20A-1-510 (Mid term vacancies in Municipal Offices), or its successor provisions, and within thirty (30) days after such vacancy appoint a resident of the city, who otherwise qualified to be elected

mayor to fill such vacancy, The person so appointed shall serve as mayor until the next municipal election and until a successor shall be duly qualified, elected and sworn into office.

SECTION 45: SEVERABILITY

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

SECTION 56: 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: _____.

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