

ORDINANCE NO. 2020- 05

AN ORDINANCE OF THE SOUTH SALT LAKE CITY COUNCIL REPEALING CHAPTER 2.04.040 OF THE SOUTH SALT LAKE CITY CODE, CREATING CHAPTER 2.05 OF THE SOUTH SALT LAKE CITY CODE, AND AMENDING CHAPTER 3.11.050 OF THE SOUTH SALT LAKE CITY CODE, TO PROVIDE FOR CIVIL ENFORCEMENT OF STATE OR LOCAL DECLARATIONS OF EMERGENCY OR SUBSEQUENT ORDERS, DIRECTIVES, RULES, OR REGULATIONS RELATED TO THE EMERGENCY.

WHEREAS, the City Council is authorized by law to enact ordinances for the protection of the health, safety and welfare;

WHEREAS, on March 6, 2020, Utah Governor Gary R. Herbert issued an Executive Order declaring a state of emergency in Utah due to the global outbreak of the novel coronavirus COVID-19;

WHEREAS, on March 16, 2020, Salt Lake County Mayor Jennifer Wilson issued a proclamation declaring a state of emergency due to the COVID-19 pandemic;

WHEREAS, on March 18, 2020, South Salt Lake City Mayor Cherie Wood (the "Mayor") declared a local emergency related to the COVID-19 pandemic and a 5.7 magnitude earthquake which had an epicenter within 15 miles of the City of South Salt Lake;

WHEREAS, the Mayor, the State of Utah, and Salt Lake County have continued to issue directives, orders, rules, regulations, and proclamations related to their declarations of emergency;

WHEREAS, state law provides that declarations of emergency have the full force of law and that violations of those declarations or subsequent related proclamations, orders, directives, rules, or regulations is punishable as a misdemeanor;

WHEREAS, The State of Utah and Salt Lake County have urged caution in charging people criminally for violations of those declarations, orders, proclamations, directives, rules, or regulations;

WHEREAS, the City Council desires to provide to the City's enforcement officials the ability to enforce state and local declarations of emergency and subsequent proclamations, orders, directives, rules, or regulations related to the emergency through the administrative process in addition to the criminal process;

WHEREAS, the City Council finds that the proposed ordinance supports and promotes the State's, Salt Lake County's, and the City's goals to effectively limit the spread of COVID-19 and the need to enforce all declarations of emergency and related orders, proclamations, rules, and regulations; and

WHEREAS, the City Council finds that administrative enforcement may be preferable in some cases to criminal enforcement in achieving those goals;

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

SECTION I: Repeal Chapter 2.04.040 - Emergency Management of the South Salt Lake City Code

SECTION II: Create Chapter 2.05 – Emergency Management of the South Salt Lake City Code, as attached hereto as Exhibit A.

SECTION III: Amend Chapter 3.11.050 of the South Salt Lake City Code, as attached hereto as Exhibit B.

SECTION IV: Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION V. Conflict with Existing Ordinances, Resolutions, or Policies. To the extent that any ordinances, resolutions, or policies of the City of South Salt Lake conflict with the provisions of this ordinance, this ordinance shall prevail.

SECTION VI. Effective Date. This ordinance shall become effective upon Mayor's signature and publication, or after fifteen days of transmission to the office of the Mayor if neither approved nor disapproved by the Mayor, and thereafter, publication.

DATED this 8th day of April 2020.

BY THE CITY COUNCIL:

Shirley Bynum

ATTEST:

Craig D. Burton
Craig D. Burton, City Recorder

City Council Vote as Recorded:

Bynum	<u>Yes</u>
deWolfe	<u>Yes</u>
Huff	<u>Yes</u>
Mila	<u>Yes</u>
Pinkney	<u>Yes</u>
Siwik	<u>Yes</u>
Thomas	<u>Yes</u>

Transmitted to the Mayor's office on this 10th day of APRIL 2020.

Craig D. Burton
Craig D. Burton, City Recorder

MAYOR'S ACTION: Approve

Dated this 10th day of April, 2020.

Cherie Wood
Cherie Wood, Mayor

ATTEST:

Craig D. Burton
Craig D. Burton, City Recorder



EXHIBIT A

2.05 - EMERGENCY MANAGEMENT.

2.05.010 – Definitions.

A. As used in this chapter:

1. "Disaster" means a sudden calamitous manmade, natural or war-caused event bringing great damage, loss or destruction.
2. "Disaster" emergency means those conditions which may, by investigation made, be found actually or likely to:
 - a. Affect seriously the safety, health or welfare of a substantial number of the citizens of the city or preclude the operation or use of essential public services and facilities;
 - b. Be of such a magnitude or severity to necessitate seeking county or state supplementation of local efforts or resources exerted or utilized in alleviating the danger, damage, suffering or hardship faced; and
 - c. Have been caused by forces beyond the control of man, by reason of civil disorder, riot or disturbance, or by factors not foreseen and not known to exist when appropriation bills were enacted.
3. "Emergency management" means the judicious planning, assignment and coordination of all available resources in an integrated program of prevention, mitigation, preparedness, response and recovery for emergencies of any kind, whether from attack, manmade or natural sources.
4. "Emergency services" means the preparation for and the carrying out of functions, other than functions for which military forces are primarily responsible, to prevent, minimize and provide emergency repair of injury and damage resulting from disaster, together with all other activities necessary or incidental to the preparation for carrying out of those functions. The functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, disaster warning services, communications, radiological, shelter, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency resources management, temporary restoration of public utility services, and other functions related to civilian protection.
5. "Enforcement Official" has the same meaning as defined in Section 8.14.100 of this Code or its successor provision.
6. "Local emergency" means the condition declared by the mayor when in his or her judgement the threat or actual occurrence of a disaster is or threatens to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship, or suffering threatened or caused thereby.
7. "Manmade disaster" means any industrial, nuclear, or transportation accident, explosion, conflagration, power failure, natural resource shortage, or other condition, except enemy action, resulting from manmade causes, such as oil spills and other injurious environmental contamination, which threatens or causes substantial damage to property, human suffering, hardship or loss of life.
8. "Natural disaster" means any hurricane, windstorm, tornado, storm, flood, high water, wind-driven water, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion, pandemic or epidemic as those terms are used and defined in Utah Code Ann. § 26-23b-102 or its successor provision, or other catastrophe which results in substantial damage to property, hardship, suffering or possible loss of life.
9. "Responsible Person" has the same meaning as defined in Section 8.14.100 of this Code or its successor provision.
10. "War-caused disaster" means any condition following an attack resulting in substantial damage to property or injury to persons caused by use of bombs, missiles, shellfire, nuclear, radiological,

chemical or biological means, or other weapons, or overt paramilitary actions, or other conditions such as sabotage.

2.05.020 The Mayor—Powers and Duties.

- A.. The mayor is authorized to declare a local disaster upon finding a disaster has occurred or is imminent. An emergency's existence or resolution is declared by:
 - 1. The mayor in consultation with readily available city councilmembers; or
 - 2. In the event of the mayor's absence or disability, the mayor's successor as established in Utah Code Ann. 53-2a-807 or its successor provision.
- B. An emergency which causes danger of injury or damages to persons or property can be declared as a result of:
 - 1. Riot;
 - 2. Mob action;
 - 3. Act of God;
 - 4. Natural disaster;
 - 5. Manmade disaster; or
 - 6. Civil disturbance.
- C. The declaration or resolution of an emergency shall become effective upon its issuance and dissemination in appropriate form to the public.
- D. Power to create orders deemed necessary to preserve the peace and order of the city can be made by proclamation or resolution of:
 - 1. The mayor in consultation with readily available city councilmembers; or
 - 2. In the event of the mayor's disability or absence, the city councilmembers.
- E. The following orders which may be deemed necessary to preserve the peace and order of the city can be made:
 - 1. An order to establish a curfew upon all or part of the city providing:
 - a. Curfew areas which require the public to remove themselves from the area,
 - b.. Exemption from curfew for specific personnel performing essential services such as medical, utility, fire, police and city services;
 - 2. An order to close any business establishment for the period of the emergency whose products create a potential of personal harm or property damage. The types of business may include but are not limited to those selling or dispensing:
 - a. Intoxicating liquors or beer,
 - b. Gasoline or other flammable liquids or combustible products,
 - c. Firearms and ammunition;
 - 3. An order to close all private clubs or portion thereof where the consumption of intoxicating liquor and/or beer is permitted;
 - 4. An order to discontinue the sale of beer or other alcoholic beverages for the period of the emergency;
 - 5. An order to designate any public street, thoroughfare, alley, park or vehicle parking area closed to motor vehicles and pedestrians for the period of the emergency;

6. An order to call upon organizations, within or without the city, to assist in preserving and keeping the peace within the city for the period of the emergency. These include regular and volunteer fire and/or law enforcement organizations;
7. Other orders which are imminently necessary for the protection of life and property;

2.05.030 – Penalty for violation.

A. Violations

1. Violations of any declaration of a local disaster or subsequent proclamation, rule, or order issued by the Mayor pursuant to this Chapter or pursuant to any other applicable state or local law is punishable as a Class B Misdemeanor or by an administrative citation.
2. Violations of any state statute related to a declaration, proclamation, rule, directive, or order pursuant to an emergency, as defined by the respective jurisdiction, issued by the State of Utah or Salt Lake County may be enforced by an administrative citation.

B. Administrative citation.

1. Upon discovering a violation of this Chapter an Enforcement Official may serve an administrative citation on the Responsible Person.
2. Enforcement Officials shall follow the rules regarding administrative citations prescribed by Chapter 8.14 of this Code or its successor provision, including notification of the right to and procedure for requesting an administrative hearing as set forth in section 2.22.040 of this code or its successor provision. Notwithstanding the foregoing, an administrative hearing shall not be required to be held during the local emergency but shall be held as soon as practicable after the local emergency has ended. However, at the mayor's discretion, the administrative hearing may be held during the local emergency if conditions permit.
3. Fines shall be prescribed in Chapter 3.11 of this Code or its successor provision.

2.05.030 - Office of Disaster and Emergency Services.

- A. The office of disaster and emergency services is created under the office of the mayor and shall be managed by an emergency manager, who shall be appointed in the manner set forth in subsection B of this section, Emergency Manager. The office of disaster and emergency services will coordinate activities pertaining to natural, manmade and war-caused disasters and will be the instrument through which the mayor may exercise the authority and discharge the responsibilities vested in him or her.
- B. Emergency Manager. The emergency manager shall be an employee of South Salt Lake who is recommended by the mayor and approved by the city council. The emergency manager shall report directly to the mayor and shall be responsible for the planning, administration and operation of the local organization subject to the direction and control of the mayor.
- C. Emergency Management Plan. The office of disaster and emergency services shall prepare an emergency management plan that shall be submitted to and approved by the city council. The plan shall establish an emergency management team providing for the use of services, equipment, facilities and personnel of all city government divisions and other service providers during a threatened or actual local disaster emergency. It shall be the duty of all emergency management team members to perform the functions assigned to them in the plan and to maintain their portion of the plan in a state of readiness at all times. All substantive amendments to the plan shall be approved by the city council, provided, however, that in the event an amendment is pending at the time a disaster is proclaimed, the amendment will be considered approved immediately, and will remain effective unless specifically revoked by the city council.
- D. Emergency Operations Center. The office of disaster and emergency services shall establish and staff an emergency operations center (EOC) equipped with a communications system to support government operations in emergencies and provide other essential facilities and equipment for

agencies and activities assigned emergency functions. An alternate EOC will also be established in case the EOC is not able to operate in an emergency.

EXHIBIT B

3.11.050 - Administrative enforcement.

A. Code Enforcement.

Civil fine for code violations	
First offense within 12 months	\$50.00
Second offense within 12 months	\$100.00
Third and subsequent offense within 12 months	\$200.00
Daily fine for failure to comply with notice of violation (each day is a new violation)	\$40.00
Administrative costs for nuisance abatement	\$100.00
Inspection fee for code violations	\$35.00
Itemized statement of costs late fee	\$15.00

B. Building Securing Permit.

Tier 1 (vacant)	No fee
Tier 2 (nuisance)	\$150.00/year
Tier 3 (boarded)	\$350.00/year
Tier 4 (compromised)	\$350.00/year + \$300.00 fine
Boarding without a permit fine	\$250.00
Permit late fee (more than 60 days delinquent)	100% permit cost

C. Illicit Discharge or Connection into Storm Water System.

Fine for negligent discharge of non-hazardous waste	\$75.00
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Fine for negligent discharge of hazardous waste/sewage	\$250.00
Fine for intentional discharge of non-hazardous waste	\$150.00
Fine for intentional discharge of hazardous waste/sewage	\$500.00
Daily fines for failure to comply with notice of violation (each day represents a new violation)	
Non-hazardous discharge/connection	\$100.00
Hazardous or sewage discharge/connection	\$1,000.00

D. Violations of Posted Orders.

Unlawful to do business	\$300.00/day
Stop work order	
Contractor/manager/site supervisor	\$500.00
Employee of contractor	\$50.00
Property owner/tenant	\$50.00
Closed to occupancy	\$150.00/day

E. Violations of Emergency Management Act.

<u>First offense during declared emergency</u>	<u>\$500.00</u>
<u>Second offense declared emergency</u>	<u>\$750.00</u>
<u>Third or subsequent offense during declared emergency</u>	<u>\$1,000.00</u>

(Ord. No. 2018 10, Exh. B (§ V), 6-14-2018)

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