

SALT LAKE COUNTY ORDINANCE

ORDINANCE NO. _____, 2021

ESTABLISHING LIMITATIONS ON EMERGENCY PROCUREMENTS

AN ORDINANCE OF THE LEGISLATIVE BODY OF SALT LAKE COUNTY, UTAH, AMENDING SECTION 2.86.050 OF THE SALT LAKE COUNTY CODE OF ORDINANCES, 2001, ENTITLED “EMERGENCY RESPONSE AND RECOVERY - POWERS OF THE MAYOR,” SECTION 3.16.110 OF THE SALT LAKE COUNTY CODE OF ORDINANCES, 2001, ENTITLED “PURCHASING AGENT – CONFLICT OF INTEREST PROHIBITED,” AND SECTION 3.20.040 OF THE SALT LAKE COUNTY CODE OF ORDINANCES, 2001, ENTITLED “PURCHASING PROCEDURES – EMERGENCY PROCURMENTS” ESTABLISHING LIMITATIONS ON THE LENGTH OF A CONTRACT ENTERED INTO FOR AN EMERGENCY PROCUREMENT AND PROHIBITING EMERGENCY PROCUREMENTS BENEFITING COUNTY ELECTED AND APPOINTED OFFICIALS OR THEIR HOUSEHOLD AND/OR IMMEDIATE FAMILY MEMBERS

The County Legislative Body of Salt Lake County ordains as follows:

SECTION I. The amendments made herein are designated by underlining the new substituted words. Words being deleted are designated by brackets and strike-through.

SECTION II. Section 2.86.050, of the Salt Lake County Code of Ordinances, 2001 is hereby amended to read as follows:

2.86.050 - Powers of the mayor.

- A. In a state of emergency, declared by either the mayor or the governor, the mayor is empowered to make all necessary efforts to respond to, prevent, or ameliorate the effects of an emergency or disaster, including, but not limited to, using all county resources, issuing evacuation orders, establishing evacuation routes, suspending the sale of alcoholic beverages, controlling entry to and exit from any disaster area, clearing or removing debris or wreckage, invoking the provisions of any mutual aid agreement with another

governmental entity, and such other powers and authority which are reasonably necessary for the preservation of life and property and as may be set out state statute.

1. The mayor shall have full power to secure the availability of supplies, clothing, vehicles, fuel, equipment, food and water as may be reasonably necessary to respond to the emergency. Emergency procurement may be accomplished by utilizing the procedures set forth in section 3.20.040 of the Salt Lake County Code of Ordinances, 2001. The initial term of a contract entered into due to a declared state of emergency under this chapter may be for no longer than 30 days. However, the initial term of a contract entered into due to a declared state of emergency under this chapter related to a natural phenomenon may be for no longer than 60 days.
 2. The mayor's authority does not extend to an emergency wholly located within a municipality unless the governing body of the municipality requests relief and assistance from the county or to the extent assistance is provided pursuant to an interlocal or mutual aid agreement.
- B. In a state of emergency, the mayor may exercise emergency powers and functions in response to the exigencies of the disaster, including waiving compliance with any time-consuming procedures and formalities, including notices, as may otherwise be required.
- C. In a state of emergency, the mayor may issue any and all such other orders or undertake such other functions and activities as the mayor reasonably believes is required to protect the health, safety, or welfare of persons or property within the county or to otherwise preserve the public peace or to abate, clean up, or mitigate the effects of any emergency or disaster. Rules and regulations adopted by the mayor in response to the state of emergency have the force and effect of law, upon filing with the county clerk. All rules and regulations adopted

in response to a state of emergency shall expire once the state of emergency is no longer in effect.

D. In a state of emergency, the mayor is responsible to appoint county employees or agencies to perform the following activities during the emergency:

1. Coordinate the activities and management of private volunteers, including maintaining records of volunteer work in accordance with Federal Emergency Management Agency (FEMA) needs;
2. Ensure that all records and receipts for funds expended in emergency response are maintained in accordance with FEMA needs;
3. Coordinate and ensure prompt communication with the media about the emergency, providing to the extent possible, one consistent voice regarding county activities;
4. Maintain ongoing communication with the county council, county elected officials and other government entities.

E. In the event of a public health emergency, the mayor may declare a state of emergency at the request of the director of the health department or the board of health. To prevent or contain the outbreak and spread of a communicable or infectious disease, the mayor, together with the director of the health department, may issue orders to:

1. Close theaters, schools and other public places and prohibit gatherings of people when necessary to protect the public health.
2. Exercise physical control over property and over individuals as the health department finds necessary for the protection of public health.

3. Exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, if the person is likely to convey the disease to those in attendance.
 4. The authority of the director of the health department extends to a public health emergency wholly located within a municipality.
- F.
1. The sheriff's office and such other law enforcement and peace officers as may be authorized by the mayor are further authorized and directed to enforce the orders, rules and regulations made or issued pursuant to this chapter.
 2. During the period of a declared emergency or disaster, a person shall not:
 - a. Enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment;
 - b. Violate any orders duly issued by the mayor or authorized personnel; or
 - c. Willfully obstruct, hinder, or delay any duly authorized county officers, employees or volunteers in the enforcement or exercise of the provisions of this chapter, or in the undertaking of any activity pursuant to this chapter.

SECTION III. Section 3.20.040, of the Salt Lake County Code of Ordinances, 2001 is hereby amended to read as follows:

3.16.110 – Conflict of interest prohibited.

- A. Except as provided for in Section 3.16.110(B) below, no officer, employee, agent, representative or member of any council, board, committee or commission of the county shall have a financial interest in any contract, bid, or proposal; receive any compensation or

gift from any offeror; or have any other conflict of interest, as defined by these ordinances, the Utah Public Officer's and Employee's Ethics Act or by the County Officers and Employees Disclosure Act. Contracts entered in violation of this section are voidable and, if payments have been made, may be subject to action by the county to recover funds.

B. An officer, employee, agent, representative or member of any council, committee, board or commission of the county may have an interest in any contract, bid, or proposal to provide goods or services to the county upon compliance with the following conditions:

1. The officer, employee, agent, representative or member of the council, board, committee or commission of the county shall not participate in the procurement process;
2. The officer, employee, agent, representative or member of the council, board, committee or commission shall fully disclose the individual's interests or conflicts at the time of submitting the bid or proposal to the county;
3. The officer, employee, agent, representative or member of the council, board, committee or commission of the county shall also make and file the disclosures required by the Utah Public Officer's and Employee's Ethics Act, the County Officers and Employees Disclosure Act and Section 2.80.100, Salt Lake County Code of Ordinances, 2001;
4. The purchasing agent shall certify that the award is in the best interest of the county and that the award is:
 - a. To the lowest or highest (as appropriate) responsive and responsible bidder; or
 - b. That the selection process was in accordance with county ordinance; or

c. In the event no competitive process was followed, that the acquisition was not susceptible to award by competitive bidding pursuant to Section 3.20.030.

C. Notwithstanding subsection B of this section, no public officer or employee shall have personal investments in any business entity which will create a substantial conflict between his or her private interest and his or her public duties.

D. Notwithstanding subsection B of this section, no County elected official or non-merit appointed County employee, members of such official's or employee's households and/or immediate families, or persons providing regular financial support to such officials or employees shall have a pecuniary interest in any contract, bid, or proposal to provide goods or services to the County on an emergency basis utilizing the procedures set forth in section 3.20.040 of the Salt Lake County Code of Ordinances, 2001.

E. Notwithstanding subsection B of this section, a County officer, employee or volunteer with either a restricted or a non-restricted conflict of interest, or any other conflict of interest as defined by applicable federal law or regulation, shall not participate in the selection, award, or administration of a contract that may be supported in whole or in part by a Federal grant or award.

~~[D-]~~ F. Violation of this section is a class B misdemeanor, and such violation shall be punished in accordance with the provisions of state statute that define the fines, imprisonment or other penalties that apply to a conviction of a class B misdemeanor. Violators shall also be subject to disciplinary action.

SECTION IV. Section 3.20.040, of the Salt Lake County Code of Ordinances, 2001 is hereby amended to read as follows:

3.20.040 - Emergency procurements.

- A. Notwithstanding any other provision of this chapter, the purchasing agent or designee, may make or authorize others to make emergency procurements when there exists a threat to public health, welfare or safety under emergency conditions, as hereinafter set forth, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.
- B. An “emergency condition” is a situation which creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots, equipment failures, earthquakes, or such other reason as may be proclaimed by the mayor. The existence of such conditions creates an immediate and serious need for supplies, services or construction that cannot be met through normal procurement methods, and the lack of which would seriously threaten:
1. The functioning of county government;
 2. The preservation or protection of property; or
 3. The health or safety of any person.
- C. Emergency procurement shall be limited to those supplies, services or construction items necessary to meet the emergency. The purchasing agent, or agent’s designee, or any agency of the county authorized in writing by the purchasing agent, may make emergency procurements when an emergency condition arises and the need cannot be met through normal procurement methods, provided that, whenever practicable, approval by the purchasing agent or the mayor shall be obtained prior to the procurement. When prior approval is not reasonably obtainable, the mayor must consider the procurement at the

earliest possible time and either approve or disapprove of the procurement. Procurement pursuant to an emergency not yet formally declared should follow the procedures outlined in the county emergency plan. The initial term of any contract resulting from an emergency procurement may be for no longer than 30 days. However, the initial term of a contract entered into due to a declared state of emergency related to a natural phenomenon as defined by chapter 2.86 of the Salt Lake County Code of Ordinances, 2001 may be for no longer than 60 days.

- D. The purchasing agent shall select a procurement method sufficient to assure that the required supplies, services or construction items are procured in time to meet the emergency. Given this constraint, such competition as is practicable shall be obtained by the purchasing agent.
- E. The purchasing agent shall make a written determination stating the basis for an emergency procurement and for the selection of a particular contractor. Such determination, together with a copy of the purchase requisitions for the materials, supplies, equipment or construction items which were purchased, shall be sent promptly to the mayor. Additionally, the purchasing agent, as soon as practicable, shall prepare a record the emergency procurement, which shall set forth:
 - 1. The contractor's name;
 - 2. The amount and type of the contract; and
 - 3. A listing of the supplies, services or construction procured under the contract. Copies of such records shall be promptly submitted to the mayor.

SECTION V. This ordinance shall become effective fifteen (15) days after its passage and upon at least one publication in a newspaper published and having general circulation in Salt Lake County.

SIGNATURES ON THE FOLLOWING PAGE

APPROVED and ADOPTED this _____ day of _____, 2021.

SALT LAKE COUNTY COUNCIL

By: _____
Steve DeBry, Chair

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

APPROVED AS TO FORM

Deputy District Attorney Date

Council Member Alvord voting _____
Council Member Bradley voting _____
Council Member Bradshaw voting _____
Council Member DeBry voting _____
Council Member Granato voting _____
Council Member Snelgrove voting _____
Council Member Stringham voting _____
Council Member Theodore voting _____
Council Member Winder Newton voting _____

Vetoed and dated this ___ day of _____, 2021.

By: _____
Jennifer Wilson, Mayor

(Complete as Applicable)

Veto override: Yes ___ No ___ Date _____

Ordinance published in the newspaper: Date _____

Effective date of ordinance: _____

SUMMARY OF

SALT LAKE COUNTY ORDINANCE NO. _____

On the ___ day of _____, 2021, the County Council of Salt Lake County adopted Ordinance No. _____, amending sections 2.86.050, 3.16.110, and 3.20.040 of the Salt Lake County Code of Ordinances, 2001, providing that the term of any County contract resulting from an emergency procurement may be for no longer than 30 days (or, in the event of an emergency related to a natural phenomenon, no longer than 60 days), and prohibiting emergency procurements benefiting county elected and appointed officials or their household and/or immediate family members.

SALT LAKE COUNTY COUNCIL

By: _____
Steve DeBry, Chair

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

Council Member Alvord voting _____
Council Member Bradley voting _____
Council Member Bradshaw voting _____
Council Member DeBry voting _____
Council Member Granato voting _____
Council Member Snelgrove voting _____
Council Member Stringham voting _____

Council Member Theodore voting _____
Council Member Winder Newton voting _____

A complete copy of the ordinance is available in the office of the Salt Lake County Clerk, 2001 South State Street, N2-100A, Salt Lake City, Utah.