

SALT LAKE COUNTY ORDINANCE

ORDINANCE NO. _____, 2019

LOCAL EMERGENCY PLANNING COMMITTEE

AN ORDINANCE OF THE LEGISLATIVE BODY OF SALT LAKE COUNTY, UTAH, AMENDING CHAPTER 2.26 OF THE SALT LAKE COUNTY CODE OF ORDINANCES, 2001, ENTITLED "HAZARDOUS LOCAL EMERGENCY PLANNING COMMITTEE" BY REPEALING CHAPTER 2.26 AND ENACTING 2.26 CREATING A HAZARDOUS CHEMICAL LOCAL EMERGENCY PLANNING COMMITTEE AND PROVIDING FOR ITS MEETINGS AND DUTIES.

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

SECTION 1: The amendments made herein are designated by underlining the new substituted words. Words being deleted are designated by brackets and interlineations.

SECTION II: Chapter 2.26 of the Salt Lake County Code of Ordinances, 2006, is hereby repealed.

~~Chapter 2.26—HAZARDOUS LOCAL EMERGENCY PLANNING COMMITTEE~~

~~2.26.010—Designation of responsibilities—Powers.~~

~~A.—Salt Lake County recognizes and authorizes as set forth in this chapter a Salt Lake County hazardous chemical local emergency planning committee ("LEPC") which exists pursuant to 42 U.S.C. Section 11001 and Utah Code Annotated Section 63-5-5(5). The LEPC, through the Unified Fire Authority ("UFA") is authorized by ordinance to enforce the provisions of this chapter.~~

~~B.—The UFA chief of the bureau of emergency services or designee may, upon resolution of the LEPC, act as the LEPC's agent for the enforcement, management and administration of the~~

~~LEPC's duties set forth under the Federal Emergency Planning and Community Right to Know Act of 1986 ("EPCRA"), 42 U.S.C. Sections 11001 through 11050.~~

~~C. The requirements of EPCRA shall be the law of Salt Lake County and shall apply equally to federal, state, county or local governmental agencies, departments, installations, and facilities located in this county, as well as to other facilities that are subject to the provisions of EPCRA.~~

~~1. The provisions of EPCRA are deemed rules and regulations of the Salt Lake County and the UFA governing the operation of any business holding a license or permit pursuant to Salt Lake County Code of Ordinances Section 5.14.020.~~

~~2. An owner or operator of a covered facility under the provisions of EPCRA who violates EPCRA shall be subject to a civil administrative fine not to exceed one thousand dollars. The LEPC shall establish the fine based on the severity of the violation, the duration of the violation, the alleged violator's history of noncompliance, the economic benefit of noncompliance, the LEPC's or the county's investigative costs and the cooperation of the owner or operator in remedying the alleged violation.~~

~~D. Whenever the LEPC determines that any person or facility is in violation of any applicable emergency plan created by the LEPC pursuant to EPCRA, the requirements of EPCRA, or any rules of the LEPC, the LEPC through the UFA chief of the bureau of emergency services or his designee may cause a written notice of violation(s) ("NOV") to be served on the owner or operator (hereinafter the "alleged violator"). The NOV shall specify the provisions of the emergency plan, the section of the law or rule violated, the facts alleged to constitute the violation(s), and advise the alleged violator that an administrative hearing shall be held to determine if a civil administrative fine should be imposed for the alleged violation. The LEPC shall specify the time, date and place where the hearing shall be conducted.~~

~~E.—1.—The LEPC may, by resolution, appoint a hearing examiner in its place to conduct a hearing on the NOV. The hearing examiner shall make a written nonbinding recommendation to the LEPC on whether the violation occurred, which shall be duly served on the alleged violator. The alleged violator may, within fifteen days after the date the recommendations of the hearing examiner were duly served, submit written objections to the LEPC in the event the hearing examiner makes an adverse recommendation. The LEPC shall review the hearing examiner's recommendations as well as any timely objections submitted by the alleged violator and may modify, adopt or reject the examiner's recommendations. The LEPC, after review of the hearing examiner's recommendations, shall issue a written order which shall be served on the alleged violator in the same manner as the NOV.~~

~~2.—The alleged violator shall have thirty days from the date affixed on the order in which to seek judicial review of the order in an appropriate court. The alleged violator shall serve a copy of the complaint seeking judicial review with the LEPC and the appropriate court. The LEPC shall promptly file in such court a certified copy of the record upon which such violation was found or fine imposed.~~

~~F.—Service of Notice of Violations. The NOV, the hearing examiner's recommendations to the LEPC and any order issued by the LEPC shall be served on the alleged violator and the record owner of the facility where the violation is alleged to have occurred either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at the address of the facility where the violation is alleged to have occurred.~~

~~G.—If any person fails to pay a civil penalty imposed by the LEPC after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the LEPC, the LEPC may request the county attorney institute a civil action to collect the fine imposed.~~

~~H.—Nothing contained in this chapter shall prohibit the county, the UFA, the LEPC or any other person from initiating suit pursuant to 42 USCS Sections 11045 and 11046 of EPCRA at any time during the pendency of the administrative proceedings authorized in this chapter.~~

~~I.—The LEPC shall have the authority to enter into informal settlement agreements with an alleged violator in lieu of seeking a civil administrative fine under this chapter.~~

~~2.26.020—Delegation of enforcement responsibilities.~~

~~A.—The Unified Fire Authority is an independent local government entity created pursuant to the provisions of the Interlocal Cooperation Act, Section 11-13-101, et seq., Utah Code Annotated ("the Act"). As such, the UFA has certain lawful powers and authority as set out by the Act and the terms of the interlocal agreement which created the UFA.~~

~~B.—Salt Lake County extends to the UFA the legal authority to perform the committee functions set out in this chapter including enforcement, directing litigation and settlement, and the adoption of regulations regarding the activities of the committee. This authority is granted to the UFA pursuant to the provisions of the Act, Section 11-13-201(1), Utah Code Annotated (2002), as it may be amended.~~

SECTION III. Chapter 2.26 of the Salt Lake county Code of Ordinances, 2001, is enacted to read as follows:

Chapter 2.26 – HAZARDOUS CHEMICAL LOCAL PLANNING COMMITTEE

2.26.010 Creation of a hazardous chemical Local Emergency Planning Committee,

Membership, Selection of Chair, and Length of Terms.

A. Salt Lake County creates and authorizes as set forth in this chapter a Salt Lake County hazardous chemical Local Emergency Planning Committee (“LEPC”).

B. The LEPC members are appointed by the County Mayor with advice and consent of the County Council. The committee shall consist of representatives of the following groups or organizations, selected by the County Mayor, as follows:

1. One or more named elected state and local officials;
2. One named representative from law enforcement;
3. One named representative from emergency management;
4. One named representative from firefighting;
5. One named representative from emergency medical services;
6. One named representative from health professions;
7. One named representative from local environmental group;
8. One named representative from a hospital;
9. One named representative from transportation;
10. One named representative from broadcast and print media;
11. One named representative from non-governmental organization;
12. One named representative from a facility covered by Federal Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. Sections 11001 through 11050;

C. One LEPC member can represent more than one listed group.

D. All representatives shall serve three-year terms from the date of appointment, or until their successors are appointed, except for inaugural terms of less than three years addressed in Section 2.26.010(D)(1).

1. For inaugural committee appointments, members described in Section 2.26.010(B)(1-4) shall serve a full term of three years, members described in Section 2.26.010(B)(5-8) shall serve a partial term of two years, and members described in Section 2.26.010(B)(9-12) shall serve a partial term of one year. All inaugural members and alternates shall serve until their successors are appointed.

2. All subsequent appointments of members and alternates shall be made, as possible, so one-third of the terms of those serving on the committee expire each year. The terms are staggered to provide depth of experience to the committee. Vacancies on the committee occurring otherwise than by expiration of the term shall be filled for the unexpired term in the same manner as the original appointments.

3. No representative shall serve more than two successive full three-year terms on the committee unless there is good cause.

4. The mayor, with the advice and consent of the council, may remove a member of the committee for cause.

E. A chair of the committee shall be selected by majority vote of the committee members on an annual basis.

F. Support staff, meeting rooms, and other facilities and assistance for the committee shall be provided by the Unified Fire Authority or Salt Lake County.

-2.26.020 Committee Meetings.

A. The chair of the LEPC shall provide notice of each committee meeting to committee members as early as possible, but no less than seventy-two hours before the scheduled meeting time. A notice, with agenda, will be prepared at least twenty-four hours in advance of each meeting, as required by the Open Meetings Act.

B. LEPC meetings are governed by the Utah Open and Public Meetings Act (Utah Code Title 52, Chapter 4) and meetings shall be open to the public and to members of the media and minutes shall be taken in accordance with state statute. Electronic meetings may be held in accordance with state statute.

C. A quorum of the LEPC consists of one half the number of appointed members.

2.26.030 – Local Emergency Planning Committee Duties and Functions.

A. The LEPC shall develop an emergency response plan meeting the requirements of EPCRA, review it at least annually, and provide information about chemicals in the community to citizens. The LEPC shall base the emergency response plan on the chemical information provided to the LEPC by local facilities.

B. The LEPC shall follow any adopted state or local policy to receive and process requests for public information under EPCRA.

C. If the LEPC is appointed as the Local Emergency Planning Committee by the Utah Hazardous Chemical Emergency Response Commission, the LEPC may have, and may undertake, other duties in this capacity as provided by federal and state law.

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

APPROVED and ADOPTED this ____ day of _____, 2019.

SALT LAKE COUNTY COUNCIL

By: _____
Richard Snelgrove, Chair

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

APPROVED AS TO FORM:

Deputy District Attorney

VOTING

Council Member Bradley	_____
Council Member Bradshaw	_____
Council Member Burdick	_____
Council Member DeBry	_____
Council Member Ghorbani	_____
Council Member Granato	_____
Council Member Jensen	_____
Council Member Winder-Newton	_____
Council Member Snelgrove	_____

Vetoed and dated this ____ day of _____, 2019.

By: _____
Mayor Jennifer Wilson or designee

Veto override: Yes ____ No ____ Date: _____
Ordinance published in newspaper: Date: _____
Effective date of ordinance: _____

**SUMMARY OF
SALT LAKE COUNTY ORDINANCE NO. _____**

On the ____ day of _____, 2019, the County Council of Salt Lake County adopted Ordinance No. _____, which repeals amends Chapter 2.26 concerning the Hazardous Local Emergency Planning Committee and enacting a new Chapter 2.26 creating a Hazardous Chemical Local Emergency Planning Committee, providing for its meetings, and setting out its duties.

SALT LAKE COUNTY COUNCIL

By: _____
Richard Snelgrove, Chair

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

APPROVED AS TO FORM:

Deputy District Attorney

VOTING

Council Member Bradley	_____
Council Member Bradshaw	_____
Council Member Burdick	_____
Council Member DeBry	_____
Council Member Granato	_____
Council Member Jensen	_____
Council Member Winder Newton	_____
Council Member Snelgrove	_____

A complete copy of Ordinance No. _____ is available in the office of the Salt Lake county Clerk, 2001 South State Street, N2100A, Salt Lake City, Utah, with the names of the members of the County Council voting for and against the ordinance.