



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
City Attorney	Nina P. Williams - City Attorney	June 7, 2022

ITEM

Ordinance 2022-09: Repealing and replacing Chapter 2, Article XVII of the Salida Municipal Code, regarding civil emergencies, to update and bolster the City's ability to respond in emergency situations.

BACKGROUND

At present, the Salida Municipal Code authorizes the declaration of an emergency in an impractically limited set of circumstances and provides sparse guidance with respect to the delineation of authority during the same. Specifically, the Code's emergency management provisions are limited to situations where residents of the City are "threatened by general public unrest or riot, or by attack upon the State" and do not contemplate other emergency situations such as natural disasters or pandemics.

The recent and ongoing COVID-19 pandemic—not to mention the proliferation of wildfires across the state—has highlighted the need for a clearer and more comprehensive set of emergency provisions which specify and delineate the emergency authorities and roles of various City officials and departments.

As such, this Ordinance was prepared to repeal and replace the existing "Civil Emergencies" provisions with an updated set of "Emergency Management" provisions. Specifically, these new provisions accomplish the following:

- Establish a far broader range of emergency situations during which a local emergency can be declared;
- Provide that the City Administrator may declare and oversee a local emergency, unless the City Council determines that the Mayor should declare and oversee the same;
- Provide for procedures to communicate the declaration of emergency to the appropriate county and state emergency management officials as well as the public;
- Enumerate the specific actions available to the City Administrator during a local emergency; and
- Provide that emergency orders take precedence over existing rules where a conflict exists.

FISCAL NOTE

None.

STAFF RECOMMENDATION

The City Attorney recommends approval of Ordinance 2022-09: Repealing and replacing Chapter 2, Article XVII of the Salida Municipal Code, regarding civil emergencies, to update and bolster the City's ability to respond in emergency situations.

SUGGESTED MOTION

A City Council member should state, "I move to approve Ordinance 2022-09: Repealing and replacing Chapter 2, Article XVII of the Salida Municipal Code, regarding civil emergencies, to update and bolster the City's ability to respond in emergency situations," followed by a second and a roll call vote.

CITY OF SALIDA, COLORADO
ORDINANCE NO. 09
(Series of 2022)

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA,
COLORADO REPEALING AND REPLACING CHAPTER 2, ARTICLE XVII OF
THE SALIDA MUNICIPAL CODE, REGARDING CIVIL EMERGENCIES, TO
UPDATE AND BOLSTER THE CITY'S ABILITY TO RESPOND IN
EMERGENCY SITUATIONS**

WHEREAS, the City of Salida, Colorado (the "City") is a statutory city, duly organized and existing under the laws of the State of Colorado;

WHEREAS, pursuant to C.R.S. § 31-15-401, the City, by and through its City Council, possesses the authority to adopt laws and ordinances within its police power in furtherance of public health, safety, and welfare;

WHEREAS, pursuant to C.R.S. § 24-33.5-701 *et seq.*, the City, by and through its City Council, possesses the authority to adopt laws and ordinances to authorize and provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery;

WHEREAS, at present, the emergency provisions within the Salida Municipal Code (the "Code") are limited to situations where the residents of the City are "threatened by general public unrest or riot, or by attack upon the State" and do not contemplate other emergency situations such as natural disasters or pandemics;

WHEREAS, the recent and ongoing pandemic highlighted the need for a clearer and more comprehensive set of emergency provisions which specify and delineate the emergency authorities and roles of various City officials and departments; and

WHEREAS, the City Council finds it desirable and appropriate, and in the best interest of the general health, safety, and welfare of its residents to repeal and replace Chapter 2, Article XVII of the Code to update and bolster the City's ability to respond in emergency situations.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE
CITY OF SALIDA, COLORADO AS FOLLOWS:**

Section 1. The foregoing recitals are hereby incorporated as conclusions, facts, determinations, and findings by the City Council.

Section 2. Chapter 2, Article XVII of the Code, concerning civil emergencies, is hereby repealed and replaced to read as follows:

~~ARTICLE XVII. — CIVIL EMERGENCIES~~

~~Sec. 2-17-10. — Declaration of emergency.~~

~~When it appears to the Mayor that the general health, safety and welfare of the inhabitants of the City are threatened by general public unrest or riot, or by attack upon the State, he or she may~~

~~declare a state of emergency by proclamation. The proclamation shall be in writing and shall be announced publicly, by radio, posting or publication, if at all possible.~~

~~Sec. 2-17-20. -- Restricted activity during emergency.~~

~~The proclamation may impose a curfew within the City, may prohibit public or private assemblies, may impose restrictions on movement within the City and may contain such other regulations as the Mayor deems necessary and proper to the maintenance of public peace, order and safety.~~

~~Sec. 2-17-30. -- Term and validity of proclamation.~~

~~(a) Term of proclamation, extension. Any proclamation hereunder shall expire ten (10) days after its issue unless sooner revoked by the Mayor or by two-thirds (2/3) vote of the City Council. The City Council may extend any proclamation issued by the Mayor hereunder for a period not to exceed forty (40) days by a two-thirds (2/3) vote.~~

~~(b) Validity. The validity of any proclamation issued hereunder may be challenged in any court of competent jurisdiction.~~

~~Sec. 2-17-40. -- Violation.~~

~~Any person who knowingly violates any of the terms of the proclamation commits a misdemeanor.~~

ARTICLE XVII. - EMERGENCY MANAGEMENT

Sec. 2-17-10. – Purpose and Intent.

(a) The purpose of this Article is to provide for continuity and efficient operation of local government in times of emergency.

(b) This Article provides the necessary organization, powers, and authority to enable a timely and effective use of all available resources to prepare for, respond to, and recover from civil emergencies, emergencies, or disasters that are likely to affect the health, security, safety, or property of City residents.

(c) The City Administrator, or in the City Council's discretion, the Mayor, shall declare, manage, and end an officially declared local emergency.

(d) The provisions of this Article are to be interpreted and enforced in a manner that is consistent with the Constitution of the United States, the Constitution of the State of Colorado, and Colorado law on Emergency Management, Section 24-33.5-701, *et seq.*, C.R.S., as amended.

Sec. 2-17-20. – Definition.

As used in this Article, *local emergency* means the actual or threatened existence of conditions of

disaster or of extreme peril to the safety of persons or property within the City, including, without limitation, fire, flood, wind, storm, earthquake, epidemic, pandemic, infestation, explosion, aircraft crash, air pollution, hazardous substance incident, oil spill, contamination of air or water requiring immediate action to avert danger or damage, water or power shortage, drought, civil disturbance, condition of riot or insurrection, hostile military or paramilitary action, or any other disaster or emergency that requires the aid and assistance of outside, local, state, or federal agencies.

Sec. 2-17-30. – Declaration of emergency.

(a) The City Administrator may declare a local emergency when the City Administrator determines that there is reasonable cause to believe that the City, or any part of the City, is suffering from, or is in imminent danger of suffering from, a local emergency, and that such a declaration is required to avoid or mitigate serious injuries to members of the public or the loss of life or property. However, the power to declare a local emergency is subject to the power of the City Council to determine, by appropriate motion and majority vote, that the Mayor, instead of the City Administrator, shall declare the local emergency or exercise the emergency powers enumerated in this Article to manage the emergency.

(b) Any declaration of a local emergency shall be promptly filed with the City Clerk, delivered to the Chaffee County Office of Emergency Management, and forwarded to the State Office of Emergency Management. As soon as possible thereafter, the City Administrator shall notify the City Council and the County Clerk. The public shall also be notified promptly through general dissemination to the news media, posting on the City website, and by the use of other means of communication appropriate for informing the general public.

(c) No declaration of local emergency may exceed seven (7) days from the time of declaration of the local emergency, except with the consent of the City Council. No declared local emergency shall extend beyond the next regular or special meeting of the City Council unless, at such meeting, the declaration of emergency is specifically approved for a longer duration by resolution of the City Council.

Sec. 2-17-40. – Emergency powers.

Upon the declaration of a local emergency, the City Administrator shall, upon a finding of need, issue such orders as may be required to protect the health, safety, and welfare of persons or property within the City or to otherwise preserve the public peace or abate, clean up, or mitigate the effects of any local emergency. Such orders, once issued, may be changed from time to time during the period of the declared local emergency based upon the discretion of the City Administrator and may include, without limitation, orders to accomplish the following objectives:

- (1) To call upon regular and auxiliary enforcement agencies and organizations within or outside of the City to assist in preserving and keeping the peace and the preservation of life and property of the residents of the City;
- (2) To close streets, sidewalks, parks, and other public places and to delineate areas within the City where the local emergency exists;
- (3) To impose a curfew upon all or any portion of the City, thereby requiring all persons in

such designated curfew areas to immediately remove themselves from the streets, sidewalks, parks, and other public places;

(4) To order the closing or restriction of hours of any business establishments within the City for the duration of the local emergency;

(5) To appropriate and expend funds, execute contracts, authorize the acquisition of property, equipment, services, supplies, and materials on the open market at not more than commercial prices without the strict adherence to normal procurement procedures, subject to the following limitations:

a. The authority of the City Administrator to approve contracts during a local emergency shall be limited to contracts that are reasonably related to the local emergency and in an aggregate amount not to exceed seventy-five thousand dollars (\$75,000.00).

b. The suspension of normal procurement procedures shall remain in effect for the duration of the local emergency, unless earlier terminated by the City Council.

c. If such powers are exercised during a local emergency, the City Administrator shall provide to the City Council in advance of each regular meeting of the City Council a summary of all contracts approved, including the name of the contractor or vendor, amount of the contract, and purpose of the contract.

(6) To hire or contract for construction, snow removal, engineering, architectural, building, electrical, plumbing, or other professional or construction services essential to the continued operation of the City without the advertising of bids or strict adherence to normal procurement procedures;

(7) To close or limit the use of any public building or facility within the City;

(8) To require members of the public to wear or use personal protective equipment, such as surgical or similar face masks, in public places and business establishments;

(9) To issue any administrative regulations consistent with this Article;

(10) To temporarily suspend or modify provisions of any ordinance if strict adherence to such ordinance would prevent, hinder, or delay action that is necessary to address the local emergency; and

(11) To take any other action necessary for and reasonably related to the preservation of life and property within the City.

Sec. 2-17-50. – Conflicting orders.

Any orders issued pursuant to this Article in response to a local emergency shall take precedence over existing ordinances, rules, and regulations if a conflict exists.

Sec. 2-17-60. - Violation.

Any person who knowingly violates any order issued pursuant to this Article in response to a local emergency commits a misdemeanor and upon conviction thereof shall be punished in accordance with Chapter 1, Article IV of this Code.

Section 3. *Severability.* The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

INTRODUCED ON FIRST READING on this 7th day of June, 2022, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation by the City Council on this 7th day of June, 2022, and set for second reading and public hearing on the 21st day of June, 2022.

INTRODUCED ON SECOND READING FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on this 21st day of June, 2022.

City of Salida

Mayor Dan Shore

ATTEST:

City Clerk/Deputy City Clerk