

**TOOELE COUNTY
ORDINANCE 2021-14**

**AN ORDINANCE ADOPTING AND ENACTING TITLE 16,
EMERGENCY MANAGEMENT, OF THE TOOELE COUNTY CODE**

WHEREAS, it is necessary and expedient that Tooele County has established and readily available procedures to protect the health, welfare, safety and property of county residents in the event of an emergency; and

WHEREAS, the current Tooele County Code has some such procedures, but those procedures are not organized into a single Title;

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE BODY OF TOOELE COUNTY, UTAH AS FOLLOWS:

SECTION I – ENACTMENT OF CHAPTER 1, TITLE 16. Chapter 1, *General Provisions*, of Title 16, *Emergency Management*, of the Tooele County Code is hereby enacted to read as attached hereto, which attachment is, by this reference, made a part hereof.

SECTION II – ENACTMENT OF CHAPTER 2, TITLE 16. Chapter 2, *Emergency Management*, of Title 16, *Emergency Management*, of the Tooele County Code is hereby enacted to read as attached hereto, which attachment is, by this reference, made a part hereof.

SECTION III – REPEAL, RELOCATION AND RE-ENACTMENT OF CHAPTER 12, TITLE 1. Chapter 12, *Emergency Interim Succession Procedures*, of Title 1, *General Provisions*, is hereby repealed, relocated to, and re-enacted as Chapter 3, *Emergency Interim Management Procedures*, of Title 16, *Emergency Management*, of the Tooele County Code and shall read as attached hereto, which attachment is, by this reference, made a part hereof.

SECTION IV – REPEAL, RELOCATION AND RE-ENACTMENT OF CHAPTER 19, TITLE 6. Chapter 19, *Hazardous Materials Local Emergency Planning*

Tooele County
Ord. 2021-14

Committee, of Title 6, *Public Safety*, is hereby repealed, relocated to, and re-enacted as Chapter 4, *Hazardous Materials Local Emergency Planning Committee*, of Title 16, *Emergency Management*, of the Tooele County Code and shall read as attached hereto, which attachment is, by this reference, made a part hereof.

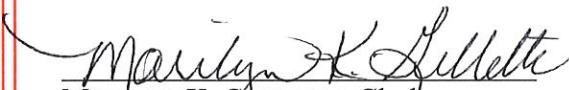
SECTION V – REPEALER. Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

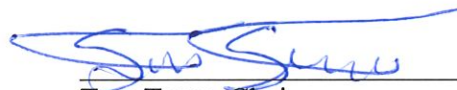
SECTION VI – EFFECTIVE DATE. This ordinance shall become effective fifteen (15) days after its passage, provided it has been published, or at such publication date if more than fifteen (15) days after passage.

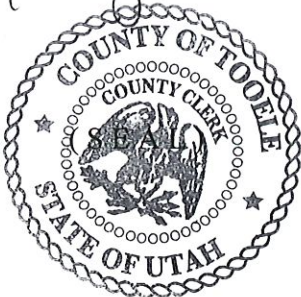
IN WITNESS WHEREOF the Tooele County Council, which is the legislative body of Tooele County, passed, approved and enacted this ordinance this 2nd day of March, 2021.

ATTEST:

TOOELE COUNTY COUNCIL:



MARLYN K. GILLETTE, Clerk


TOM TRIPP, Chair



Council Member Hamner voted	<u>aye</u>
Council Member Hoffmann voted	<u>aye</u>
Council Member Thomas voted	<u>aye</u>
Council Member Tripp voted	<u>aye</u>
Council Member Wardle voted	<u>absent</u>

APPROVED AS TO FORM:


COLIN R. WINCHESTER
Deputy Tooele County Attorney

TOOELE COUNTY CODE
TITLE 16
EMERGENCY MANAGEMENT

Chapter

- 1. General Provisions.**
- 2. Emergency Management.**
- 3. Emergency Interim Succession Procedures.**
- 4. Hazardous Materials Local Emergency Planning Committee.**

CHAPTER 1

GENERAL PROVISIONS

Section

16-1-1. Findings and purpose.

16-1-2. Definitions.

16-1-1. Findings and purpose.

(1) The County Council finds that existing and increasing threats of the occurrence of destructive disasters resulting from attack, internal disturbance, natural phenomenon or technological hazard could greatly affect the health, safety and welfare of Tooele County residents. It is therefore necessary to grant emergency disaster authority to the county manager.

(2) The purpose of this Title is to assist the county manager to effectively provide disaster response and recovery assistance necessary to protect the lives and property of Tooele County residents.

1-1-2. Definitions.

As used in this Title:

(1) "Attack" means a nuclear, conventional, biological, or chemical warfare action against the United States of America, the State of Utah or Tooele County.

(2) "Comprehensive emergency management plan" means a formal NIMS-compliant plan that is updated and reviewed on a regular basis and that provides emergency operations procedures to be used during a disaster.

(3) "Council" means the Tooele County Council, which is the legislative body of Tooele County.

(4) "Council member" means a member of the Tooele County Council.

(5) "County" means Tooele County, Utah.

(6) "Declaration of emergency" means a formal proclamation or order issued by the manager declaring an emergency within the county in accordance with state law.

(7) "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.

(8) “Emergency” means a condition in the county which requires that emergency assistance be provided to save lives and protect property within the county in response to a disaster, or to avoid or reduce the threat of a disaster.

(9) “Emergency manager” means the chief advisor to the manager with respect to organizing resources and cooperators to prepare for, respond to, recover from, and mitigate the effects of emergencies and disasters.

(10) “Emergency operations center” or “EOC” means a central command and control facility responsible for carrying out the principles of emergency preparedness and emergency management, or disaster management functions at a strategic level in an emergency, and for ensuring the continuity of county operations.

(11) “Incident command system” means the combination of facilities, equipment, personnel, procedures and communications operating within a common organizational structure, with responsibility for the management of assigned resources to effectively accomplish stated objectives pertaining to an incident.

(12) “Internal disturbance” means a riot, jailbreak, terrorism or strike.

(13) “Local emergency” means those emergencies specified in state law.

(14) “Manager” means the Tooele County Manager.

(15) “Mutual aid agreement” means an interlocal cooperation agreement between governmental entities entered pursuant to state law for the purpose of providing aid or assistance during a disaster or emergency.

(16) “Natural phenomenon” means any earthquake, tornado, storm, flood, landslide, avalanche, forest or wildfire, drought, epidemic, pestilence, or other natural disaster.

(17) “Technological hazard” means any hazardous materials accident, mine accident, train derailment, truck wreck, air crash, radiation incident, pollution, structural fire or explosion.

CHAPTER 2

EMERGENCY MANAGEMENT

Section

16-2-1. Adoption of National Incident Management System.

16-2-2. Declaration of emergency.

16-2-3. Declaration of local emergency by political subdivision.

16-2-4. Authority and duties of manager.

16-2-5. Authority of sheriff to order evacuations.

16-2-6. Role of emergency manager.

16-2-7. Orders, rules and regulations having force of law.

16-2-8. Acquisition of property for public use.

16-2-9. Emergency contracts for repair, removal or construction projects.

16-2-1. Adoption of National Incident Management System.

The county hereby adopts the National Incident Management System (NIMS) as promulgated by the homeland security presidential directive (HSPD)-5, management of domestic incidents (October 2017), as amended. All county departments shall utilize NIMS in response to all disasters within the county.

16-2-2. Declaration of emergency.

(1) A declaration of emergency may be issued by the manager if the manager finds that a disaster has occurred, or the occurrence or threat of a disaster is imminent, in any area of the county in which county government response or recovery assistance is required to supplement the response and recovery of any political subdivision of the county. Any order or proclamation declaring, continuing, or terminating an emergency shall be filed promptly with the county clerk.

(2) A declaration of emergency shall not be continued or renewed for more than 30 calendar days without the consent of the council.

(3) All proclamations or orders issued under this chapter shall include the following:

- (a) the nature of the emergency;
- (b) the area or areas affected or threatened; and
- (c) the conditions which caused the emergency.

(4) When the manager issues a declaration of emergency, the county's emergency response shall operate as outlined in the comprehensive emergency management plan. The incident command system shall be utilized.

(5) If necessary, the manager shall activate the EOC.

(6) Notice of the declaration of emergency shall be sent to the State of Utah Division of Emergency Management.

16-2-3. Declaration of local emergency by political subdivision.

(1) A declaration of local emergency by any political subdivision of the county is official recognition that a disaster situation exists within the affected political subdivision and provides a legal basis for the manager to request and obtain state or federal government disaster assistance.

(2) Notice of any local emergency declared by any political subdivision shall be promptly conveyed to the manager or emergency manager. Said notice may be conveyed verbally so long as a written notification follows within 24 hours.

(3) The manager may provide requested assistance and resources based on an evaluation of the resources utilized by the political subdivision, the sufficiency of the political subdivision's emergency response plan and reserves, and the county's available resources.

(4) If the manager determines that the county is unable to provide assistance to the political subdivision, the manager may issue a declaration of emergency on behalf of the county and forward the same to the State of Utah Division of Emergency Management.

16-2-4. Authority and duties of manager.

(1) The manager, during a declared emergency, is authorized and empowered to:

(a) enact rules and regulations or temporarily suspend ordinances, rules or regulations when necessary to save human life and protect property, for a period not to exceed seven calendar days unless extended by the council;

(b) utilize all available resources as reasonably necessary to cope with the emergency;

(c) employ measures and give direction to county and local officials and agencies that are reasonable and necessary for the purpose of securing compliance with the provisions of this chapter and with orders, rules, and regulations made pursuant to this chapter;

(d) order an evacuation of all or part of the population from any stricken or threatened area within the county, if necessary for the preservation of life;

- (e) in connection with any evacuation, suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles or other hazardous materials, except that the manager may not restrict the lawful bearing of firearms;
- (f) establish curfews for the protection of life and property in the affected areas;
- (g) establish price freezes to prohibit the practice of price gouging for items in short supply or high demand in the affected areas;
- (h) establish the rationing of critical supplies necessary to sustain life;
- (i) approve routes, modes of transportation and destinations in connection with an evacuation;
- (j) control ingress and egress to and from a disaster area, control the movement of persons within the area, and approve the occupancy or evacuation of premises in a disaster area;
- (k) clear or remove from publicly or privately owned land or water, debris or wreckage which may threaten public health or public safety; however, where there is not an immediate threat to public health or safety, the manager shall not exercise this authority in relation to privately owned land or waters unless: (i) the owner authorizes the employees of designated local agencies to enter upon the private land or waters to perform any tasks necessary for the removal or clearance of debris or wreckage, and (ii) the owner provides an unconditional authorization for removal of the debris or wreckage and agrees to indemnify the local and state government entities against any claim arising from such removal;
- (l) establish temporary shelters for the housing of evacuated persons;
- (m) invoke the provisions of any mutual aid agreement or compact to which the county is a party;
- (n) transfer the direction, personnel, or functions of any county department, agency or unit thereof for the purpose of performing or facilitating emergency services;
- (o) consult with the council leadership within 12 hours of the declaration of emergency to inform the council of the nature of the emergency and actions being undertaken in response thereto; and
- (p) perform and exercise such other functions, powers and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population during a declared emergency.

(2) The manager shall keep the council and other county elected officials reasonably informed as to the scope and duration of the emergency and the plan of operations to cope with the emergency.

16-2-5. Authority of sheriff to order evacuations.

- (1) The sheriff is hereby empowered to order an evacuation of all or part of the population from any stricken or threatened area within the county if necessary for the preservation of life.
- (2) The evacuation may not exceed a period of 36 hours without the express written consent of the manager.

16-2-6. Role of emergency manager.

- (1) The emergency manager serves under the direction of the manager.
- (2) The emergency manager shall have the following powers, duties and responsibilities:
 - (a) budgeting, accounting, and documenting all areas pertaining to emergency management, including grants, training, and EOC operations;

- (b) applying for state and federal emergency management grants and programs;
 - (c) coordinating resources that may be utilized during an emergency through mutual aid agreements or other methods;
 - (d) advising the manager and council on emergency management issues;
 - (e) training county employees, including planning practical exercises and the promotion of continuing emergency management education;
 - (f) drafting the comprehensive emergency management plan and continuity of operations plan for approval by the manager and council;
 - (g) managing records pertaining to emergencies;
 - (h) issuing an after action report with regard to all emergencies where the EOC has been activated;
 - (i) upon request, assisting political subdivisions within the county in their response to emergency or disaster related events; and
 - (j) maintain county critical communications infrastructure sites and assets.
- (3) During a declaration of emergency, the emergency manager shall:
- (a) exercise supervisory control over the EOC;
 - (b) coordinate resources from local, state and federal agencies;
 - (c) manage volunteers; and
 - (d) assist the incident commander.

16-2-7. Orders, rules and regulations having force of law.

All orders, rules and regulations promulgated by the manager shall have the full force and effect of law during the declared emergency, provided a copy thereof is filed with the county clerk.

16-2-8. Acquisition of property for public use.

(1) Upon a declaration of emergency, the manager may purchase or lease public or private property for public use including:

- (a) food;
- (b) medical supplies;
- (c) clothing;
- (d) shelter;
- (e) means of transportation;
- (f) fuels and oils; and
- (g) buildings and land.

(2) Such acquisitions may be used for any purpose to meet the needs of an emergency, including use to relieve want, distress, and disease.

16-2-9. Emergency contracts for repair, removal or construction projects.

In the event of a declaration of emergency, the manager may, without obtaining bids or bonds, contract for repairs, construction, removal of debris, or maintenance of public improvements or public improvement projects that may be reasonable and necessary to alleviate the emergency or its consequences, subject to the following:

(1) emergency contracts shall be made with as much competition as practicable under the circumstances; and

(2) a written determination of the basis for the emergency, the selection of the particular contractor, and the actions of the manager in entering into the contract shall be submitted to the council and the auditor as soon as reasonably possible thereafter.

CHAPTER 3

EMERGENCY INTERIM SUCCESSION PROCEDURES

Section

16-3-1. Purposes.

16-3-2. Definitions.

16-3-3. Declaration of emergency by emergency interim successor.

16-3-4. Emergency interim succession for county council.

16-3-5. Emergency interim successors for county officials.

16-3-1. Purposes.

The purposes of this chapter are to implement the state Emergency Interim Succession Act and to provide for continuity of county government in times of emergency or disaster.

16-3-2. Definitions.

As used in this chapter:

(1) "Absent" or "unavailable" means not being physically present at the place of governance during a disaster or emergency, or not being able to communicate with the place of governance during a disaster or emergency via telephone, radio or other communications device within thirty minutes of an official attempt to communicate.

(2) "Available" means being physically present at the place of governance during a disaster or emergency, or being able to communicate with the place of governance during a disaster or emergency via telephone, radio or other telecommunications device.

(3) "Emergency interim successor" means a person designated by this chapter to exercise the powers and discharge the duties of a county office when the person legally exercising the powers and duties of that office is absent or unavailable.

(4) "Local government officer" means each county elected official who is required to designate three emergency interim successors.

(5) "Official attempt to communicate" means any attempt by the sheriff's office, the county emergency management department, or any county elected official to contact a local government officer during a disaster, emergency or local emergency.

(6) "Place of governance" means the physical location where the powers of county officials are being exercised.

16-3-3. Declaration of emergency by emergency interim successor.

(1) If the manager is absent or unavailable for the purpose of considering or making a declaration of emergency, then the following county officials or employees shall be contacted in the order listed below, and the first person so contacted shall have the power and duty to issue a declaration of emergency when the circumstances warrant such a declaration:

- (a) assistant manager;

- (b) council chair;
- (c) council vice chair;
- (d) sheriff;
- (e) emergency manager.

(2) If all of the foregoing officials and employees are absent or unavailable, then the emergency succession procedures specified in Section 16-3-4 shall apply for the purpose of designating emergency interim successors for the manager, council chair, and council vice chair.

16-3-4. Emergency interim succession for county council.

(1) If a quorum of the council is absent or unavailable, any available council member may act as the council until such time as three or more council members are available. If one council member is available and acting as the council, the emergency interim successors for the other council members shall not be called upon and shall not be empowered to exercise the powers or duties of office.

(2) If every council member is absent or unavailable, an emergency interim successor for each council member shall be contacted and shall exercise the powers and duties of office according to the order of succession specified by that council member. An emergency interim successor appointed under this Section shall exercise the powers and duties of office only until the vacancy is filled pursuant to law, the council member becomes available, or an emergency interim successor earlier in order of succession becomes available.

16-3-5. Emergency interim successors for county officials.

(1) By July 1 of each year, each county elected official shall:

- (a) designate three emergency interim successors;
- (b) specify their order of succession; and
- (c) provide a list of those designated successors to the manager, the emergency manager, the sheriff, and the State of Utah Division of Emergency Management. The list shall remain in effect until revoked or revised in writing by the elected official or until the official no longer holds county office.

(2) If any county elected official is unavailable, a designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession specified by the elected official.

(3) An emergency interim successor shall exercise the powers and duties of office only until the vacancy is filled pursuant to law, the elected official becomes available, or an emergency interim successor earlier in order of succession becomes available.

CHAPTER 4

HAZARDOUS MATERIALS LOCAL EMERGENCY PLANNING COMMITTEE

Section

- 16-4-1. Definitions.**
- 16-4-2. Committee created.**
- 16-4-3. Role of emergency manager.**
- 16-4-4. Emergency Planning and Community Right-to-Know Act.**
- 16-4-5. Notice of violation.**
- 16-4-6. Procedure.**
- 16-4-7. Service.**
- 16-4-8. Failure to pay.**
- 16-4-9. Enforcement.**

16-4-1. Definitions.

As used in this chapter:

- (1) "LEPC" means the Tooele County Local Emergency Planning Committee.
- (2) "EPCRA" means the Federal Emergency Planning and Community Right-to-Know Act of 1986.

16-4-2. Committee created.

Tooele County hereby authorizes and establishes a Tooele County Local Emergency Planning Committee. The LEPC, through the Tooele County Emergency Management Department, is hereby authorized to enforce the provisions of this chapter.

16-4-3. Role of emergency manager.

The emergency manager or his/her designee shall, 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 EPCRA.

16-4-4. Emergency Planning and Community Right-to-Know Act.

(1) The requirements of EPCRA shall be the law of Tooele 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.

(2) The provisions of EPCRA are hereby deemed rules and regulations of the Tooele County Emergency Management Department and the fire department governing the operation of any business that holds a license or permit issued pursuant to Tooele County ordinances.

(3) An owner or operator of a covered facility under the provisions of EPCRA who violates such provisions shall be subject to a civil administrative fine not to exceed \$1,000 per violation. The LEPC shall establish the fine based on the severity of the violation, the duration of the violation, the alleged violator's history of non-compliance, the economic benefit of non-compliance, the LEPC's or the county's investigative costs, and the cooperation of the owner or operator in remedying the alleged violation.

16-4-5. Notice of violation.

(1) Whenever the LEPC determines that any person or facility is in violation of any applicable emergency plan accepted by or created by the LEPC pursuant to EPCRA, the requirements of EPCRA, or any rules of the LEPC, the LEPC may cause a written notice of violation to be served on the alleged violator.

(2) The notice of violation shall:

- (a) specify the provisions of the emergency plan or law or rule alleged to have been violated;
- (b) recite the facts alleged to constitute the violation;
- (c) advise the alleged violator that an administrative hearing will be held to determine if a civil administrative fine should be imposed; and
- (d) include the time, date, and place of the hearing.

16-4-6. Procedure.

(1) The LEPC shall appoint an examiner to conduct the hearing.

(2) The examiner shall conduct the hearing and shall issue written findings of fact and recommendations to the LEPC, which shall be served on the alleged violator.

(3) If the examiner's findings or recommendations are adverse to the alleged violator, the alleged violator may, within 15 days after the date of the findings and recommendations, submit written objections to the LEPC.

(4) The LEPC shall review the examiner's findings and recommendations, as well as any timely objections submitted by the alleged violator, and may adopt, modify or reject the examiner's findings and recommendations. The LEPC shall issue a written order which shall be served on the alleged violator.

(5) The alleged violator shall have 30 days from the date of the order in which to seek judicial review in the district court. The alleged violator shall serve a copy of the petition seeking judicial review on the LEPC. The LEPC shall promptly file a complete copy of the record.

16-4-7. Service.

The notice of violation, the examiner's findings and recommendations, and the LEPC's order shall be served on the alleged violator and/or record owner of the facility where the violation is alleged to have occurred. Service shall be accomplished by mailing a copy of such document by certified mail, postage prepaid, return receipt requested, to the address of the facility where the violation is alleged to have occurred.

16-4-8. Failure to pay.

If any person fails to pay a civil administrative fine after the time for judicial review has expired or after the court has entered final judgment in favor of the LEPC, the LEPC may request the Tooele County Attorney to institute a civil action to collect the civil administrative fine.

16-4-9. Enforcement.

(1) Nothing contained in this chapter shall prohibit the county or LEPC or any other person from initiating suit pursuant to 42 USCS 11045 and 11046 of EPCRA at any time during the pendency of the administrative proceedings authorized by this chapter.

(2) The LEPC shall have the authority to enter into an informal settlement agreement with an alleged violator in lieu of seeking a civil administrative fine.