

**MILLCREEK, UTAH**  
**ORDINANCE NO. 20-12**

**AN ORDINANCE AMENDING CHAPTER 2.86 OF THE MILLCREEK CODE OF  
ORDINANCES WITH RESPECT TO EMERGENCY RESPONSE AND RECOVERY TO  
UPDATE REFERENCES AND OTHER RELATED MATTERS**

**WHEREAS**, on March 23, 2020, the Millcreek Council (the “*Council*”) of Millcreek (the “*City*”) met in regular session to consider, among other things, amending Chapter 2.86 of the Millcreek Code of Ordinances with respect to emergency response and recovery to update references and other related matters; and

**WHEREAS**, the City has been involved with an emergency response and recovery and has determined that it is necessary to update the emergency response and recovery ordinances; and

**WHEREAS**, after careful consideration the Council has determined that it is in the best interest of the health, safety and welfare of the residents of the City to update and amend Chapter 2.28 of the Millcreek Code of Ordinances with respect to emergency response and recovery to update references and other related matters.

**NOW, THEREFORE, BE IT ORDAINED** by the Council that Chapter 2.86 of Millcreek Code be amended as follows (designated by interlineating the words to be deleted and underlining the words to be added):

**2.86.010 - Intent—Liberal construction.**

It is the intent of this chapter to provide the organization, powers and authority necessary to enable the timely and effective use of all available city resources to prepare for, respond to and recover from emergencies and disasters likely to affect the health, security, safety, or property of the inhabitants of the city. It is intended to grant the broadest powers permitted. The provisions of this chapter shall be liberally construed to allow for the greatest opportunity to preserve and protect life and property.

**2.86.020 - Definitions.**

As used in this chapter:

"Attack" means a nuclear, conventional, biological, or chemical warfare action against the United States of America, the State of Utah, Salt Lake County or Millcreek.

"Disaster" or "emergency" means a situation causing or threatening to cause widespread damage, injury or loss of life, or significant property damage resulting from an attack, internal disturbance, natural phenomena, public health emergency, or technological hazard.

"Internal disturbance" means a riot, prison break, disruptive terrorism, or a widespread strike, which strike causes significant social disruption or injury to persons or property.

"Natural phenomena" means any earthquake, tornado, storm, flood landslide, avalanche, forest or range fire, drought or epidemic.

"Public health emergency" means an occurrence or imminent credible threat of an illness or health condition caused by bioterrorism, epidemic or pandemic disease, or novel and highly infectious agent or biological toxin that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such illness or health condition includes an illness or health condition resulting from a natural disaster.

"State of emergency" means a condition in the city which requires city government emergency assistance to save lives and to protect property, public health and safety, and to reduce the threat and effects of a disaster.

"Technological hazard" means any hazardous materials spill or accident, mining accident, train derailment, aircraft crash, radiation incident, pollution, structural fire or explosion.

### **2.86.030 - Declaration of an emergency.**

A. The mayor is authorized to declare a state of emergency when the mayor finds that the city or any part thereof is suffering from or is in imminent danger of suffering an emergency or disaster.

B. Any declaration of an emergency or disaster by the mayor shall be promptly filed with the recorder, and the public shall be notified through general publicity of the declaration. The mayor shall promptly notify the council of any declaration of an emergency or disaster.

C. The declaration of an emergency or disaster shall be in effect as determined by the mayor for a period of up to thirty days in accordance with the Disaster Response and Recovery Act, Utah Code Ann. § 53-2a-201 et seq. or its successor. This period may be continued or renewed only upon the approval of the council. The council may, by resolution, express its opinion regarding an emergency declaration by the mayor.

D. The declaration of an emergency provided in this chapter shall become effective immediately upon issuance by the mayor and the only required publication is the general dissemination to the public by appropriate news media.

E. The declaration shall, to the extent possible, state the nature of the emergency, the area threatened, and any applicable duration, conditions, actions or needs pursuant to Section 2.86.050. The declaration may be amended and periodically brought up to date as needed.

### **2.86.040 - Succession.**

A. If the mayor is unavailable to perform the duties set out herein, the mayor pro tempore shall have the same authority as granted to the mayor.

B. Notwithstanding the order of succession set forth in subsection A, if the mayor or mayor pro tempore are unavailable to issue an evacuation order as set forth in Section 2.86.050, then the Millcreek Precinct Chief may issue an evacuation order, including any orders establishing evacuation routes, for a period not to exceed thirty-six hours, if the order is necessary for the preservation of life. The mayor may ratify, modify, or revoke the Millcreek Precinct Chief's order if he becomes available.

### **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 city 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 the Disaster Response and Recovery Act, Utah Code Ann. § 53-2a-201 et seq. or its successor.

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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 city 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 recorder. 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 city 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 city activities;

4. Maintain ongoing communication with the council, Salt Lake County 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. (Utah Code Ann. § 26A-1-114(1)(e));

2. Exercise physical control over property and over individuals as the Health Department finds necessary for the protection of public health. (Utah Code Ann. § 26A-1-114(1)(b));

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. (Utah Code Ann. § 26A-1-114(3)(b));

4. The authority of the director of the health department extends to a public health emergency wholly located within a municipality.

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1. The county 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 government 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.

#### **2.86.060 - Powers of the council.**

- A. Nothing in this chapter shall prevent the council from acting as the legislative body of city government in a state of emergency, or from exercising those powers and authorities set out in state statute. The council's legislative authority shall include the power to legislate, budget, and appropriate and to perform any other duties as required by state statute.
- B. The council shall also fulfill those duties and responsibilities as required by any emergency response declaration or order to the extent it does not conflict with federal, state, or local law, or the provisions of this chapter.

#### **2.86.070 - Relocation of offices.**

- A. Whenever an emergency or disaster makes it imprudent or impossible to conduct the affairs of the city at its regular locations, the council may meet at any safe and convenient place, inside or outside Salt Lake County. Any temporary meeting location shall continue until a new location is established, the emergency or disaster is terminated, or city operations are able to return to their normal locations.
- B. Any official act or meeting required to be performed at any regular location of the council is valid when performed at any temporary location under the terms of this section.

#### **2.86.080 - Mutual aid.**

- A. The mayor may, on behalf of the city, enter into such reciprocal aid, mutual aid, intergovernmental cooperation agreements or other contracts or plans with other governmental entities for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and services and do not require fair and adequate consideration.
- B. The city may act as a participating political subdivision consistent with the Statewide Mutual Aid Act, Utah Code Ann. § 53-2a-301 et seq. or its successor .

#### **2.86.100 - Criminal penalties.**

Any person who knowingly refuses to comply with an order to evacuate issued under this chapter or who refuses to comply with any other order issued during a state of emergency, as

provided in this chapter and after notice of the order has been given to that person, is guilty of a Class B Misdemeanor.

The provisions of this chapter are declared to be severable, and if any provision of this chapter shall, for any reason, be held to be invalid or unconstitutional or if the application of this chapter to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the validity of the remaining provisions of the ordinance codified in this chapter.

Passed and approved this 23<sup>rd</sup> day of March 2020.

**MILLCREEK COUNCIL**

By: \_\_\_\_\_  
Jeff Silvestrini, Mayor

**ATTEST:**

\_\_\_\_\_  
Elyse Sullivan, City Recorder

Roll Call Vote:		
Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No

**CERTIFICATE OF POSTING**

I, the duly appointed recorder for Millcreek, hereby certify that:  
**ORDINANCE 20-12: AN ORDINANCE AMENDING CHAPTER 2.86 OF THE MILLCREEK CODE OF ORDINANCES WITH RESPECT TO EMERGENCY RESPONSE AND RECOVERY TO UPDATE REFERENCES AND OTHER RELATED MATTERS**  
was passed and adopted the 23<sup>rd</sup> day of March, 2020 and certifies that a summary was published in the Deseret News and Salt Lake Tribune the \_\_\_ day of March, 2020.

\_\_\_\_\_  
Elyse Sullivan, City Recorder