

ORDINANCE NO. 3006

TITLE: An ordinance providing for the continuity of government of the City of Albany in the event of enemy attack and providing for the designation, status, qualification and terms of emergency interim successors; providing for the assumption of powers and duties of an officer by emergency interim successors; providing for the accomplishment of formalities of taking office in case of such emergency and suspending certain quorum and vote requirements of city council in the event of an attack and declaring an emergency.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: DEFINITIONS

As used in this ordinance, unless the context clearly otherwise indicates:

a) "UNAVAILABLE" shall mean either that a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the lawful incumbent of the office and his duly authorized deputy is absent or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of the office.

b) "ATTACK" shall mean any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property of persons in the United States in any manner by sabotage or by the use of bombs, missiles, shell fire, or atomic or radiological, chemical, bacteriological or biological means or other weapons or processes.

c) "DULY AUTHORIZED DEPUTY" shall mean a person who is presently authorized to perform all of the functions and exercise all of the powers and discharge all of the duties of an office in the event the office is vacant or at such times as it lacks administration due to the death, absence or disability of the incumbent officer.

d) "EMERGENCY INTERIM SUCCESSOR" shall mean a person designated pursuant to this ordinance for possible temporary succession to the powers and duties, but not the office, of a city officer in the event that such officer or any duly authorized deputy is unavailable to exercise the powers and discharge the duties of the office.

Section 2: DESIGNATION, STATUS, QUALIFICATION OF TERMS OF EMERGENCY INTERIM SUCCESSOR.

a) ELECTIVE OFFICERS. Within 30 days following the effective date of this ordinance and thereafter within 30 days after first entering upon duties of the office, the mayor and each member of the city council of this city shall, designate such number of emergency interim successors to his office and specify their rank and order of succession so that there will be not less than three (3) duly authorized deputies or emergency interim successors or combination thereof for the office.

b) APPOINTIVE OFFICERS. The city council shall, within the time specified in subsection (a) of this section, in addition to any duly authorized deputy, designate for appointive officers, including the city manager, chief of police, city fire chief, city attorney, municipal judge, city recorder, city engineer, city recreation director, such number of emergency interim successors to these offices and specify their rank in order of succession after any duly authorized deputy so that there will be not less than 3 duly authorized deputies or emergency interim successors or combination thereof for each officer.

c) REVIEW OF DESIGNATIONS. The incumbent in the case of elective officers specified in subsection (a) of this section, and the city council in the case of those appointive officers specified in subsection (b) of this section, shall review and, as necessary, promptly revise the designations of emergency interim successors to insure that at all times there are at least 3 such qualified emergency interim successors of duly authorized deputies or any combination thereof for each officer specified.

d) QUALIFICATIONS. No person shall be designated or serve as an emergency interim successor unless he may, under the constitution and statutes of this state and the charter or ordinances of this city, hold the office of the person to whose powers and duties he is designated to succeed, but no provision of any ordinance prohibiting an officer of employee of this city from holding another office shall be applicable to an emergency interim successor.

e) STATUS OF EMERGENCY INTERIM SUCCESSOR. A person designated as an emergency interim successor holds that designation at the pleasure of the designator; provided, that he must be replaced if removed. He retains this designation as emergency interim successor until replaced by another appointed by the authorized designator.

Section 3: ASSUMPTION OF POWERS AND DUTIES OF OFFICER BY EMERGENCY INTERIM SUCCESSOR

If in the event of an attack any officer named in subsections (a) and (b) of Section 2 of this ordinance and any duly authorized deputy is unavailable, his emergency interim successor highest in rank in order of succession who is not unavailable shall, except for the power and duty to appoint emergency interim successors, exercise the powers and discharge the duties of such officer. An emergency interim successor shall exercise these powers and discharge these duties only until such time as a lawful incumbent officer or duly authorized deputy or emergency interim successor higher in rank in order of succession exercises, or resumes the exercise of, the powers and discharges of duties of the office, or until, where an actual vacancy exists, a successor is appointed to fill such vacancy or is elected and qualified as provided by law.

Section 4: RECORDING AND PUBLICATION

The name, address and rank and order of succession of each duly authorized deputy shall be filed with the city recorder and each designation, replacement, or change in order of succession of an emergency interim successor shall become effective when the designated files with the city recorder the successor's name, address and rank and order of succession. The city recorder shall keep on file all such data regarding duly authorized deputies and emergency interim successors and it shall be open to public inspection.

Section 5: FORMALITIES OF TAKING OFFICE

At the time of their designation, an emergency interim successor shall take such oath and do such other things, if any, as may be required to qualify them to exercise the powers and discharge the duties of the office to which they may succeed.

Section 6: QUORUM AND VOTE REQUIREMENT

In the event of an attack, quorum requirements for the city council shall be suspended, and where the affirmative vote of the specified portion of members for approval of an ordinance or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient.

Section 7: SEVERABILITY CLAUSE

If in any section, subsection, sentence, clause, phase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct and an independent provision and such holding shall not affect the validity of the remaining portion thereof.

Section 8: EMERGENCY CLAUSE

Whereas, the peace, health and safety of the people of the City of Albany requires that this ordinance become immediately effective, therefore, an emergency is hereby declared to exist and this ordinance shall become effective immediately upon its final passage by the council and approval by the mayor.

Passed by the Council: February 28, 1962

Approved by the Mayor: February 28, 1962

W. L. Dignard
Mayor

Effective Date: February 28, 1962

ATTEST:

Ernest L. Shum
City Recorder