

## 3.02 - CONTINUITY OF GOVERNMENT.

- (1) Policy and Purpose. Because of the existing possibility of an attack upon the United States of unprecedented size and destructiveness, including the inevitable hazard of radioactive contamination, and in order, in the event of such an attack, to assure the continuation of effective, legally constituted leadership, authority and responsibilities in the offices of the government of the City of Madison, it is necessary to provide for emergency interim officers who can exercise the powers and discharge the duties of the Mayor, alders, supervisors, and department heads in the event that the incumbents are killed, missing, disabled, or for some other cause unable to perform the duties and functions of their offices during and immediately after an enemy attack. (Am. by ORD-09-00147, 11-6-09)
- (2) Definitions. As used in this ordinance, unless the context otherwise clearly 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 (including any deputy exercising the powers and discharging the duties of an office because of a vacancy) and her/his duly authorized deputy are absent or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of the office. (Am. by ORD-14-00012, 1-14-14)
  - (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 persons or property in the United States by sabotage, the use of bombs, missiles, shellfire, or atomic, 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, 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.
- (3) Designation, Status, Qualifications and Term of Emergency Interim Successors. Succession of the office of Mayor shall be in the following order: president of the Common Council, vice president of the Common Council, and two (2) emergency interim successors to be named by the Mayor within thirty (30) days after this ordinance is adopted, and by each Mayor within thirty (30) days of her/his taking office, and the

Mayor shall specify and rank in order of succession after the vice president of the Common Council, so that there will be no less than two (2) duly authorized emergency interim successors for the office of Mayor. (Am. by ORD-14-00012, 1-14-14; ORD-16-00080, Pub. 9-15-16, Eff. 4-18-17)

- (a) Whoever is nominated and whatever succession is designated shall be confirmed by the Common Council.
- (b) (R. by Ord. 6703, 8-8-79)
- (c) Department Heads. Within thirty (30) days after adoption of this ordinance, each department head shall appoint and specify the order of succession, after her/his deputy, of two (2) emergency interim successors, so that there will be not less than three (3) successors to the office of each department head. If there is no deputy, three (3) emergency interim successors shall be so appointed instead of two (2).

Emergency interim successors to department heads shall be confirmed by the Mayor. (Am. by ORD-14-00012, 1-14-14)

- (d) Review of Designations. The Mayor, alders, supervisors, and department heads shall review and, if necessary, revise and keep current the designations of emergency interim successors to insure at all times that there is the requisite number of qualified emergency interim successors. (Am. by ORD-09-00147, 11-6-09)
- (e) Qualifications. No person shall be designated or serve as an emergency interim successor unless he or she may under the constitution and statutes of this state and the charter ordinances of this City, hold the office of the person to whose powers and duties he or she is designated to succeed, but no provision of any ordinance prohibiting an officer or employee of this City from holding another office shall be applicable to an emergency interim successor.

Emergency interim successors shall act only until the Common Council can meet as a body and appoint and confirm a successor to the Mayor, alders, and supervisors if necessary in accordance with existing statute. (Am. by ORD-09-00147, 11-6-09; ORD-14-00012, 1-14-14)

- (f) 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 or she must be replaced if removed. He or she retains this designation as emergency interim successor until replaced by another appointed by the authorized designator, or until the designator leaves office. (Am. by ORD-14-00012, 1-14-14)
- (4) Assumption of Powers and Duties of Officer by Emergency Interim Successor. If in the event of an attack the Mayor, any alder, or any department head and any duly

authorized deputy is unavailable, her/his emergency interim successor highest in rank in order of succession who is available 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 the lawful incumbent officer or any duly authorized deputy or an emergency interim successor higher in rank in order of succession exercises, or resumes the exercise of, the powers and discharge of the 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. (Am. by ORD-09-00147, 11-6-09; ORD-14-00012, 1-14-14)

- (5) Recording and Publication. The name, address and rank in order of succession of each duly authorized deputy and emergency interim successor shall be filed with the City Clerk and each designation, replacement, or change in order of succession of an emergency interim successor shall become effective when the designator files with the City Clerk the successor's name, address, and rank in order of succession. The City Clerk shall keep on file all such data regarding duly authorized deputies and emergency interim successors which shall be open to public inspection.
- (6) Formalities of Taking Office. At the time of their designation, emergency interim successors 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.
- (7) Emergency Meetings of the Governing Body. During any emergency:
  - (a) Any member of the Common Council or a legally constituted successor may call a meeting of the Common Council by notifying all members or their interim successors so far as practicable and by whatever means available of the time and place of such meeting, within or without the City or state as circumstances dictate.
  - (b) The members so meeting shall establish and be governed by its own rules during such emergency.
- (8) Separability Clause.
  - (a) If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.
  - (b) All ordinances or a part thereof contravening the provisions of this ordinance are repealed.

(Renum. by Ord. 13,308, 4-30-03; Renum. by ORD-06-00176, 12-8-06)

