

CITY OF ORTING
WASHINGTON

ORDINANCE NO. 2023-1109

**AN ORDINANCE OF THE CITY OF ORTING,
WASHINGTON, RELATING TO EMERGENCY
MANAGEMENT: AMENDING ORTING
MUNICIPAL CODE TITLE 1, CHAPTER 8;
PROVIDING FOR SEVERABILITY; AND
ESTABLISHING AN EFFECTIVE DATE**

WHEREAS the City of Orting has certain emergency management responsibilities and powers through Chapter 38.52 RCW; and

WHEREAS, the City desires to shield its citizens from the dangers of exigent disasters caused by the various forces of nature when possible; and

WHEREAS, pursuant to RCW Title 38.52 - EMERGENCY MANAGEMENT, local municipalities, via the chief executive officer of the organization, are vested with the power during exigent emergency situations to protect the health and safety of persons and property, and provide emergency assistance to the victims of such disaster; and

WHEREAS, the Mayor is the chief executive officer of the City of Orting; and

WHEREAS, the Council affirms the authority vested in the Mayor under RCW Title 38.52 and the Mayor's authority to declare an emergency within City limits when necessary; and

WHEREAS, the City Council recognizes the need for the City to undertake immediate action during exigent emergencies such as those that exist when extreme heat, drought, and weather create an urgent threat of fire danger to its citizens; and

WHEREAS, it is necessary and desirable that all Federal, State, Local and Tribal emergency agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management; and

WHEREAS, to facilitate the most efficient and effective incident management it is critical that Federal, State, local and tribal organizations utilize standardize consolidate action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters; and

WHEREAS the President in Homeland Security Directive (HSPD)-5, directed the Secretary of the Department of Homeland Security to develop and administer a nationwide

approach for Federal, State, local, and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity; and

WHEREAS the collective input and guidance from all Federal, State, local and tribal homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive National Incident Management System (NIMS); and

WHEREAS, the NIMS standardized procedures for managing personnel, communications, facilities and resources will improve the State's ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management processes; and

WHEREAS, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the State including current emergency management training programs; and

WHEREAS, the National Commission on Terrorist Attacks (9-11 Commission) recommended adoption of a standardized Incident Command system;

WHEREAS, the City desires to update its regulations for Emergency Management to create a cohesive code;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORTING, WASHINGTON DOES ORDAIN AS FOLLOWS:

Section 1. Amendment. Orting Municipal Code 1-8 is hereby amended as follows:

1-8-1: CREATION; PURPOSE:

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for mitigation, preparedness, response and recovery for persons and property within the city of Orting in the event of an emergency or disaster, and to provide for the coordination of emergency functions and services of the city of Orting with the county and other affected public agencies and private persons, corporations and organizations.

1-8-2: PREPARATION FOR EMERGENCIES

It is the policy of the city of Orting to make effective preparation and use of manpower, resources, and facilities for dealing with any emergency or disaster that may occur. Disasters and emergencies, by their very nature, may disrupt or destroy existing systems and the capability of the city of Orting to respond to protect life, public health and public property. Therefore, citizens are advised to be prepared to be on their own for up to 96 hours should an emergency or disaster occur.

1-8-3: DISASTER AND EMERGENCY POWERS

A. THE MAYOR

In the event of a disaster or emergency, and after consulting with the director, the mayor is

authorized to proclaim a disaster or state of emergency, request that the county executive or Governor proclaim a state of emergency when in the opinion of the mayor the resources of the area or region are inadequate to cope with the disaster, and call and conduct any emergency meetings of the city council as deemed appropriate. In the absence of the mayor, the deputy mayor may declare an emergency and issues orders, and in the absence of the mayor pro tem, the city administrator may declare an emergency and issue orders. The authority granted to the mayor in this chapter is in addition to and not in limitation of other policies allowing the mayor to declare an emergency and take action necessary to deal with such emergency, including but not limited to those powers set forth in Chapter 38.52 RCW.

B. THE CITY ADMINISTRATOR

In the event of a proclamation of a disaster or state of emergency by the mayor, county executive, or governor, the city administrator is hereby empowered:

- (1) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster;
- (2) To request the county executive or governor to proclaim a state of emergency when, in the opinion of the city administrator, the resources of the area or region are inadequate to cope with the disaster;
- (3) To obtain vital supplies, equipment and such other properties found lacking and needed for the protection of the life and property of the people and to bind the city of Orting for the fair value thereof, and, if required immediately, to commandeer the same for public use;
- (4) To control and direct the efforts of the emergency management organization of the city of Orting for the accomplishment of the purposes of this chapter;
- (5) To require emergency services of any city of Orting officer or employee and to command the aid of as many citizens of the city of Orting as may be deemed necessary in the execution of the purposes of this chapter; and such persons to be entitled to all privileges, benefits and immunities as are provided by state law for registered emergency workers;
- (6) To requisition necessary personnel or material of any city of Orting department or agency;
- (7) To execute all of the special powers conferred upon the mayor by this chapter, by any other statute, agreement or lawful authority, as necessary;
- (8) To take any action necessary to accomplish the purpose or policy of this chapter, the provisions of the comprehensive emergency management plan, or the provisions of Chapter 38.52 RCW.

C. UNAVAILABILITY OF MAYOR OR CITY ADMINISTRATOR

- (1) In the event that the mayor is unavailable to proclaim a disaster or state of emergency or

carry out the functions required by this chapter, the deputy mayor shall act in his or her place, and, in the event that the deputy mayor is not available, then the next available councilmember with the longest period of consecutive service shall perform the functions required by this chapter.

(2) In the event that the city administrator is unavailable to perform the functions of this chapter, the person designated by city policy to act as city administrator in the absence of the city administrator shall perform the functions required of this chapter.

D. THE EMERGENCY MANAGEMENT DIRECTOR

The emergency management director is hereby empowered:

(1) To request the mayor to proclaim a disaster or state of emergency and the termination thereof;

(2) To direct coordination and cooperation between divisions, services and staff of the departments and services of the city of Orting in carrying out the provisions of the comprehensive emergency management plan, and to resolve questions of authority and responsibility that may arise between them;

(3) To recommend for adoption by the city council emergency management plans and mutual aid agreements;

(4) To represent the emergency management organization of the city of Orting in dealing with issues pertaining to emergency management;

(5) To prepare and maintain the comprehensive emergency management plan of the city of Orting and manage the day-to-day responsibilities of the emergency management program activities of the city of Orting;

(6) To take any action necessary to accomplish the purpose or policy of this chapter, the provisions of the comprehensive emergency management plan, or the provisions of Chapter 38.52 RCW.

1-8-4: ADOPTION OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)

NIMS has been identified by the Federal Government as being the requisite emergency management system for all political subdivisions and NIMS training is required under Homeland Security Presidential Directive (HSPD-5) to receive federal funding, contracts, grants, training and reimbursement of disaster recovery costs.

Staff who are responsible for emergency management will be trained in NIMS and will train and exercise the Incident Command System (ICS) and use it in their response operations.

1-8-5: PROCLAMATION OF EMERGENCY:

A. Proclamation By mayor: Whenever an emergency as defined herein, or the imminent threat thereof, occurs in the City and results in, or threatens to result in the death or injury of persons

or the destruction of or damage to property to such extent as to require, in the judgment of the mayor, extraordinary measures to protect the public peace, safety and welfare, the mayor may proclaim in writing the existence of a civil emergency.

For the purposes of this chapter an EMERGENCY shall mean:

1. A riot, unlawful assembly, insurrection, enemy attack, sabotage, or other hostile action; or
2. A natural or human-caused disaster, including fire, flood, storm, explosion, earthquake, volcanic disturbance or other natural cause; or
3. An event or set of circumstances that demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken neighborhood overtaken by such occurrences;
4. Any emergency or disaster as defined by RCW 38.52.010.

Proclamations of civil emergencies issued by the mayor shall as soon as practicable be filed with the city clerk, and posted in the same manner the city publishes other notifications to the public. Reasonable effort will be taken to post the proclamation in places such as City Hall, reader boards, the city website, social media, and other available means of electronic communication. The Proclamation shall be presented to the City Council for ratification and confirmation, modification or rejection as soon as reasonably possible, or no later than the next regular council meeting. Proclamations which are rejected shall, after vote, be void. Proclamations shall be considered in full force and effect until the City Council shall act to ratify.

B. In addition to or as an alternative to those emergency powers prescribed by this chapter upon the declaration of a civil emergency upon proclamation of a state of emergency or disaster by the governor or county executive pursuant to chapter 43.06 RCW and chapter 38.52 RCW, the Mayor shall have the authority to exercise authority all emergency powers and take action necessary to deal with such emergency, including but not limited to those powers set forth in Chapter 38.52 RCW.

C. In addition to those emergency powers prescribed by this chapter, the Mayor may impose a prohibition on the use of open fires within the City of Orting to limit potential adverse impacts to human life and property in response to an emergency condition due to unusual fire danger within the City. This authority is concurrent with the authority vested in the City's Fire Marshal and operates concurrently with the authorities of the clean air agencies and fire authorities applicable to the state, county and City. A declaration and associated prohibition issued pursuant hereto shall comply with the requirements of Section 1-8-8(B).

1-8-6: EMERGENCY CONTRACTS:

The city council, city administrator, or director is authorized to enter into contracts and incur obligations necessary to carry out the purposes or policies of this chapter or the provisions of the comprehensive emergency management plan in light of the exigencies of the emergency without regard to time-consuming procedures and formalities proscribed by law (excepting mandatory constitutional requirements), including but not limited to budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditure of public funds.

1-8-7: VIOLATION; PENALTY:

A. It shall be a violation of this chapter to:

1. Willfully obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter or in the performance of any duty imposed upon such member by virtue of this chapter;
2. Perform any act forbidden by any lawful rule or regulation issued pursuant to this chapter if such act is of such a nature as to imperil the lives or property of inhabitants of this city, or to prevent, hinder, or delay the defense of protection thereof; or
3. Wear, carry or display, without authority, any means of identification specified by the emergency management agency of the city.

B. Violations of a declaration of civil emergency issued pursuant to this chapter or of a subsequent emergency order issued pursuant this chapter, or any other order or directive given by a law enforcement officer or designated emergency services personnel pursuant to authority of such declaration or orders, shall be punishable pursuant to under section 1-4-1 of this code as follows:

1. A violation of this chapter shall constitute a misdemeanor, and any person committing such violation shall be punished by a term of 90 days in jail or a \$1,000 fine, or both such jail and fine.
2. Any person who commits a second violation of this chapter within a one-year period shall be guilty of a gross misdemeanor punishable by one year in jail or a \$5,000 fine or both such fine and imprisonment.

1-8- 8: IMMUNITY:

There shall be no liability on the part of any person, partnership, corporation, the state of Washington or any political subdivision thereof who owns or maintains any buildings or premises that have been designated by the Director as a disaster shelter for any injuries sustained by any person while in or upon said building or premises as a result of the condition of said building or premises or as a result of any act or omission, or in any way arising from the designation of such premises as a shelter, provided such person has entered, gone upon or into said building or premises for the purpose of seeking refuge therein during a disaster; provided further, however, that this section shall not apply to the willful acts of such owner or occupant or his or her servants, agents, or employees. This section shall also apply to any practice drill authorized pursuant to this chapter.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Codification. The City Council authorizes the City Clerk to correct any non-substantive errors herein, codify the above, and publish the amended code.

Section 5. Effective Date. This Ordinance shall take effect immediately and shall be published in the official newspaper of the City.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 26TH DAY OF JULY, 2023.

CITY OF ORTING

Joshua Penner
Joshua Penner (Jul 27, 2023 14:27 PDT)
Joshua Penner, Mayor

ATTEST/AUTHENTICATED:

Kimberly Agfalvi
Kimberly Agfalvi (Jul 27, 2023 15:12 PDT)
Kimberly Agfalvi, City Clerk

Approved as to form:

Charlotte Archer
Charlotte Archer, City Attorney
Inslee, Best, Doezie & Ryder, P.S.











Ordinance No. 2023-1109 Emergency Management Clean


Final Audit Report

2023-07-27


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