

CITY OF ORTING
WASHINGTON
ORDINANCE NO. 2024-1134

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORTING, WASHINGTON ADOPTING A NEW CHAPTER 6-1D OF THE ORTING MUNICIPAL CODE ENTITLED ENDANGERMENT WITH A CONTROLLED SUBSTANCE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the misuse of controlled substances in Washington State is a growing public health crisis, resulting in negative health outcomes, including addictions, overdoses, and deaths for far too many community members; and

WHEREAS, drug overdose and drug poisoning moved from the sixth leading cause of death among children aged 1-19 years of age in the United States in 2019 to third in 2020, which included a 110.6 percent increase in unintentional poisonings; and

WHEREAS, drug poisonings in Washington have increased steadily since 2014, increasing 30 percent from 2019 to 2020, another 30 percent from 2020 to 2021, and 17 percent from 2021 to 2022, according to the University of Washington Addictions, Drug, and Alcohol Institute; and

WHEREAS, opioid-related overdoses are the most common causes of accidental death in Pierce County, outnumbering motor vehicle collisions and firearm deaths according to the Tacoma-Pierce County Health Department; and

WHEREAS, between 2020 to 2022, Pierce County experienced 32.53 overdose deaths per 100,000 residents, a higher rate than the Washington state average of 27.98 during the same time period; and

WHEREAS, controlled substances come in all forms, and they are regularly made into powders, pills, candies, eye droppers, and nasal sprays; and

WHEREAS, users are entirely unable to discern by sight, taste, or smell just how potent and dangerous these illicit drugs may be due to unregulated sources. The identity, purity, and quantity are uncertain and inconsistent, thus posing significant adverse health risks not only to the user, but also to users' family members or members of the public who may be exposed inadvertently or through secondhand contact; and

WHEREAS, these risks are particularly high for children and other dependent persons who may live in close proximity to and come in contact with controlled substances through no fault of their own; and

WHEREAS, one in eight children nationwide aged 17 or younger lived in households with at least one parent who had a past substance use disorder, according to a 2014 report by the Substance Abuse and Mental Health Services Administration (SAMHSA); and

WHEREAS, fentanyl is often up to 50 times more potent than heroin and other synthetic opioids, such as nitazenes and carfentanil; and

WHEREAS, the ease of illicit manufacture and the potency of synthetic opioids has driven down illegal drug prices and caused synthetic opioids to be mixed with street drugs such as heroin, cocaine, and methamphetamine; and

WHEREAS, the “Washington State Office of the Family and Children's Ombuds Child Fatalities and Near Fatalities in Washington State September 2023” report states that over a quarter of the child fatalities and more than half of the child near-fatalities involved accidental ingestions and overdoses in 2022; and

WHEREAS, the same report reflects that one unknown, eight multiracial, eight African American/Black, nine Latino/Hispanic, and 39 Caucasian/White youths were involved in accidental ingestion and overdose accidents in 2022; and

WHEREAS, according to the Tacoma-Pierce County Health Department, deaths and emergency room visits from overdoses involving synthetic opioids, methamphetamine, and cocaine are on the rise and neighboring counties are starting to see overdoses related to tranquilizers like xylazine; and

WHEREAS, the Washington Poison Center had 116 cases in 2020 which involved the accidental exposure of children ages 0-5 years to opioids and opiates, and it is believed many more cases go unreported; and

WHEREAS, the Washington State Department of Health reports 148 youths aged 0-17 died from drug overdoses in 2016, 160 youths in 2017, 159 youths in 2018, 149 youths in 2019, 247 youths in 2020, 340 youths in 2021, 346 youths in 2022, and 378 youths in 2023; and

WHEREAS, in August 2022, a two-year-old child nearly died after consuming a fentanyl pill at a residence in Pierce County; and

WHEREAS, for those who survive exposure, an overdose can result in acute and chronic medical complications, including cognitive impairment, brain injury, and cardiac arrhythmia; and

WHEREAS, exposure to controlled substances is a threat to the health and safety of all City residents, and especially so for children and dependent persons who are in close proximity to individuals who use illegal substances; and

WHEREAS, sufficient mechanisms must be in place to hold people accountable when children and dependent persons are exposed to life-threatening harms; and

WHEREAS, the City of Orting City Council encourages the State Legislature to consider amending RCW 9A.42.100, "Endangerment with a Controlled Substance," to include all six controlled substances as a Class B felony; in the interim, the City Council finds it necessary and appropriate to adopt an ordinance to address criminal penalties for endangerment of a child or dependent person with a controlled substance other than cannabis to protect the public health and safety of the community;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORTING, WASHINGTON:

Section 1. New Chapter 6-1D of the Orting Municipal Code, Adopted. A new chapter 6-1D to the Orting Municipal Code entitled “Endangerment with a Controlled Substance” is adopted as set forth in Exhibit A attached hereto and incorporated herein by reference.

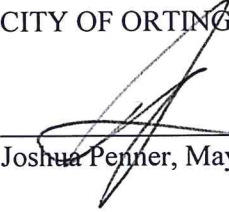
Section 2. Codification of Ordinance and Attachments. The City Council authorizes the City Clerk to correct any non-substantive errors herein, codify the Ordinance and its Attachments, and publish the modified code.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance and its Attachment, 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. Effective Date. This Ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

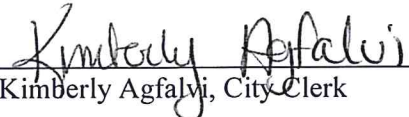
ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 30th DAY of OCTOBER 2024.

CITY OF ORTING



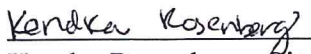
Joshua Penner, Mayor

ATTEST/AUTHENTICATED:



Kimberly Agfalvi, City Clerk

Approved as to form:



Kendra Rosenberg, City Attorney

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Chapter 6-D

ENDANGERMENT WITH A CONTROLLED SUBSTANCE

Sections:

6-1D-1 Definitions.

6-1D-2 Endangerment with a Controlled Substance.

6-1D-3 Penalty for Violations.

6-1D-4 Preemption.

6-1D-5 Severability.

6-1D-1 Definitions.

For the purpose of this Article, the following terms shall apply:

- A. "Cannabis" shall mean the same as the term is defined in RCW 69.50.101.
- B. "Child" shall mean the same as the term is defined in RCW 9A.42.010.
- C. "Controlled substance" shall mean the same as the term is defined in RCW 69.50.101.
- D. "Dependent person" shall mean the same as the term is defined in RCW 9A.42.010.

6-1D-2 Endangerment with a Controlled Substance.

- A. A person is guilty of the crime of endangerment with a controlled substance if the person knowingly or recklessly permits a child or dependent person to ingest, inhale, absorb, or have contact with a controlled substance other than cannabis, unless the controlled substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice.
- B. Administering or providing a controlled substance to a child or dependent person in the course of delivering health care services is not a violation of this Section.

6-1D-3 Penalty for Violations.

Unless otherwise specified, any person who violates this Article is guilty of a gross misdemeanor punishable by up to 364 days in jail and a \$5,000 fine. The Prosecuting Attorney is encouraged to consider referring such cases for assessment, treatment, and other services including referral to alternative resolution courts following the formal filing of charges.

6-1D-4 Preemption.

In the event the Washington State Legislature passes a law preempting this Article, this Article shall cease to have effect on the same date the statute comes into effect. Any violation of this Article that occurs prior to the preempting statute coming into effect may be prosecuted and punished pursuant to this Article.

1 **6-1D-5 Severability.**

2 If any provision of this Article or its application to any person or circumstance is held
3 invalid, the remainder of this Article or the application of the provisions to other persons or
4 circumstances is not affected.