

ORIGINAL

**CITY OF ORTING
WASHINGTON
ORDINANCE NO. 2020-1060**

**AN ORDINANCE OF THE CITY OF ORTING,
WASHINGTON, RELATING TO EMERGENCY
MANAGEMENT; AMENDING OMC CHAPTER 1-8 FOR
EMERGENCY MANAGEMENT; DECLARING AN
EMERGENCY; PROVIDING FOR SEVERABILITY;
ESTABLISHING AN IMMEDIATE EFFECTIVE DATE**

WHEREAS, the Washington State Governor issued Proclamation 20-05 on February 29, 2020 declaring that the worldwide outbreak of coronavirus disease 2019 (COVID-19) created a State of Emergency in all Washington Counties; and

WHEREAS, the Washington State Governor issued subsequent proclamations to curtail conduct that spreads the disease; and

WHEREAS, the Mayor issued a Proclamation of Local Emergency on March 13, 2020, pertaining to the spread of the novel coronavirus known and COVID-19, pursuant to authority vested in him by Chapter 38.52 RCW and the City's Emergency Management Plan; and

WHEREAS, the City Council ratified the Mayor's Proclamation at its regular meeting of April 8, 2020; and

WHEREAS, the City Council desires to clarify the authority for and impact of a proclamation of emergency by the Mayor, and set out penalties for violations of same; and

WHEREAS, the City Council finds that an emergency exists due to the public health pandemic, and that immediate adoption of the amendments to OMC Chapter 1-8 as set out herein is appropriate and necessary to aid in the protection and preservation of public health, safety and welfare; and

WHEREAS, the Council finds that the COVID-19 pandemic poses an emergency to the public health and safety, and warrants immediate action by the Council to aid the City to prevent the further dissemination of the virus and to combat its impacts;

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

Section 1. OMC Chapter 1-8, Emergency Services Department, Amended. Chapter 1-8 of the Orting Municipal Code is hereby amended to read as follows:

EMERGENCY MANAGEMENT

1-8-1: Creation; Purpose

1-8-2: Director of Emergency Services

1-8-3: Copy of Ordinance to State

1-8-4: Proclamation of Emergency

1-8-1: CREATION; PURPOSE:

There is hereby created the Department of Emergency Services. The purpose of said Department shall be to formulate such rules and regulations as are necessary to help the City prepare for and deal with an emergency or disaster of the magnitude referred to in the preamble of Ordinance 557 codified in this Chapter.

1-8-2: DIRECTOR OF EMERGENCY SERVICES:

A. Position Created; Appointment: There is hereby created the position of the Director of the Emergency Services Department. The Director shall be appointed by the Mayor subject to confirmation by the City Council.

B. Duties And Responsibilities: The Director of the Emergency Services Department shall be directly responsible to the Mayor and said Director shall be responsible for the organization, administration, and operation of the Department of Emergency Services. The Director of the Department of Emergency Services shall promulgate such rules and regulations as are necessary in order to prepare the City for dealing with an emergency or disaster as described in the preamble to Ordinance 557 codified in this Chapter. All rules and regulations so promulgated shall be approved by the Mayor prior to becoming effective.

1-8-3: COPY OF ORDINANCE TO STATE:

A certified copy of Ordinance 557 codified in this Chapter, and all subsequent Ordinances amending this Chapter, shall be sent to the Director of the Washington State Emergency Services Council and the Director of the Emergency Services Department shall coordinate his efforts with that of the Director of the Washington State Emergency Services Council.

1-8-4: 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. In the absence of the Mayor, the Deputy Mayor may declare an emergency and issue orders, and in the absence of the Deputy Mayor or 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.

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 presented to the City Council for ratification and confirmation, modification or rejection. 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.

1-8-5: 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 OMC 1-4-1 and OMC 1-4-2 as follows:

1. The first violation within a one-year period shall constitute a class four (4) civil infraction, punishable by a fine not to exceed sixty dollars (\$60.00), not including statutory assessments.
2. A second violation within a one-year period shall constitute a class three (3) civil infraction, punishable by a fine not to exceed one hundred twenty dollars (\$120.00), not including statutory assessments.
3. A third violation and each violation thereafter within a one-year period shall be a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for up to ninety (90) days in jail, or by both such fine and imprisonment.

1-8-6: 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 2. Declaration of Emergency. Pursuant to RCW 35A.12.130 and RCW 35A.13.190, the City Council finds that this Ordinance is a public emergency ordinance necessary for the protection of the public health, public safety, public property, or public peace, and shall take effect and be in full force immediately upon its adoption. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641, 904 P.2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the recitals set forth above, which are adopted by reference.

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 29TH DAY OF APRIL, 2020.

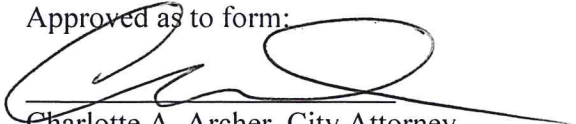
CITY OF ORTING


Joshua Penner, Mayor

ATTEST/AUTHENTICATED:


Jane Montgomery, City Clerk, CMC

Approved as to form:


Charlotte A. Archer, City Attorney
Inslee Best, PS

Filed with the City Clerk: 4.22.20
Passed by the City Council: 4.29.20
Date of Publication: 5.01.20
Effective Date: 4.29.20