

**ORDINANCE NO. 4177**

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 6.60 OF THE EDMONDS CITY CODE, ENTITLED "DISASTER PREPARATION AND COORDINATION," TO ENHANCE THE CITY'S ABILITY TO ACT SWIFTLY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE IN RESPONSE TO EMERGENCIES AND CIVIL EMERGENCIES.

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WHEREAS, the City's emergency management and emergency operations code, which is codified in chapter 6.60 ECC, entitled "Disaster Preparation and Coordination," was last updated in 1998; and

WHEREAS, there are several provisions of chapter 6.60 ECC that should be updated to take into account the most common ways that citizens receive information in 2020; and

WHEREAS, chapter 6.60 ECC appears to have been drafted in contemplation of natural disasters like earthquakes, without anticipating the types of public health emergencies that could arise through a pandemic; and

WHEREAS, the City is in the midst of the COVID-19 pandemic emergency that was declared by Mayor Mike Nelson on March 5, 2020; and

WHEREAS, the COVID-19 pandemic may not peak in its intensity locally for at least another six weeks; and

WHEREAS, it cannot be predicted exactly how the City might need to act over the next several months to effectively respond to changed conditions caused by the pandemic; and

WHEREAS, the City has broad police powers that allow it to protect the public health, safety, and welfare; and

WHEREAS, those broad police powers are generally held by the city council, who in turn has the ability to delegate a part of those powers to the mayor for the sake of expediency; and

WHEREAS, because city council action requires a quorum, and because council action must be taken publicly, it may not be possible for the city council to respond as swiftly as the mayor could to changed conditions that may require immediate action; and

WHEREAS, other cities have given their mayors the ability to proclaim emergency orders when immediate action is necessary; and

WHEREAS, the city council would like to ensure that the mayor of Edmonds is authorized to make such orders as are imminently necessary for the protection of life and property in the face of an emergency or civil emergency, while still requiring that such orders be brought to the city council for confirmation or modification by the city council as soon as practicable; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 6.60 of the Edmonds City Code, entitled “Disaster Preparation and Coordination,” is hereby amended to read as follows (new text is shown in underline; deleted text is shown in strike-through):

**Chapter 6.60**

**DISASTER PREPARATION, ~~AND~~ EMERGENCY COORDINATION, AND CIVIL EMERGENCIES**

Sections:

**6.60.010 Purposes.**

**6.60.020 Definitions.**

**6.60.030 Emergency operations plan.**

**6.60.035 Emergency management organization.**

**6.60.040 Powers and duties of safety and disaster coordinator in preparation for a disaster.**

**6.60.050 Authority of safety and disaster ~~serviees~~ coordinator in the event of a disaster.**

**6.60.060 Violations.**

**6.60.065 Temporary replacement of the mayor.**

**6.60.070 Immunity from private liability.**

**6.60.080 Proclamation of emergency.**

**6.60.090 Orders during emergency.**

**6.60.100 Ratification, confirmation of orders.**

**6.60.110 Publication of proclamation.**

**6.60.120 Noncompliance deemed misdemeanor.**

**6.60.300 Severability.**

**6.60.010 Purposes.**

The purpose of this chapter is to protect the lives and property of the citizens of Edmonds in the event of an emergency, disaster, or civil emergency through planning, training and organization and by authorizing the exercise of emergency powers as prescribed by RCW 38.52.070 and the city's home rule police powers.

**6.60.020 Definitions.**

A. Emergency or Disaster.

1. "Emergency" or "Disaster" as used in this chapter shall mean an event or set of circumstances which:

a. Demands immediate action to preserve public health, protect life, protect public property or to provide relief to any stricken area within the city overtaken by such occurrences; or

b. Reaches such a dimension or degree of destructiveness or contagion as to warrant the mayor proclaiming the existence of an emergency or disaster or the Governor declaring a state of emergency ~~in accordance with appropriate local and state statute.~~

2. The proclamation of an emergency or disaster by the mayor shall be accompanied simultaneously by:

a. A public proclamation posted on the exterior of all city offices, ~~schools and libraries;~~ and

b. The prompt effort to ~~notify~~ serve personal notice to all members of the city council, with service modes to include confirmed receipt of telephone call, text message, email, or other electronic means of communication ~~contact or personal service by city staff.~~

B. "Emergency services coordinating agency (ESCA)" is a local government agency created pursuant to Chapter 38.52 RCW that provides local emergency~~disaster~~

management functions for the Edmonds area, including coordination between Edmonds and other agencies and organizations for emergency~~disaster~~ preparedness and disaster response.

C. "Civil emergency" as used in this chapter shall occur when it appears that riot, unlawful assembly, insurrection, or the imminent threat thereof occur within the confines of the city and result in, or threaten to result in, the death or injury of persons, or the destruction of property to such extent as to require, in the mayor's judgment, extraordinary measures to protect the public peace, safety and welfare.

**6.60.030 Emergency operations plan.**

The emergency operations plan, to the extent that it does not conflict with this chapter, shall govern emergency~~disaster~~ preparedness and disaster response in the city of Edmonds. The emergency operations plan and any amendments thereto shall be subject to the approval of the mayor and shall immediately take effect upon approval by the mayor.

**6.60.035 Emergency management organization.**

The emergency management organization of the city of Edmonds is created and shall consist of the following:

A. The mayor, who shall be the administrative head and have direct responsibility for the organization, administration and operation of the emergency management organization for the city of Edmonds and direct responsibility for the disaster operations of departments in the city;

B. The safety and disaster coordinator, who shall be appointed by and be subject to the supervision of the mayor and who shall be responsible for the administration and operation of the emergency management organization, including the issuance of recommendations to the mayor on the amendment and implementation of the emergency operations plan;

~~C. The emergency operations board, which oversees and provides policy recommendation to the city council during disaster and recovery periods and provides direction for the development and maintenance of the emergency operations plan. The emergency operations board shall oversee the activities of and provide direction to the~~

~~emergency management committee during major emergencies and disasters. The emergency operations board provides policy direction for disaster preparedness and mitigation. The mayor shall serve as chair of the emergency operations board and the disaster coordinator shall serve as vice chair. The remaining membership of the emergency operations board shall be as designated in the emergency operations plan;~~

~~D.~~ The emergency management committee, which provides staff support, direction and expertise in development of the emergency operations plan and all supporting documents. The mayor ~~disaster coordinator~~ shall serve as chair of the committee. The emergency operations plan may also designate the ESCA director as a co-chair of the committee. Other membership in the committee shall be as designated in the emergency operations plan or by the mayor.

**6.60.040 Powers and duties of safety and disaster coordinator in preparation for a disaster.**

Subject to the direction and control of the mayor, the safety and disaster coordinator shall be empowered as follows:

A. To have direct responsibility for disaster coordination including, but not limited to, the organization, administration, and operation of the emergency management committee, and the resolution of questions of authority and responsibility arising among the various members of such organization.

B. To draft, review, and recommend disaster preparedness and mutual aid plans and/or agreements, and such ordinances and resolutions as are necessary to implement such plans and agreements.

C. To organize and direct the training of the emergency management committee, including practice drills.

D. To represent the city in all dealings with public and/or private agencies regarding the provision of disaster services in the event of a disaster.

E. To designate buildings and/or premises as shelters for persons and/or property in the event of a disaster.

F. To propose rules and regulations on matters reasonably related to the protection of lives and/or property injured or damaged, or likely to be injured or damaged by a disaster.

**6.60.050 Authority of safety and disaster services coordinator in the event of a disaster.**

Subject to the supervision and control of the mayor, the safety and disaster coordinator shall be empowered during a disaster as follows:

A. To obtain vital supplies, equipment, and such other requirements necessary for the protection of life and property and to bind the city for the fair value thereof and if necessary to immediately commandeer the same for public use. These powers may be exercised in the light of the exigencies of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements) including but not limited to budget law limitations, the requirements of competitive bidding, the publication of notices, entering into public works contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, and the expenditure of public funds.

B. To requisition necessary personnel and/or material of any city department ~~or~~ agency.

C. At the direction of the mayor, ~~To~~ require the emergency services of any city officer or employee, and, after the Governor has proclaimed that a disaster exists pursuant to RCW 43.06.010, to command the aid of as many citizens of this city as necessary pursuant to RCW 38.52.110(2); provided, that such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered emergency services volunteers as provided in RCW 38.52.310.

**6.60.060 Violations.**

The following offenses shall be punishable as misdemeanors by a fine not to exceed \$500.00 and/or by imprisonment not to exceed 90 days.

A. No person shall willfully obstruct, hinder or delay any member of the disaster coordination organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty required by this chapter.

B. No person shall wear, carry or display, without authority, any means of identification as specified by the State Department of Emergency Services and/or which would be likely to mislead a member of the public into believing that such person is a member of the disaster coordinating organization.

**6.60.065 Temporary replacement of the mayor.**

The following elected officials shall, in the order listed, act on behalf of the mayor if he/she is unable to carry out his/her duties, in carrying out the purposes of this chapter or the provisions of the emergency management plan:

A. The council president;

B. The council president pro tem;

C. ~~The most senior city councilmember;~~ The remaining city councilmembers in order of continuous seniority, PROVIDED THAT where two councilmembers have the same continuous seniority on the council, the holder of the lowest numbered position on the council shall be deemed the more senior of the two.

**6.60.070 Immunity from private liability.**

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 city of Edmonds safety and disaster coordinator 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.

**6.60.080 Proclamation of emergency.**

The mayor, or if absent or incapacitated, the president of the city council, may proclaim in writing the existence of an emergency or civil emergency.

**6.60.090 Orders during emergency.**

Upon the proclamation of an emergency or civil emergency, the mayor, or if absent or incapacitated, the president of the city council, during the existence of such emergency or civil emergency, may make and proclaim any or all of the following orders:

A. An order imposing a general curfew applicable to the city as a whole, or to such geographical area or areas of the city as deemed necessary, and during such hours as deemed necessary, and from time to time modify the area or areas to which such a curfew shall apply, and the hours that such curfew will be in effect;

B. An order requiring any or all business establishments to close and remain closed until further order;

C. An order requiring the closure of any or all bars, taverns, liquor stores and other business establishments where alcoholic beverages are sold or otherwise dispensed; provided that with respect to those business establishments which are not primarily devoted to the sale of alcoholic beverages, and in which such alcoholic beverages may be removed or made secure for possible seizure by the public, the portions thereof utilized for the sale of items other than alcoholic beverages may, in the mayor's discretion, be allowed to remain open;

D. An order requiring the discontinuance of sale, distribution, or giving away of alcoholic beverages in any or all parts of the city;

E. An order requiring the discontinuance of the sale, distribution, or giving away of gasoline or other liquid, flammable or combustible products in any container (other than a gasoline tank properly fixed to a motor vehicle);

F. An order closing to the public any and all public places, including streets, alleys, public ways, schools, parks, beaches, amusement areas, and public buildings;

G. An order prohibiting the carrying or possession of a firearm or any instrument which is capable of producing bodily harm and which is carried or possessed with intent to use the same to cause such harm, provided that any such order shall not apply to peace officers or military personnel engaged in the performance of their official duties;

H. An order requesting federal and/or state assistance in combating such civil emergency;

I. An order establishing economic controls in aid of and supplementary to and consistent with federal orders relating to price stabilization or controls including: the convening and establishing of ration boards; auditing retail and wholesale ration accounts; monitoring price control operations and reporting violations to appropriate authorities; assisting in providing essential supplies to disaster victims; and advising appropriate authorities concerning rationing, price control, wage and rent controls, and allocation of food and other essential commodities;

J. An order directing the use of all public and private health, medical, and convalescent facilities and equipment to provide emergency health and medical care for injured or sick persons;

K. An order authorizing, in cooperation with utility management and appropriate state and federal agencies, the shutting off, restoration, and operation of utility services in accordance with priorities established for combating such emergency or civil emergency;

L. An order providing for the evacuation and reception of the population of the City or any part thereof; and

M. Such other orders as are imminently necessary for the protection of life and property.

**6.60.100 Ratification, confirmation of orders.**

Any orders proclaimed pursuant to Section 6.60.090, shall, at the earliest practicable time, be presented to the city council for ratification or modification. Ratification or modification shall be by majority of the council then present, PROVIDED THAT any council action shall require a quorum. If, after the vote, the orders are not

ratified or modified by the majority, the orders shall be void. The orders shall be considered in full force and effect until the city council takes action to the contrary.

**6.60.110 Publication of proclamation.**

The mayor, or president of the city council, shall cause any proclamation or order issued pursuant to the authority of this chapter to be delivered electronically to all news media within the city, shall publish the same on the city website, and shall utilize such other available means, including social media and/or public address systems, as may be necessary, in the mayor's judgment, to give notice of such proclamations or orders to the public.

**6.60.120 Noncompliance with order deemed misdemeanor.**

It is unlawful for anyone to fail or to refuse to obey any order proclaimed pursuant to this legislation. Any person convicted of a violation of this section shall be guilty of a misdemeanor.

**6.60.300 Severability.**

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

Section 2. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum (RCW 35A.12.130). The region is in the midst of a state of emergency due to the COVID-19 virus and the City Council wants to ensure that the city is properly positioned to act swiftly in response to it.

Section 4. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 5. Effective Date. This Ordinance shall take effect and be in full force and effect immediately upon passage, as set forth herein, as long as it is approved by a majority plus one of the entire membership of the Council, as required by RCW 35A.12.130. If it is only approved by a majority of the Council, it will take effect five days after passage and publication.

APPROVED:

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MAYOR MIKE NELSON

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
CITY CLERK, SCOTT PASSEY

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY \_\_\_\_\_  
JEFF TARADAY

FILED WITH THE CITY CLERK:	March 22, 2020
PASSED BY THE CITY COUNCIL:	March 22, 2020
PUBLISHED:	March 27, 2020
EFFECTIVE DATE:	March 22, 2020
ORDINANCE NO.	4177

**SUMMARY OF ORDINANCE NO. 4177**

of the City of Edmonds, Washington

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On the 22<sup>nd</sup> day of March, 2020, the City Council of the City of Edmonds, passed Ordinance No. 4177. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 6.60 OF THE EDMONDS CITY CODE, ENTITLED “DISASTER PREPARATION AND COORDINATION,” TO ENHANCE THE CITY’S ABILITY TO ACT SWIFTLY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE IN RESPONSE TO EMERGENCIES AND CIVIL EMERGENCIES.

The full text of this Ordinance will be mailed upon request.

DATED this 22<sup>nd</sup> day of March, 2020.

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CITY CLERK, SCOTT PASSEY