

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, REPEALING OLYMPIA MUNICIPAL CODE SECTIONS 2.04.080 and 2.04.090 RELATING TO AUTHORITY IN THE EVENT OF AN EMERGENCY**

WHEREAS, RCW Chapter 38.52 on Emergency Management and Olympia Municipal Code Chapter 2.24 establish the City of Olympia's Department of Emergency Management; and

WHEREAS, RCW 38.52.010 defines the "Executive Head" who may proclaim an emergency " *[i]n the case of cities and towns, [as] the mayor in those cities and towns with mayor-council or commission forms of government, where the mayor is directly elected, and it means the city manager in those cities and towns with council manager forms of government. Cities and towns may also designate an executive head for the purposes of this chapter by ordinance.*"; and

WHEREAS, if there is a need to declare an emergency, the Olympia Municipal Code provides such authority to the City Manager or Emergency Management Director under 2.24.030(C)(2), which states, in part, that, ". . . C. *Emergency. Emergency as used in this chapter shall mean an event or set of circumstances which: 1. Demands immediate action to preserve public health, protect life, protect public property or provide relief to any stricken neighborhood overtaken by such occurrences, and 2. Reaches such a dimension or degree of destructiveness as to warrant the **City Manager or Emergency Management Director** proclaiming the existence of an emergency, with such action subject to prompt confirmation of the City Council by adoption of a resolution at a special or regular meeting, authorizing and directing all city personnel, services and facilities to be assigned to the emergency response and recovery effort.*"; and

WHEREAS, Olympia Municipal Code Sections 2.04.080 and 2.04.090, which were valid provisions when the City of Olympia was governed under a Commission form of government, are no longer applicable under the City of Olympia's Council-Manager form of government; and

WHEREAS, the City Council wishes to update the Olympia Municipal Code and repeal inconsistent provisions so that, if an emergency declaration becomes necessary, the City's code is clear with respect to who has authority to make an emergency declaration;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Amendment of OMC 2.04. Olympia Municipal Code Chapter 2.24 is hereby amended to read as follows:**

**Chapter 2.04  
CITY COUNCIL**

2.04.000 Chapter Contents

Sections:

- 2.04.010 Composition.
- 2.04.020 Powers.
- 2.04.030 Forfeiture of office.
- 2.04.040 Vacancies--Filling.

- 2.04.050 Meetings.
- 2.04.060 Mayor--Powers and duties--Election--Term.
- 2.04.070 Mayor pro tem--Designation--Alternate appointments.
- ~~2.04.080 Mayor Powers to proclaim emergency.~~
- ~~2.04.090 Mayor Powers during emergency.~~
- 2.04.100 Compensation.

#### **2.04.010 Composition**

The city council, under the council/manager plan of government, shall be composed of seven councilmembers, all of whom shall be elected by a majority vote from the city-at-large. The councilmembers elected to positions one, two and three at the first election of councilmembers on November 2, 1982, shall serve for one-year terms. The councilmembers elected to positions four, five, six and seven at the first election of councilmembers on November 2, 1982, shall serve for three-year terms. The councilmembers elected in subsequent elections shall serve four-year terms.

#### **2.04.020 Powers**

The council shall be the legislative body of the city and have all powers to conduct the affairs of the city as are allowed under the Constitution of the state of Washington and RCW Chapter 35A, which are not specifically denied to the council or reserved to the city manager by law.

#### **2.04.030 Forfeiture of office**

A councilmember shall forfeit his/her office if he/she is absent for three consecutive regular meetings of the council without being excused by the council, or if he/she ceases to have the qualifications prescribed for such office by law or ordinance, or if he/she is convicted of a crime involving moral turpitude or an offense involving a violation of his/her oath of office.

#### **2.04.040 Vacancies--Filling**

In the event of the extended excused absence or disability of a councilmember, the remaining members by majority vote may appoint a councilmember pro tempore to serve during his/her absence or disability. In the event of an absence resulting from death, resignation or removal of a councilmember from office, the remaining members by majority vote shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If thirty days pass after the occurrence of the vacancy and the council is unable to agree upon a person to be appointed to fill a vacancy in the council, the mayor may make the appointment from among the persons nominated by members of the council. If the vacant position is the mayor's position, the deputy mayor shall make the appointment from among those persons nominated by the council, within thirty days after the occurrence of the vacancy if the council is unable to agree.



#### **2.04.050 Meetings**

A. Regular Meetings. Regular meetings of the City Council will be held on Tuesdays at the hour of seven p.m. in the City Council Chambers, City Hall, Olympia, Washington, or at other locations as determined by the Mayor. The Olympia City Council may establish its yearly meeting calendar at its annual retreat and generally does not schedule meetings on the fifth Tuesday of any month. The City Council's meeting calendar will be posted on the City's website and will identify those weeks when no meeting is scheduled. When any of the above scheduled council meetings occur on a legal holiday, the next business day shall be the date of the regular meeting.

B. Special Meetings. Special meetings of the City Council may be called at any time by the Mayor or by a majority of Council and notice will be provided as required by law.

#### **2.04.060 Mayor –Powers and duties –Election –Term**

A. In addition to the powers conferred upon the person elected mayor, he/she shall continue to have all rights, privileges and immunities of a councilmember. The mayor shall be recognized as the head of the city for ceremonial purposes and by the Governor for purposes of military law. The mayor shall have no regular administrative duties, but in time of public danger or emergency, if so authorized by ordinance, shall take command of the police, maintain law and enforce order.

B. Commencing with the November, 1991 election, the person elected by the voters of Olympia to Position One of the Olympia city council shall be the mayor, with the powers and duties set forth in subsection A of this section and by general city ordinance.

C. The term of the office of mayor shall be four years to run concurrently with the term for Position One of the council, with the initial term commencing January 1, 1992.

#### **2.04.070 Mayor pro tem –Designation –Alternate appointments**

Biennially at the first meeting of a new council, or periodically, the councilmembers may designate one of their number as mayor pro tem for the period specified by the council, to serve in the absence of the mayor. In lieu of such a designation, the council may appoint any qualified person as mayor pro tempore in the absence or temporary disability of the mayor. In the absence of both the mayor and the mayor pro tem, the council shall, by majority vote, elect a chairperson to preside over the meeting(s) of the council.

#### **~~2.04.080 Mayor –Powers to proclaim emergency~~**

~~Whenever riot, unlawful assembly or insurrection, or the imminent threat thereof, occur in 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 judgment of the mayor, extraordinary measures to protect the public peace, safety and welfare, the mayor shall proclaim in writing the existence of a civil emergency.~~

#### **~~2.04.090 Mayor –Powers during emergency~~**



Upon the proclamation of a civil emergency by the mayor, and during the existence of such civil emergency, the mayor may make or 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, and during such hours as he/she deems necessary, and, from time to time, to modify the hours such curfew will be in effect and the area or areas to which it will apply;

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 from possible seizure by the public, the portions thereof utilized for the sale of items other than alcoholic beverages may, in the discretion of the mayor, be allowed to remain open;

D.—An order requiring the discontinuance of the 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 flammables or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;

F.—An order requiring the discontinuance of the sale, distribution or giving away of gasoline or other liquid flammables or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;

G.—An order requiring the closure of any or all business establishments where firearms and/or ammunition for firearms are sold or otherwise dispensed; provided that, with respect to those business establishments which are not primarily devoted to the sale of firearms and/or ammunition and in which such firearms and/or ammunition may be removed or made secure from possible seizure by the public, the portions thereof utilized for sale of items other than firearms and ammunition may, in the discretion of the mayor, be allowed to remain open;

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

I.—An order prohibiting the carrying or possession of firearms or any instrument which is capable of producing bodily harm and which is carried or possessed with the 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;

J.—Such other orders as are imminently necessary for the protection of life and property; provided, however, that any such orders shall, at the earliest practicable time, be presented to the city council for ratification and confirmation, and, if not so ratified and confirmed, shall be void.

#### **2.04.100 Compensation**

Effective upon the commencement of terms January 1, 2008 and following election and qualification, the annual salary of the mayor of the city shall be Nineteen Thousand Nine Hundred Sixty-Eight and no/100 Dollars (\$19,968); the annual salary of the mayor pro-tem shall be Eighteen Thousand Three Hundred Four and no/100 Dollars (\$18,304); the annual salary of councilmember positions two and three shall be Sixteen Thousand Six Hundred Forty and no/100 Dollars (\$16,640) unless a councilmember serves in either of said

positions is the mayor pro-tem, in which case the salary shall be as provided for the mayor pro-tem. The annual salary of the remaining councilmember positions shall be increased to Sixteen Thousand Six Hundred Forty and no/100 Dollars (\$16,640) upon commencement of the terms January 1, 2010, following election and qualification.

Notwithstanding the foregoing, this section shall not be applicable to any individual councilmember to the extent that the salaries provided for above are deemed by a court of competent jurisdiction to be an increase of compensation after a councilmember's election contrary to RCW 35A.13.040 , Article II, §25, and/or Article XI, §8 of the Washington State Constitution.

**Section 2. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 3. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 4. Effective Date.** This Ordinance shall take effect thirty (30) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
DEPUTY CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**