

ORDINANCE NO. 4120

AN ORDINANCE RELATING TO THE SAFE STORAGE OF AND ACCESS TO FIREARMS.

WHEREAS, in 2015, 714 Washington State residents died from a firearm injury and a child or teen under the age of 17 was killed by gunfire in every nine days, on average, according to WA State Department of Health, Center for Health Statistics Death Certificate data; and

WHEREAS, suicide is the leading cause of firearm death in Washington State according to the WA State Department of Health. In 2015, 47% of all those who took their own lives – used a firearm; and

WHEREAS, the Federal Bureau of Justice Statistics estimated an average of at least 232,000 guns were stolen per year from 2005 to 2010; and

WHEREAS, the US Secret Service and US Department of Education published a study examining school shootings from 1974-2000 that found that in more than 65% of cases, the shooter obtained the firearm from their home or that of a relative.

WHEREAS, 63% of firearm-owning households in Washington state do not store their firearms locked and unloaded, according to 2018 research led by the University of Washington School of Public Health; and

WHEREAS, among firearm-owning households, keeping firearms unlocked have been associated with a greater risk of firearm suicide among both youths and adults; and

WHEREAS, according to 2018 RAND corporation analysis of firearm policies throughout the United States available evidence supports the conclusion that safe storage laws, reduce self-inflicted fatal or nonfatal firearm injuries among youth, as well as unintentional firearm injuries or deaths among children; and

WHEREAS, the Center for Disease Control states safe firearm storage practices—such as keeping guns secured with a cable lock or in a gun safe—reduce the risk of firearm injuries; and

WHEREAS, in 2012, the Washington State Division One Court of Appeals recognized the potential for liability in a negligence action when a firearm owner allows an individual who may be at-risk of misusing a weapon to have access to that weapon while in the weapon-owner's home; and

WHEREAS, the Legislature of the State of Washington has expressed a public policy that third-parties should avoid allowing firearms to come into the possession of persons who would be ineligible to obtain such weapons under RCW 9.41.040, including minors in most circumstances; and

WHEREAS the people of the State of Washington enacted by initiative the "Extreme Risk Protection Order Act," now RCW Chapter 7.94, allowing family, household members, and law enforcement to petition a court to remove firearms from at-risk individuals; and

WHEREAS the City of Edmonds recognizes the grave harm that could occur when an unlocked firearm is used by someone other than the firearm's rightful owner, such as when an unlocked firearm is stolen and used by a third-party to perpetrate a crime; NOW, THEREFORE,

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

Section 1. A new Chapter 5.26 is added to the Edmonds City Code as follows:

Chapter 5.26 STORAGE OF FIREARMS

5.26.010 Definitions

For purposes of this Chapter 5.26, the following definitions apply:

A. "At-risk person" means any person who has made statements or exhibited behavior that indicates to a reasonable person there is a likelihood that the person is at risk of attempting suicide or causing physical harm to oneself or others.

B. "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder, including but not limited to any machine gun, pistol, rifle, short-barreled rifle, short-barreled shotgun, or shotgun as those terms are defined in RCW 9.41.010. "Firearm" does not include a flare gun or other pyrotechnic

visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

C. “Lawfully authorized user” means any person who:

1. Is not in the unlawful possession of a firearm under RCW 9.41.040; and
2. Is not prohibited from possessing a firearm under any other state or federal law; and
3. Has the express permission of the owner to possess and use the firearm.

D. “Locking device” includes any cable lock, barrel lock, storage container, or other device approved of or meeting specifications established by the Chief of Police by rule promulgated in accordance with Chapter 5.26.

E. “Minor” means a person under 18 years of age who is not authorized under RCW 9.41.042 to possess a firearm, or a person of at least 18 but less than 21 years of age who does not meet the requirements of RCW 9.41.240.

F. “Prohibited person” means any person who is not a lawfully authorized user.

5.26.020 Safe storage of firearms

It shall be a civil infraction for any person to store or keep any firearm in any premises unless such weapon is secured by a locking device, properly engaged so as to render such weapon inaccessible or unusable to any person other than the owner or other lawfully authorized user.

Notwithstanding the foregoing, for purposes of this Section 5.26.020, such weapon shall be deemed lawfully stored or lawfully kept if carried by or under the control of the owner or other lawfully authorized user.

5.26.030 Unauthorized access prevention

It shall be a civil infraction if any person knows or reasonably should know that a minor, an at-risk person, or a prohibited person is likely to gain access to a firearm belonging to or under the control of that person, and a minor, an at-risk person, or a prohibited person obtains the firearm.

5.26.040 Penalties

A. A violation of Section 5.26.020 shall constitute a civil infraction subject to a civil fine or forfeiture not to exceed \$500. For good cause shown, the court may provide for the performance of community restitution, in lieu of the fine or forfeiture imposed under this subsection 5.26.040.A.

B. A violation of Section 5.26.020 or 5.26.030 shall constitute a civil infraction subject to a civil fine or forfeiture in an amount up to \$1,000 if a prohibited person, an at-risk person, or a minor obtains a firearm as a result of the violation. For good cause shown, the court may provide for the performance of community restitution, in lieu of the fine or forfeiture imposed under this subsection 5.26.040.B.

C. A violation of Section 5.26.020 or 5.26.030 shall constitute a civil infraction subject to a civil fine or forfeiture in an amount up to \$10,000 if a prohibited person, an at-risk person, or a minor obtains an unsecured firearm and uses it to injure or cause the death of oneself or others, or uses the firearm in connection with a crime. A separate civil fine or forfeiture may be issued for each instance that a person that is injured or killed as a result of a violation of Section 5.26.020 or 5.26.030.

D. A violation of Section 5.26.020 or 5.26.030 is hereby deemed at minimum negligent and may be considered reckless depending upon the knowledge and actions of the violator.

E. Nothing in this Chapter 5.26 shall be construed to alter any requirements, including, but not limited to, any warrant requirements applicable under the Fourth Amendment to the United States Constitution or Article I, Section 7 of the Washington State Constitution.

F. Sections 5.26.020 and 5.26.030 shall not apply to “antique firearms,” as defined in RCW 9.41.010.

5.26.050 Notice of infraction—Issuance

A. A peace officer has the authority to issue a notice of infraction:

1. When an infraction under this Chapter 5.26 is committed in the officer's presence;
2. If an officer has reasonable cause to believe that a person has committed an infraction under this Chapter 5.26.

B. A court may issue a notice of infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

5.26.060 Response to notice of infraction—Contesting determination—Hearing—Failure to appear

A. Any person who receives a notice of infraction shall respond to such notice as provided in this section within 15 days of the date the notice is personally served or, if the notice is served by mail, within 18 days of the date the notice is mailed.

B. If the person determined to have committed the infraction does not contest the determination the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the Edmonds Municipal Court. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response, if responding by mail, or if responding online, payment may be made using a credit card. When a response that does not contest the determination is received, an appropriate order shall be entered in the court's records.

C. If the person determined to have committed the infraction wishes to contest the determination the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the

Edmonds Municipal Court. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

D. If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the Edmonds Municipal Court. The court shall notify the person in writing of the time, place, and date of the hearing.

E. In any hearing conducted pursuant to subsections 5.26.060.C or 5.26.060.D, the court may defer findings, or in a hearing to explain mitigating circumstances may defer entry of its order, for up to one year and impose conditions upon the defendant the court deems appropriate. Upon deferring findings, the court may assess costs as the court deems appropriate for administrative processing. If at the end of the deferral period the defendant has met all conditions and has not been determined to have committed another infraction under this Chapter 5.26, the court may dismiss the infraction. A person may not receive more than one Deferral within a seven-year period.

F. If any person issued a notice of infraction:

1. Fails to respond to the notice of infraction as provided in subsection 5.26.060.B; or
2. Fails to appear at a hearing requested pursuant to subsections 5.26.060.C or 5.26.060.D; the court shall enter an appropriate order assessing the monetary penalty prescribed for the infraction and any other penalty authorized by this Chapter 10.79.

5.26.070 Hearing—Contesting determination that infraction committed—Appeal

A. A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury.

B. The court may consider the notice of infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court.

C. The burden of proof is upon the City to establish the commission of the infraction by a preponderance of the evidence.

D. After consideration of the evidence and argument, the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court's records. Where it has been established that the infraction was committed, an appropriate order shall be entered in the court's records.

E. An appeal from the court's determination or order shall be to the Superior Court. The decision of the Superior Court is subject only to discretionary review pursuant to Rule 2.3 of the Rules of Appellate Procedure.

Section 2. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, does not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 3. Effective Date. This ordinance is subject to referendum and shall take effect thirty (30) days after final passage of this ordinance. Once effective, this ordinance shall not be enforced until one hundred eighty (180) days after final passage.

APPROVED:


MAYOR DAVE EARLING

ATTEST/AUTHENTICATED:


CITY CLERK, SCOTT PASSEY

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
JEFF TARADAY

FILED WITH THE CITY CLERK:	July 20, 2018
PASSED BY THE CITY COUNCIL:	July 24, 2018
PUBLISHED:	July 29, 2018
EFFECTIVE DATE:	August 23, 2018
ORDINANCE NO.	4120

SUMMARY OF ORDINANCE NO. 4120
of the City of Edmonds, Washington

On the 24th day of July, 2018, the City Council of the City of Edmonds, passed Ordinance No. 4120. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE RELATING TO THE SAFE STORAGE OF AND ACCESS
TO FIREARMS.

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

DATED this 25th day of July, 2018.



CITY CLERK, SCOTT PASSEY

Everett Daily Herald

Affidavit of Publication

State of Washington }
County of Snohomish } ss

Dicy Sheppard being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH818914 ORDINANCE 4118-4121 as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 07/29/2018 and ending on 07/29/2018 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$61.92.

Dicy Sheppard

Subscribed and sworn before me on this

30th day of July,
2018.

Linda Phillips

Notary Public in and for the State of
Washington.

City of Edmonds - LEGAL ADS | 14101416
SCOTT PASSEY



ORDINANCE SUMMARY

of the City of Edmonds, Washington

On the 24th day of July, 2018, the City Council of the City of Edmonds, passed the following Ordinances, the summaries of said ordinances consisting of titles are provided as follows:

ORDINANCE NO. 4118

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING ORDINANCE NO. 4109 AS A RESULT OF UNANTICIPATED TRANSFERS AND EXPENDITURES OF VARIOUS FUNDS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

ORDINANCE NO. 4119

AN ORDINANCE DESIGNATING THE EXTERIOR OF THE YOST HOUSE LOCATED AT 658 MAPLE STREET, EDMONDS, WASHINGTON FOR INCLUSION ON THE EDMONDS REGISTER OF HISTORIC PLACES, AND DIRECTING THE DEVELOPMENT SERVICES DIRECTOR OR DESIGNEE TO DESIGNATE THE SITE ON THE OFFICIAL ZONING MAP WITH AN "HR" DESIGNATION, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

ORDINANCE NO. 4120

AN ORDINANCE RELATING TO THE SAFE STORAGE OF AND ACCESS TO FIREARMS

ORDINANCE NO. 4121

AN ORDINANCE RELATING TO THE REPORTING OF LOST OR STOLEN FIREARMS; INCREASING THE MAXIMUM PENALTY FOR FAILURE TO REPORT A LOST OR STOLEN FIREARM; ADDING LEGAL PRESUMPTIONS AND DEFENSES REGARDING COMPLIANCE OR FAILURE TO COMPLY WITH SECTION 5 24.070 OF THE EDMONDS CITY CODE

The full text of these Ordinances will be mailed upon request.
DATED this 25th day of July, 2018.

Published: July 29, 2018. CITY CLERK, SCOTT PASSEY
EDH818914